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COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

NO. 83284-6

BY: _____
DEPUTY

SUPREME COURT OF THE STATE OF WASHINGTON

In re the Personal Restraint of

TEDDY GLEN TALLEY,

Petitioner,

**RESPONSE OF THE COUNTY OF SKAMANIA
TO PETITIONERS MOTION FOR DISCRETIONARY REVIEW**

PETER S. BANKS
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for Skamania County

BY: _____

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STATE OF WASHINGTON

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I. IDENTITY OF RESPONDENT

Respondent is the Prosecuting Attorney's Office for the County of Skamania. The prosecuting authority in the underlying case.

II. INTRODUCTION

The Supreme Court of the State of Washington has ordered that Skamania County submit a response to the Petitioner's Motion for Discretionary Review. The Petitioner's Motion challenges the Skamania County Jail's earned early release time or "good time" policy, as it relates to pre-sentence detainees. The Petitioner argues that good time should be granted regardless of the Jail's policy requiring that good time be earned by participation in the trustee program and successful completion of assigned tasks. Mr. Talley's argument is based upon an allegation that the unequal opportunity allowed pre-sentence detainees and post-sentence detainees is a violation of the equal protection requirements of the State and Federal Constitutions. It has previously been established in this state that the

unequal application of good time in regard to pre-sentence detainees and post-sentence detainees is justified in that county jails have a substantial interest in maintaining prisoner discipline, preventing flight from prosecution and preserving local control over jails in applying good time policy in regard to work programs. The petitioner presents an issue already addressed by the Supreme Court of Washington. Further, the Petitioner's suggested application of good time would create an unequal application of good time in the reverse allowing credit to pre-sentence detainees without meeting the required conditions imposed on post-sentence detainees.

III. DECISION

Petitioner's Motion is a request for review of a decision made by the Court of Appeals of the State of Washington, Division II, Case No. 39080-9-II, filed on June 17, 2009. Appendix 1. The decision was made on a Personal Restraint Petition filed by the Petitioner and Granted in part as to a time calculation for Credit Time Served and denied in part as to whether the good time policy

of the Skamania County Jail violated equal protection rights.

IV. ISSUES

1. Does Skamania County Jail earned early release time "good time" policy violate equal protection requirements.
2. Does the Petitioner in his Motion for Discretionary Review present any issues that meet the requirements for review pursuant to RAP 13.4 (b)

V. STATEMENT OF THE CASE

The Petitioner is currently housed with the Department of Corrections (DOC) at the McNeil Island Corrections Center pursuant to entry of a Plea of Guilty to the charge of Murder in the Second Degree entered into Skamaina County Superior Court (The Honorable Judge E. Thompson Reynolds presiding) on October 27, 2005. Appendix 2, Statement of Defendant on Plea of Guilty to Non-Sex Offence. Pursuant to the plea the Petitioner was sentenced to 123 months of confinement. Appendix 3, Felony Judgement and Sentence and Appendix 4, Warrant of Commitment.

The Skamania County Jail sent to DOC a certification of the pre-sentence time the Petitioner spent in the county jail facility showing a total of 516 days with no good time. Appendix 5, Jail Time Certification. The Skamania County Jail subsequently sent to DOC a letter amending the total pre-sentence time spent in the county jail facility to 517 days (based on a 24 hour day, credit system) with no good time. Appendix 6, Letter Amending Time Calculation. The Petitioner filed the Personal Restraint Petition in the Appellate Court of the State of Washington, Division II as referenced above and has subsequently filed for discretionary review by this court.

VI. ARGUMENT

A. Level of Scrutiny

Equal protection requires that persons similarly situated receive like treatment. In re Mota, 114 Wash.2d 465 at 473, 788 P.2d 538 (1990). The level of scrutiny for equal protection

analysis is generally a Rational Basis test¹. In re Fogle, 128 Wn.2d 56, 904 P.2d 722 (1995). Intermediate Level Scrutiny² applies where the denial of a liberty or right is based upon a semi-suspect classification. In re Mota, 114 Wash.2d at 474, 788 P.2d 538 (1990). In re Mota establishes that indigent defendants are deemed a suspect classification in regard to the inability to post bail when available. In this case the Petitioner alleges that the imposition of bail in his matter do to his financial reality was a imposition on his liberty based upon wealth.³ Pursuant to current case law Intermediate Scrutiny is the appropriate level of analysis.

B. The Skamania County Jail Good Time Policy

Does Not Violate Equal Protection Rights

The Skamania County Jail Good Time Policy is

¹ That the state policy be rationally related to a legitimate state purpose.

² The state policy must be substantially related to an important government interest.

³ The state asks the court to note that the wealth of the defendant is not a factor in the imposition of bail and the imposition of bail is based purely on the facts of the case at hand and the statutory criteria on when bail should be imposed.

based upon the Trustee/Work Crew Program. Appendix 7, Skamania County Jail In Custody Work Crew and Trustee Program Policy. Pursuant to this policy detainees of the Skamania County Jail may qualify for good time credit if they qualify as trustees and successfully complete the tasks assigned. The purpose of the program is to encourage cooperative and beneficial behavior in the jail from the detainees with the reward of earned early release time or "good time".

Pursuant to the Trustee Program criteria detainees with: pending charges; outstanding warrants; lack of willingness or ability to perform tasks; poor attitude toward other detainees; and active protection orders prohibiting their contact with persons in Skamania County will be denied trustee status. This court in In re Fogle referring to the different application of good time policy to pre-sentence detainees and post-sentence detainees, and whether that policy violated equal protection rights, stated "...we hold the state's substantial interest in maintaining prisoner discipline, particularly by preventing flight from

prosecution and preserving local control over jails, justifies disparate treatment..." In re Fogle, 128 Wn2d at 63, 904 P.2d 722. Here the whole purpose for the criteria for the trustee program is to enforce proper behavior by the detainees, ensure the safety of those in the facility as well as those outside the facility, and prevent flight from prosecution. The court has addressed this issue and has found that the disparate application of good time policy to pre-sentence detainees and post-sentence detainees passes the Intermediate Scrutiny analysis. The finding of the Appellate Court was and is in harmony with the prevailing law and the findings of this court.

C. Application of RCW 9.92.151 to the Skamania County Jail Good Time Policy Is Not Properly Before the Court.

DOC in their response note that RCW 9.94A.728 does not apply to the administration of County Jails. Response of Department of Corrections To Motion For Discretionary Review, page 4 footnote 1. This is correct. RCW 9.94A is also known as

the Sentencing Reform Act of 1981. RCW 9.94A.020. This chapter governs felony sentencing throughout the state and the commitment of felons to DOC facilities. DOC additionally stated in their response. Id. That "Jails award good time based on a different statute than DOC. See RCW 9.92.151." This marks the first reference to this RCW in the pleadings thus filed. Neither in the Personal Restraint Petition filed by the Petitioner with the Appellate Court nor the Personal Restraint Petition filed with this court does the Petitioner allege a violation of RCW 9.92.151. This issue has not been addressed by the Appellate Court and no finding is available for review. Appendix 8, Personal Restraint Petitioner [sic] Without Appendixes. The State respectfully submits that any issues arising from the above stated RCW are not properly before the court.

D. The Petitioner's Request for Discretionary Review Does Not Meet the Criteria as Laid out by RAP 13.4(b)

Discretionary review of a matter by the Supreme Court should only be accepted: (1) If a decision of the Court of Appeals is in conflict with a decision of the Supreme Court; (2) If the decision of the Court is in conflict with another decision of the Court of Appeals; (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves a issue of substantial public interest that should be determined by the Supreme Court. RAP 13.4(b). As established above, the underlying decision of the Court of Appeals is in keeping with the governing case law both from the Supreme Court and the Court of Appeals. The issues presented in regard to equal protection have been settled and established by past decisions of the Supreme Court. The issue presented addresses the interpretation of Skamania County Jail policy and it's application and does not present an issue of substantial public interest. Based upon this the County of Skamania respectfully submits that the

Petitioner's motion for discretionary review be denied.

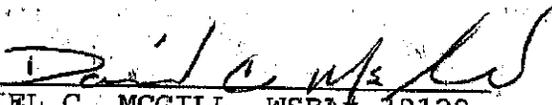
VII. CONCLUSION

The Petitioner's allegation that Skamania County's Good Time Policy violates equal protection rights is a settled matter and it has already been found that the States important interest in maintaining discipline and control over jail populations as well as preventing flight from prosecution, is substantially met by the disparate application of good time policy between pre-sentence and post-sentence detainees. Any issues presented by the application of RCW 9.92.151 are not properly before the court as the Petitioner at no time in his petitions has claimed any basis for adjustment of good time other than an equal protection claim. The Petitioner's

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Motion for Discretionary Review should be denied as it does not meet the requirements of RAP 13.4(b) as there are no final decisions by the Appellate court that are in conflict with Supreme Court or previous Appellate Court decisions, and there are no issues before the court of substantial public interest.

Respectfully Submitted,

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APPENDIX

1

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In re the
 Personal Restraint Petition of

 TEDDY GLEN TALLEY,

 Petitioner.

No. 39080-9-II

ORDER GRANTING PETITION
 IN PART AND DENYING
 PETITION IN PART

FILED
 COURT OF APPEALS
 DIVISION II
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 STATE OF WASHINGTON
 DEPUTY

Teddy Talley seeks relief from personal restraint imposed following his 2007 plea of guilty to second degree murder.¹ The trial court sentenced him to 123 months of confinement. The Skamania County Jail certified 516 days of jail time served but zero days of earned early release credits. Upon being received by the Department of Corrections on March 20, 2007, the Department calculated Talley's possible early release date as follows: 3,743 days (123 months) of confinement, less 516 days of jail time served, less 323 days (ten percent of the remaining time for DOC earned release credits).

Talley argues that his possible early release date has been miscalculated in two ways. First, he argues that the Skamania County Jail denied him equal protection by not certifying earned early release credits at the same ten percent rate that he would have earned release credits if he had been serving his time in the custody of the Department. Under its policy, the Skamania County Jail only grants earned early release credits to those inmates who have been sentenced and who are low or medium risk inmates. Talley

¹ Talley filed his petition in the Washington State Supreme Court, which transferred the petition to this court.

39080-9-II/2

was a pre-sentence inmate and was a high risk inmate, so the Jail did not grant him earned early release credits. Talley claims that this policy violates equal protection. But Washington courts have upheld the authority of county jails to grant earned early release credits to pre-sentence inmates at rates lower than the rate applicable to inmates in the custody of the Department. *In re Personal Restraint of Fogle*, 128 Wn.2d 56, 63, 904 P.2d 722 (1995); *In re Personal Restraint of Cromeenes*, 72 Wn. App. 353, 358, 864 P.2d 423 (1993). Talley cites a Ninth Circuit opinion that held such practices by county jails violate equal protection, *MacFarlane v. Walter*, 179 P.3d 1131 (9th Cir. 1999). However, the United States Supreme Court vacated that opinion and ordered that the appeal be dismissed as moot. *Lehman v. MacFarlane*, 529 U.S. 1106, 120 S. Ct. 1959, 146 L. Ed. 2d 790 (2000). Talley was not denied equal protection by the Skamania County Jail's refusal to grant him earned early release credits during his confinement there.

Second, Talley argues that the Skamania County Jail miscalculated his jail time. He contends that he was confined in the jail from October 28, 2005, to March 29, 2007, which is 518 days, not 516 days as certified by the jail. Talley's arithmetic is correct, so unless there is some reason why he should not be granted credit for 518 days of jail time, he is entitled to those two additional days. In order to clarify this issue, we remand to the Skamania County Jail to either issue an amended certification certifying that Talley earned 518 days of jail time or send to the Department an explanation of the grounds for not certifying those two additional days.

Accordingly, it is hereby

39080-9-II/3

ORDERED that Talley's petition is granted as to the remand to the Skamania County Jail addressed above. The remainder of Talley's petition is denied.

DATED this 17th day of June, 2009.

Bryant, J.
Amstrong, J.
Hart, J.

cc: Teddy G. Talley
Ronda D. Larson
Department of Corrections
Skamania County Jail

APPENDIX

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SKAMANIA COUNTY
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SHARON K. VANCE, CLERK
DEPUTY

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAMANIA
STATE OF WASHINGTON,

Plaintiff,

vs.

TEDDY GLENN "PETE" TALLEY

Defendant.

NO. 05-1-00111-7

STATEMENT OF DEPENDANT ON PLEA
OF GUILTY TO NON-SEX OFFENSE
(STTDPG)

1. My true name is: Teddy Glenn "Pete" Talley

2. My age is: 55. Date of Birth: 5/29/51

3. I went through the 12th grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

(b) I am charged with: Murder in the Second Degree
The elements are: To cause the death of another person with intent, but without premeditation, in Skamania County, Washington. RCW 9A.32.050(1)(a)

5. I UNDERSTAND I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

(a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;

(b) The right to remain silent before and during trial, and the right to refuse to testify against myself;

(c) The right at trial to hear and question the witnesses who testify against me;

(d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;

(e) I am presumed innocent unless the charge is proven beyond a

- 1 reasonable doubt or I enter a plea of guilty;
- 2 (E) The right to appeal a finding of guilt after a trial.

3 6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- 4 (a) Each crime with which I am charged carries a maximum sentence, a fine, and a STANDARD SENTENCE RANGE as follows:

5 COUNT	6 OFFENDER SCORE	7 STANDARD RANGE	8 ENHANCEMENTS	9 TOTAL STANDARD RANGE	10 COMMUNITY CUSTODY RANGE	11 MAXIMUM TERM
I		123-220 mcs.	N/A	123-220 mcs.	24-48 mos.	Life
II						and/or \$50,000
III						(or the period of earned release whichever is longer)

- 10 (F) Firearm, (D) other deadly weapon, (V) WUCSA in protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present
- 11 (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- 12 (c) The prosecuting attorney's statement of my criminal history is not attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- 13 (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- 14 (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.
- 15 (f) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is not more than 12 months. If this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any

1 crime against a person in which a specific finding was made that I
 2 or an accomplice was armed with a deadly weapon, the judge will order
 me to serve at least one year of community placement. If this crime
 3 is a vehicular homicide, vehicular assault, or a serious violent
 offense, the judge will order me to serve at least two years of
 4 community placement. The actual period of community placement,
 community custody, or community supervision may be as long as my
 5 earned early release period. During the period of community
 placement, community custody, or community supervision, I will be
 6 under the supervision of the Department of Corrections, and I will
 have restrictions and requirements placed upon me.

7 For crimes committed on or after July 1, 2000: In addition to
 sentencing me to confinement, the judge may order me to serve up to
 8 one year of community custody if the total period of confinement
 ordered is not more than 12 months. If the crime I have been
 9 convicted of falls into one of the offense types listed in the
 following chart, the court will sentence me to community custody for
 10 the community custody range established for that offense type unless
 the judge finds substantial and compelling reasons not to do so. If
 11 the period of earned release awarded per RCW 9.94A.150 is longer,
 that will be the term of my community custody. If the crime I have
 12 been convicted of falls into more than one category of offense types
 listed in the following chart, then the community custody range will
 13 be based on the offense type that dictates the longest term of
 community custody.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
SERIOUS VIOLENT OFFENSES	24 TO 48 MONTHS OR UP TO THE PERIOD OF EARNED RELEASE, WHICHEVER IS LONGER.
VIOLENT OFFENSES	18 TO 36 MONTHS OR UP TO THE PERIOD OF EARNED RELEASE, WHICHEVER IS LONGER.
CRIMES AGAINST PERSONS AS DEFINED BY RCW 9.94A.411(2)	9 - 18 MONTHS OR UP TO THE PERIOD OF EARNED RELEASE, WHICHEVER IS LONGER.
OFFENSES UNDER CHAPTER 69.50 OR 69.52 RCW (NOT SENTENCED UNDER RCW 9.94A.120(6))	9 TO 12 MONTHS OR UP TO THE PERIOD OF EARNED RELEASE, WHICHEVER IS LONGER.

22 During the period of community custody, I will be under the
 23 supervision of the Department of Corrections, and I will have
 restrictions and requirements placed upon me. My failure to
 24 comply with these conditions will render me ineligible for
 general assistance, RCW 74.04.005(6)(h), and may result in the
 25 Department of Corrections transferring me to a more restrictive
 confinement status or other sanctions.

26 (g) The prosecuting attorney will make the following recommendation
 to the judge: Low end of the range - - 123 months

- 1 [] The prosecutor will recommend as stated in the plea
2 agreement, which is incorporated by reference.
- 3 (h) The judge does not have to follow anyone's recommendation as to
4 sentence. The judge must impose a sentence within the standard range
5 unless the judge finds substantial and compelling reasons not to do so.
6 I understand the following regarding exceptional sentences:
7 (i) The judge may impose an exceptional sentence below the standard range
8 if the judge finds mitigating circumstances supporting an exceptional
9 sentence.
10 (ii) The judge may impose an exceptional sentence above the standard range
11 if I am being sentenced for more than one crime and I have an offender
12 score of more than nine.
13 (iii) The judge may also impose an exceptional sentence above the standard
14 range if the State and defendant stipulate that justice is best served
15 by imposition of an exceptional sentence and the judge agrees that an
16 exceptional sentence is consistent with and in furtherance of the
17 interests of justice and the purposes of the Sentencing Reform Act.
18 (iv) The judge may also impose an exceptional sentence above the standard
19 range if the State has given notice that it will seek an exceptional
20 sentence, the notice states aggravating circumstances upon which the
21 requested sentence will be based, and facts supporting an exceptional
22 sentence are proven beyond a reasonable doubt to a unanimous jury, to
23 a judge if I waive a jury, or by stipulated facts.
24 I understand that if a standard range sentence is imposed, the sentence
25 cannot be appealed by anyone. If an exceptional sentence is imposed
26 after a contested hearing, either the State or I can appeal the
27 sentence.
- 28 (i) If I am not a citizen of the United States, a plea of guilty to
an offense punishable as a crime under state law is grounds for
deportation, exclusion from admission to the United States, or
denial of naturalization pursuant to the laws of the United
States.
- (j) I understand that I may not possess, own, or have under my
control any firearm unless my right to do so is restored by a
court of record and that I must immediately surrender any
concealed pistol license. RCW 9.41.040.
- (k) I understand that I will be ineligible to vote until that right is
restored in a manner described in RCW 10.64 (2005 Wash. Laws 246 §
1). If I am registered to vote, my voter registration will be cancelled.
Wash. Const. art. VI, § 3, RCW 29A.04.079, 29A.08.520.
- (l) Public assistance will be suspended during any period of imprisonment.
- (m) I understand that I will be required to have a biological sample
collected for purposes of DNA identification analysis. For offenses
committed on or after July 1, 2002, I will be required to pay a \$100 DNA
collection fee.
- NOTIFICATION RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING
PARAGRAPHS DO NOT APPLY, THEY SHOULD BE STRICKEN AND INITIALED BY THE
DEFENDANT AND THE JUDGE.
- (n) This offense is a most serious offense or strike as defined by RCW
9.94A.030, and if I have at least two prior convictions for most serious
offenses, whether in this state, in federal court, or elsewhere, the

1 crime for which I am charged carries a mandatory sentence of life
imprisonment without the possibility of parole.

2 [3] The judge may sentence me as a first-time offender instead of
3 giving a sentence within the standard range if I qualify under
4 RCW 9.94A.030. This sentence could include as much as 90 days'
5 confinement, and up to two years community supervision if the
6 crime was committed prior to July 1, 2000, or up to two years of
7 community custody if the crime was committed on or after July 1,
2000, plus all of the conditions described in paragraph (e).
Additionally, the judge could require me to undergo treatment, to
devote time to a specific occupation, and to pursue a prescribed
course of study or occupational training.

8 [pd] If this crime involves a kidnapping offense involving a minor, I
9 will be required to register where I reside, study or work. The
specific registration requirements are set forth in the "Offender
Registration" Attachment.

10 [x] If this is a crime of domestic violence, I may be ordered to
11 pay a domestic violence assessment of up to \$100.00. If I, or
12 the victim of the offense, have a minor child, the court may
order me to participate in a domestic violence perpetrator
13 program approved under RCW 26.50.150.

14 [z] If this crime involves prostitution, or a drug offense
15 associated with hypodermic needles, I will be required to
undergo testing for the human immunodeficiency (HIV/AIDS)
virus.

16 [g] The judge may sentence me under the special drug offender
17 sentencing alternative (DOSA) if I qualify under RCW 9.94A.660.
18 Even if I qualify, the judge may order that I be examined by a
19 licensed or certified treatment provider before deciding to
impose a DOSA sentence. If the judge decides to impose a DOSA
20 sentence, it could be either a prison-based alternative or a
residential chemical dependency treatment-based alternative.
21 If the judge imposes the prison based alternative, the sentence
will consist of a period of total confinement in a state
22 facility for one-half of the midpoint of the standard range.
During confinement, I will be required to undergo a
23 comprehensive substance abuse assessment and to participate in
treatment. The judge will also impose a term of community
custody of at least one-half of the midpoint of the standard
range.

24 If the judge imposes the residential chemical dependency
25 treatment-based alternative, the sentence will consist of a
term of community custody equal to one-half of the midpoint of
26 the standard sentence range or two years, whichever is greater,
and I will have to enter and remain in a certified residential
27 chemical dependency treatment program for a period of three to
six months, as set by the court. As part of this sentencing
28 alternative, the court is required to schedule a progress

1 hearing during the period of residential chemical dependency
2 treatment and a treatment termination hearing scheduled three
3 months before the expiration of the term of community custody.
4 At either hearing, based upon reports by my treatment provider
5 and the department of corrections on my compliance with
6 treatment and monitoring requirements and recommendations
7 regarding termination from treatment, the judge may modify the
8 conditions of my community custody or order me to serve a term
9 of total confinement equal to one-half of the midpoint of the
10 standard sentence range, followed by a term of community
11 custody under RCW 9.94A.715.

12 During the term of community custody for either sentencing
13 alternative, the judge could prohibit me from using alcohol or
14 controlled substances, require me to submit to urinalysis or
15 other testing to monitor that status, require me to devote time
16 to a specific employment or training, stay out of certain
17 areas, pay \$30.00 per month to offset the cost of monitoring
18 and require other conditions, such as affirmative conditions,
19 and the conditions described in paragraph 5(e). The judge, on
20 his or her own initiative, may order me to appear in court at
21 any time during the period of community custody to evaluate my
22 progress in treatment or to determine if any violations of the
23 conditions of the sentence have occurred. If the court finds
24 that I have violated the conditions of the sentence of that I
25 have failed to make satisfactory progress in treatment, the
26 court may modify the terms of my community custody or order me
27 to serve a term of total confinement within the standard range.

28 [X] If the judge finds that I have a chemical dependency that has
contributed to the offense, the judge may order me to
participate in rehabilitative programs or otherwise to perform
affirmative conduct reasonably related to the circumstances of
the crime for which I am pleading guilty.

[X] If this crime involves the manufacture, delivery, or possession
with the intent to deliver methamphetamine, including its
salts, isomers, and salts of isomers, or amphetamine, including
its salts, isomers, and salts of isomers, a mandatory
methamphetamine clean-up fine of \$3,000.00 will be assessed.
RCW 69.50.401(2)(b).

[X] If this crime involves a violation of the state drug laws, my
eligibility for state and federal food stamps, welfare, and
education benefits will be affected. 20 U.S.C. § 1091(r) and
21 U.S.C. § 862a.

[X] If this crime involves a motor vehicle, my driver's license or
privilege to drive will be suspended or revoked.

[X] If this crime involves the offense of vehicular homicide while under the
influence of intoxicating liquor or any drug, as defined by RCW
46.61.502, committed on or after January 1, 1999, an additional two

1 years shall be added to the presumptive sentence for vehicular homicide
2 for each prior offense as defined in RCW 46.61.5055(8).

3 [X] The crime of _____ has a mandatory minimum
4 sentence of at least _____ years of total confinement. The law
5 does not allow any reduction of this sentence. This mandatory
6 minimum sentence is not the same as the mandatory sentence of
7 life imprisonment without the possibility of parole described in
8 paragraph 6(n).

9 [X] I am being sentenced for two or more serious violent offenses
10 arising from separate and distinct criminal conduct and the
11 sentences imposed on counts _____ and _____ will run
12 consecutively unless the judge finds substantial and compelling
13 reasons to do otherwise.

14 [X] I understand that the offense(s) I am pleading guilty to include
15 a deadly weapon or firearm enhancement. Deadly weapon or firearm
16 enhancements are mandatory, they must be served in total
17 confinement, and they must run consecutively to any other
18 sentence and to any other deadly weapon or firearm enhancements.

19 [X] I understand that the offenses I am pleading guilty to include
20 both a conviction under RCW 9A.04.040 for unlawful possession of
21 a firearm in the first or second degree and one or more
22 convictions for the felony crimes of theft of a firearm or
23 possession of a stolen firearm. The sentences imposed for these
24 crimes shall be served consecutively to each other. A
25 consecutive sentence will also be imposed for each firearm
26 unlawfully possessed.

27 [X] I understand that if I am pleading guilty to the crime of unlawful
28 practices in obtaining assistance as defined in RCW 74.08.331, no
29 assistance payment shall be made for at least six months if this
30 is my first conviction and for at least 12 months if this is my
31 second or subsequent conviction. This suspension of benefits will
32 apply even if I am not incarcerated. RCW 74.08.290.

33 7. I plead guilty to: Murder in Second Degree in the
34 ~~original~~/Amended Information. I have received a copy of that
35 Information.

36 8. I make this plea freely and voluntarily.

37 9. No one has threatened harm of any kind to me or to any other
38 person to cause me to make this plea.

39 10. No person has made promises of any kind to cause me to enter this
40 plea except as set forth in this statement.

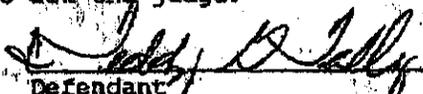
41 11. The judge has asked me to state what I did in my own words that
42 makes me guilty of this crime. This is my statement:
43 Although I believe I was lawfully acting in self-defense and to
44 protect my daughter, I acknowledge that a jury could find me
45 guilty of second degree murder and plead guilty to accept the
46 reduction in charge pursuant to State v. Newton.

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[] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

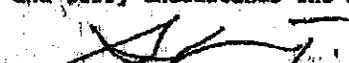
12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment, if applicable. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

DATED: 3/7/07


Defendant

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


ADAM N. KICK, WSBA No. 27525
Deputy Prosecuting Attorney


RANDALL G. KROG, WSBA No. 30111
Attorney for Defendant
STEVEN W. THAYER

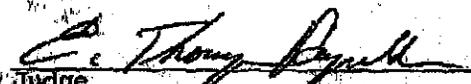
7449

The foregoing statement was signed by the defendant in open court, in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

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

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

Dated: 3/7/07


Judge

MURDER, SECOND DEGREE

(RCW 9A.32.050)

CLASS A FELONY

SERIOUS VIOLENT

(If sexual motivation finding/verdict for conspiracy or attempt, use form on page II-18)

I. OFFENDER SCORING (RCW 9.94A.326(9))

ADULT HISTORY:

Enter number of serious violent felony convictions..... x 3 =

Enter number of violent felony convictions..... x 2 =

Enter number of nonviolent felony convictions..... x 1 =

JUVENILE HISTORY:

Enter number of serious violent felony dispositions..... x 3 =

Enter number of violent felony dispositions..... x 2 =

Enter number of nonviolent felony dispositions..... x 1 =

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of violent felony convictions..... x 2 =

Enter number of nonviolent felony convictions..... x 1 =

STATUS: Was the offender on community custody on the date the current offense was committed? (If yes), + 1 =

Total the last column to get the Offender Score
(Round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	8 or more
STANDARD RANGE (LEVEL X)	123 - 223 months	134 - 234 months	144 - 244 months	154 - 254 months	165 - 265 months	175 - 275 months	185 - 285 months	216 - 316 months	257 - 357 months	296 - 397 months

B. The range for attempt, solicitation, and conspiracy is 75% of the range for the completed crime (RCW 9.94A.595).

C. When a court sentences an offender to the custody of the Dept. of Corrections, the court shall also sentence the offender to community custody for the range of 24 to 48 months, or to the period of earned release, whichever is longer (RCW 9.94A.715).

D. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages II-7 or II-8 to calculate the enhanced sentence.

• The scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules

APPENDIX

3

**SKAMANIA COUNTY
FILED
MAR 29 2007
SHARON K. VANCE, CLERK
DEPUTY**

**IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAMANIA**

STATE OF WASHINGTON,

Plaintiff,

vs.

TEDDY GLENN TALLEY,

SID:

If no SID, use DOB: 5-29-51

Defendant.

No. 05-1-00111-7

Felony Judgment and Sentence (FJS)

- Prison
- RCW 9.94A.712 Prison Confinement
- Jail One Year or Less
- First-Time Offender
- Special Sexual Offender Sentencing Alternative
- Special Drug Offender Sentencing Alternative
- Clerk's Action Required, para 4.5 (SDOSA), 4.15.2, 5.3, 5.6 and 5.8

07-9-00050-6

I. Hearing

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 3-7-07 by plea jury-verdict bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
1	MURDER IN THE SECOND DEGREE	RCW 9A.32.050 (1) (a)	10-27-05

(If the crime is a drug offense, include the type of drug in the second column.)

as charged in the Third Amended Information.

- Additional current offenses are attached in Appendix 2.1.
- The court finds that the defendant is subject to sentencing under RCW 9.94A.712.
- A special verdict/finding that the offense was predatory was returned on Count(s) _____ RCW 9.94A._____
- A special verdict/finding that the victim was under 15 years of age at the time of the offense was returned on Count(s) _____ RCW 9.94A._____

Felony Judgment and Sentence (FJS) (RCW 9.94A.500, .505)
(WPF CR 84.0400 (6/2006))

- [] A special verdict/finding that the victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense was returned on Count(s) _____ RCW 9.94A.9A.44.010.
- [] A special verdict/finding of sexual motivation was returned on Count(s) _____ RCW 9.94A.835.
- [] 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.
- [] A special verdict/finding for use of firearm was returned on Count(s) _____ RCW 9.94A.602, 9.94A.533.
- [] A special verdict/finding for use of deadly weapon other than a firearm was returned on Count(s) _____ RCW 9.94A.602, 9.94A.533.
- [] A special verdict/finding for Violation of the Uniform Controlled Substances Act (VUCSA) 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.
- [] A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture was returned on Count(s) _____ RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- [] The defendant was convicted of vehicular homicide which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- [] The court finds that the offender has a chemical dependency that has contributed to the offense(s). RCW 9.94A.607.
- [] The crime charged in Count(s) _____ involve(s) domestic violence.
- [] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- [] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 Criminal History (RCW 9.94A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult or Juv	TYPE OF CRIME
NO KNOWN HISTORY					

- [] 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

Felony Judgment and Sentence (FJS) (RCW 9.94A.500, .505)
(WPF CR 84.0400 (6/2006))

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:

2.3 Sentencing Data:

COUNT	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENT (F) FIREARM (D) DEADLY WEAPON (V) VUCSA in a protected zone	TOTAL STANDARD RANGE	MAXIMUM TERM
I	0	XIV	123-220 MONTHS	N/A	123-220	LIFE \$50,000

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8).

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:

within below the standard range for Count(s) _____

above the standard range for Count(s) _____

The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

Aggravating factors were stipulated by the defendant, found by the court after the defendant waived jury trial, found by jury by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4.

Jury's special interrogatory is attached. 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.753.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

2.6 For violent offenses, most serious offenses, or armed offenders

Felony Judgment and Sentence (FJS) (RCW 9.94A.500, .505)
 (WPF CR 84.0400 (6/2006))

recommended sentencing agreements or plea agreements are attached 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 _____ The defendant is found Not Guilty of Counts _____

IV. Sentence and Order

It is Ordered:

4.1 Defendant shall pay to the Clerk of this Court:

JASS CODE \$ TBD Restitution to: Birkenfeld Family

RTR/RJN \$ _____ Restitution to: _____

\$ _____ Restitution to: _____

Name & Address-Address may be withheld and provided confidentially to Clerk's Office

PCV \$ 500.00 Victim Assessment RCW 7.68.035

\$ _____ Domestic Violence assessment RCW 10.99.080

CRC \$ 200.00 Court costs including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190.

Criminal Filing Fee \$ 200.00 FRC

Witness costs \$ _____ WFR

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

Jury demand fee \$ _____ JFR

Extradition Cost \$ _____ EXT

Other \$ _____

FUB \$ _____ Fees for court appointed attorney RCW 9.94A.760

WFR \$ _____ Court appointed defense expert and other defense costs RCW 9.94A.760

FCM/MTK \$ _____ Fine RCW 9A.20.021, VUCSA chapter 69.50 RCW VUCSA additional fine deferred due to indigency RCW 69.50.430

CDP/LDI/FCDS \$ _____ Drug enforcement fund of: RCW 9.94A.760

NTF/SAD/SDI

CLF \$ 100.00 Crime lab fee suspended due to indigency RCW 43.43.690

\$ 100.00 Felony DNA collection fee not imposed due to

Felony Judgment and Sentence (FJS) (RCW 9.94A.500, .505) (WRF CR 84.0400 (6/2006))

		hardship	RCW 43.43.7541
RTN/RJN	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1,000 maximum)	RCW 38.52.430
	\$ <u>500.00</u>	Other costs for: <u>Skamania County Sheriff's Office Investigation Fund</u>	
	\$ <u>400.00</u>	TOTAL	RCW 9.94A.760

[X] 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.753. A restitution hearing:

- [X] shall be set by the prosecutor.
- [] is scheduled for .
- [] Restitution Schedule attached.

[] Restitution ordered above shall be paid jointly and severally with:

<u>Name of other defendant</u>	<u>Cause Number</u>	<u>(Victim's name)</u>	<u>(Amount-\$)</u>
RJN			

[] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

[X] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ 25 per month commencing May 1, 2007. RCW 9.94A.760.

The defendant shall report as directed by the clerk of the court and provide financial information as requested. RCW 9.94A.760(7)(b).

[] 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 rate of \$50.00 per day, unless another rate is specified here: _____ (JLR) RCW 9.94A.760.

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 shall be responsible for obtaining the sample prior to the defendant's release

Felony Judgment and Sentence (FJS) (RCW 9.94A.500, .505)
(WPF CR 84.0400 (6/2006))

from confinement. RCW 43.43.754.

HIV Testing. The defendant shall submit to HIV testing. RCW 70.24.340.

4.3 The defendant shall not have contact with _____

(name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for life (not to exceed the maximum statutory sentence).

Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed with this Judgment and Sentence.

The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____ for the cost of pretrial electronic monitoring in the amount of \$ _____.

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 total confinement in the custody of the Department of Corrections (DOC):

<u>123</u> months on Count <u>I</u>	_____ months on Count _____
-------------------------------------	-----------------------------

Actual number of months of total confinement ordered is: _____

(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above.)

The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm, other deadly weapon, sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with the sentence in cause number(s) _____

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here:

(b) Confinement. RCW 9.94A.712 (Sex Offenses only): The defendant is sentenced to the following term of confinement in the custody of the DOC:

Count _____ minimum term _____ maximum term _____
Count _____ minimum term _____ maximum term _____

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

4.6 [] Community Placement is ordered as follows:

Count _____ for _____ months; Count _____ for _____ months;
Count _____ for _____ months; Count _____ for _____ months.

[] Community Custody for count(s) _____, sentenced under RCW 9.94A.712, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence.

[X] Community Custody is ordered as follows:

Count I for a range from 24 to 48 months;
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ 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 and .705 for community placement offenses, which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and 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. Use paragraph 4.7 to impose community custody following work ethic camp.]

On or after July 1, 2003, DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories; or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

- a) the defendant committed a current or prior:
i) Sex offense ii) Violent offense iii) Crime against a person(RCW 9.94A.411)
iv) Domestic violence offense (RCW 10.99.020) v) Residential burglary offense
vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine including its salts, isomers, and salts of isomers.

vii) Offense for delivery of a controlled substance to a minor; or attempt, solicitation or conspiracy (vi, vii)

b) the conditions of community placement or community custody include chemical dependency treatment.

c) the defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745.

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 DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC; and (8) for sex offenses, submit to electronic monitoring if imposed by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 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.

[X] The defendant shall not consume any alcohol.

[X] Defendant shall have no contact with: NICOLE BURLEY FELD and her 2 children LARRY BURLEY FELD DANNE BURLEY FELD

[] Defendant shall remain [] within [] outside of a specified geographical boundary, to wit: _____

[] Defendant shall not reside in a community protection zone (within 880 feet of the facilities or grounds of a public or private school). (RCW 9.94A.030(8)).

[] The defendant shall participate in the following crime-related treatment or counseling services: _____

[] The defendant shall undergo an evaluation for treatment for [] domestic violence [] substance abuse

[] mental health [] anger management and fully comply with all recommended treatment.

[] The defendant shall comply with the following crime-related prohibitions: _____

[X] Other conditions: See 'Appendix A'

[] For sentences imposed under RCW 9.94A.712, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

4.7 [] Work Ethic Camp. RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of

work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

- 4.8 **Off Limits Order.** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections:

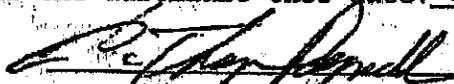
V. Notices and Signatures

- 5.1 **Collateral Attack on Judgment.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **Length of Supervision.** 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 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose 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 9.94A.505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 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 or the clerk of the court 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.760 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

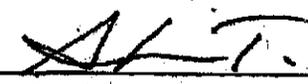
to 60 days of confinement per violation. RCW 9.94A.634.

- 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 clerk of the court 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.
- 5.8 []The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.
- 5.9 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.
- 5.10 Other: _____

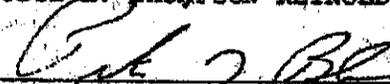
DONE IN OPEN COURT in the presence of the defendant this date: 3-29-07



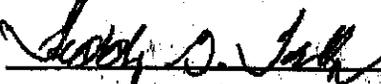
JUDGE B. THOMPSON REYNOLDS



Attorney for Defendant
WSBA # 7449
Print Name: STEVEN W. THAYER



Prosecuting Attorney
WSBA # 7174
Print Name: PETER S. BANKS



TEDDY GLENN TALLEY
Defendant

Voting Rights Statement: I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 9A.34.660.

Defendant's signature: *Sharon K. Vance*

CAUSE NUMBER of this case: 05-1-00111-7

I, SHARON K. VANCE, 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 the Court of said county and state, by: _____ Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. _____ Date of Birth 5-29-51
(If no SID take fingerprint card for State Patrol)

FBI No. _____ Local ID No. _____

PCN No. _____ Other _____

Alias name, SSN, DOB: _____

Race: Ethnicity: Sex:

Asian/Pacific Islander Black/African American Caucasian Hispanic Male

Native American Other: _____ Non-hispanic Female

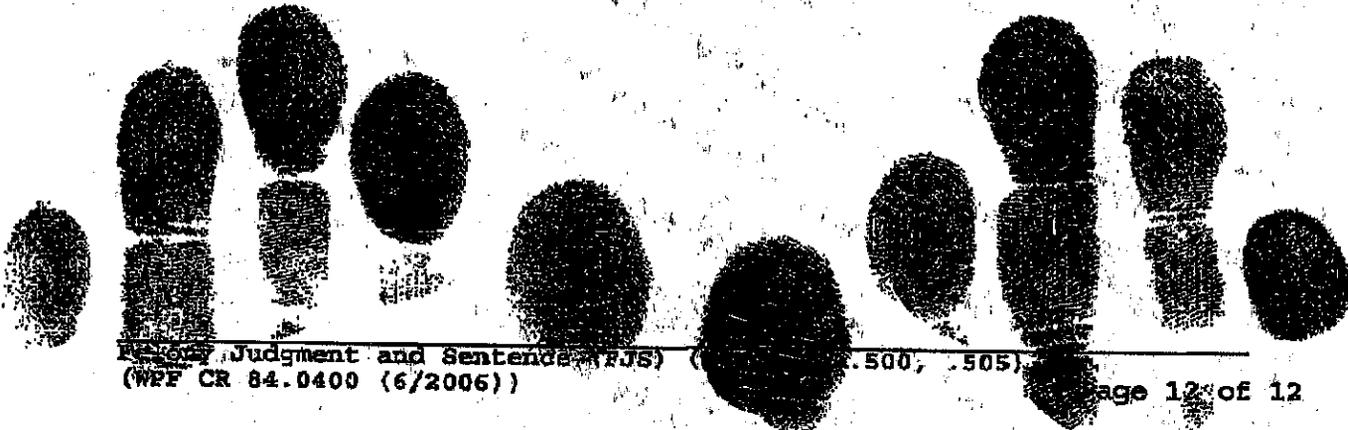
FINGERPRINTS: I attest that I saw the same defendant who appeared in Court, on this document affix his or her fingerprints and signature thereto.

Clerk of the Court: Alissa L. Seane, Deputy Clerk.

Dated: March 29, 2007

DEFENDANT'S SIGNATURE: [Signature]

Left 4 fingers taken simultaneously Left Thumb Right Thumb Right 4 fingers taken simultaneously



APPENDIX "A"

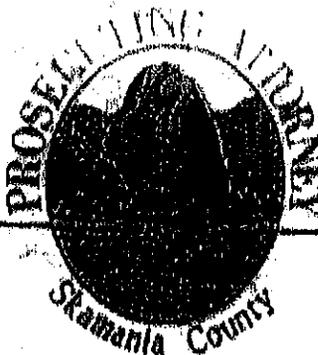
- to devote time specific employment or occupation
- to pursue a prescribed course of secular study
- to notify the court or community corrections officer in advance of any change in defendant's address or employment
- to remain within prescribed geographical boundaries
- prohibited from the ownership, possession and/or control of any firearm or any deadly weapon as defined by statute.
- prohibited from the possession, control and/or consumption of alcohol.
- prohibited from the possession, control and/or consumption of any controlled substance.
- subject to random BAC, blood draw and/or urinalysis upon request of the Department of Corrections.
- required to obtain a substance abuse evaluation and fully comply with any recommended treatment.
- required to obtain an anger management evaluation and fully comply with any recommended treatment.
- restricted to travel within Skamania County, except as permitted by the Department of Corrections.
- subject to curfew as established by the Department of Corrections.
- prohibited from operating a motor vehicle without a valid operator's license and insurance as required by statute.
- required to be on his good behavior and have no further law violations.
- required to make regular monthly payments towards his legal financial obligations.

J. T. Smith, Judge
3/28/07

APPENDIX

4

Peter S. Banks
Prosecutor
Christopher R. Lantz
Chief Criminal Deputy Prosecutor
Daniel C. McGill
Deputy Prosecutor



PROSECUTOR
COURT BUILDING
Skamania Co. WA 97147
Crd 509-427-3798
Criminal 509-427-3796
Fax 509-427-3798

FAX TRANSMISSION

DATE: April 16, 2010 TIME: 3:50

TO: WA State Court of Appeals

FIRM: _____

FAX No.: 253-593-2806

SUBJECT AND/OR CASE: Teddy G. Talley

MESSAGE: 39080-9-II

Response of the County of Skamania
To Petitioner's Motion for Discretionary
Review.

NO. OF PAGES 62 (including cover page)

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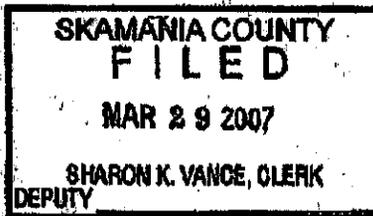
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APPENDIX

3



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

STATE OF WASHINGTON,

Plaintiff,

vs.

TEDDY GLENN TALLEY,

SID:

If no SID, use DOB: 5-29-51

Defendant.

No. 05-1-00111-7

Felony Judgment and Sentence (FJS)

- Prison
- RCW 9.94A.712 Prison Confinement
- Jail One Year or Less
- First-Time Offender
- Special Sexual Offender Sentencing Alternative
- Special Drug Offender Sentencing Alternative
- Clerk's Action Required, para 4.5 (SDOSA), 4.15.2, 5.3, 5.6 and 5.8

07-9-00050-6

I. Hearing

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 3-7-07 by plea jury-verdict bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
I	MURDER IN THE SECOND DEGREE	RCW 9A.32.050(1)(a)	10-27-05

(If the crime is a drug offense, include the type of drug in the second column.)

as charged in the Third Amended Information.

- Additional current offenses are attached in Appendix 2.1.
- The court finds that the defendant is subject to sentencing under RCW 9.94A.712.
- A special verdict/finding that the offense was predatory was returned on Count(s) _____ RCW 9.94A. _____.
- A special verdict/finding that the victim was under 15 years of age at the time of the offense was returned on Count(s) _____ RCW 9.94A. _____.

Felony Judgment and Sentence (FJS) (RCW 9.94A.500, .505)
(WPF CR 84.0400 (6/2006))

- [] A special verdict/finding that the victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense was returned on Count(s) _____ RCW 9.94A. 9A.44.010.
- [] A special verdict/finding of sexual motivation was returned on Count(s) _____ RCW 9.94A.635.
- [] 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.
- [] A special verdict/finding for use of firearm was returned on Count(s) _____ RCW 9.94A.602, 9.94A.533.
- [] A special verdict/finding for use of deadly weapon other than a firearm was returned on Count(s) _____ RCW 9.94A.602, 9.94A.533.
- [] A special verdict/finding for Violation of the Uniform Controlled Substances Act (VUCSA) 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.
- [] A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture was returned on Count(s) _____ RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- [] The defendant was convicted of vehicular homicide which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- [] The court finds that the offender has a chemical dependency that has contributed to the offense(s). RCW 9.94A.607.
- [] The crime charged in Count(s) _____ involve(s) domestic violence.
- [] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- [] Other current convictions, listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 Criminal History (RCW 9.94A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult or Juv	TYPE OF CRIME
NO KNOWN HISTORY					

- [] 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

Felony Judgment and Sentence (FJS) (RCW 9.94A.500, .505)
(WPP CR 84.0400 (6/2006))

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:

2.3 Sentencing Data:

COUNT	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENT (F) FIREARM (D) DEADLY WEAPON (V) VUCSA in a protected zone	TOTAL STANDARD RANGE	MAXIMUM TERM
I	0	XIV	123-220 MONTHS	N/A	123-220	LIFE \$50,000

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8).

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:

within below the standard range for Count(s) _____

above the standard range for Count(s) _____

The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

Aggravating factors were stipulated by the defendant, found by the court after the defendant waived jury trial, found by jury by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4.

Jury's special interrogatory is attached. 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.753.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

2.6 For violent offenses, most serious offenses, or armed offenders

Felony Judgment and Sentence (FJS) (RCW 9.94A.500, .505)
 (WPF CR 84.0400 (6/2006))

recommended sentencing agreements or plea agreements are attached 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 _____ The defendant is found Not Guilty of Counts _____

IV. Sentence and Order

It is Ordered:

4.1 Defendant shall pay to the Clerk of this Court:

JASS CODE \$ TED Restitution to: Birkenfeld Family

RIN/RIN \$ Restitution to:

\$ Restitution to:

Name & Address-Address may be withheld and provided confidentially to Clerk's Office

RCV \$ 500.00 Victim Assessment RCW 7.68.035

\$ Domestic Violence assessment RCW 10.99.080

CRC \$ 200.00 Court costs including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190.

Criminal Filing Fee \$ 200.00 FRC

Witness costs \$ WFR

Sheriff service fees \$ SFR/SFS/SFW/WRF

Jury demand fee \$ JFR

Extradition Cost \$ EXT

Other \$

FUB \$ Fees for court appointed attorney RCW 9.94A.760

WFR \$ Court appointed defense expert and other defense costs RCW 9.94A.760

FCM/MTR \$ Fine RCW 9A.20.021; VUCSA chapter 69.50 RCW VUCSA additional fine deferred due to indigency RCW 69.50.430

CDP/LDI/FCO \$ Drug enforcement fund of: RCW 9.94A.760

NTF/SAD/SDI

CLF \$ 100.00 Crime lab fee suspended due to indigency RCW 43.43.690

\$ 100.00 Felony DNA collection fee not imposed due to

Felony Judgment and Sentence (FJS) (RCW 9.94A.500, .505) (WDF CR 84.0400 (6/2006))

hardship RCW 43.43.7541

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

\$ 500.00 Other costs for: Skamania County Sheriff's Office Investigation Fund

\$ 1400.00 TOTAL RCW 9.94A.760

[X] 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.753. A restitution hearing:

- [X] shall be set by the prosecutor.
- [] is scheduled for .
- [] Restitution Schedule attached.

[] Restitution ordered above shall be paid jointly and severally with:

<u>Name of other defendant</u>	<u>Cause Number</u>	<u>(Victim's name)</u>	<u>(Amount-\$)</u>
RJN			

[] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

[X] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ 25 per month commencing May 1, 2007. RCW 9.94A.760.

The defendant shall report as directed by the clerk of the court and provide financial information as requested. RCW 9.94A.760(7)(b).

[] 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 rate of \$50.00 per day, unless another rate is specified here: _____ (JLR) RCW 9.94A.760.

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 shall be responsible for obtaining the sample prior to the defendant's release

from confinement. RCW 43.43.754.

HIV Testing. The defendant shall submit to HIV testing. RCW 70.24.340.

4.3 The defendant shall not have contact with _____

(name, DOB) _____ including, but not limited to, personal, verbal, telephonic, written or contact through a third party for life (not to exceed the maximum statutory sentence).

Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed with this Judgment and Sentence.

The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____ for the cost of pretrial electronic monitoring in the amount of \$ _____.

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 total confinement in the custody of the Department of Corrections (DOC):

<u>123</u> months on Count <u>I</u>	_____ months on Count _____
-------------------------------------	-----------------------------

Actual number of months of total confinement ordered is: _____

(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above.)

The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm, other deadly weapon, sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with the sentence in cause number(s) _____

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here:

(b) Confinement. RCW 9.94A.712 (Sex Offenses only): The defendant is sentenced to the following term of confinement in the custody of the DOC:

Count _____ minimum term _____ maximum term _____
Count _____ minimum term _____ maximum term _____

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

4.6 [] Community Placement is ordered as follows:

Count _____ for _____ months; Count _____ for _____ months;
Count _____ for _____ months; Count _____ for _____ months.

[] Community Custody for count(s) _____, sentenced under RCW 9.94A.712, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence.

[X] Community Custody is ordered as follows:

Count I for a range from 24 to 48 months;
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ 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 and .705 for community placement offenses, which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and 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. Use paragraph 4.7 to impose community custody following work ethic camp.]

On or after July 1, 2003, DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories; or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

- a) the defendant committed a current or prior:
i) Sex offense ii) Violent offense iii) Crime against a person (RCW 9.94A.411)
iv) Domestic violence offense (RCW 10.99.020) v) Residential burglary offense
vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine including its salts, isomers, and salts of isomers.

- vii) Offense for delivery of a controlled substance to a minor; or attempt, solicitation or conspiracy (vi, vii)
- b) the conditions of community placement or community custody include chemical dependency treatment.
- c) the defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.746.

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 DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC; and (8) for sex offenses, submit to electronic monitoring if imposed by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 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.

- [X] The defendant shall not consume any alcohol.
- [X] Defendant shall have no contact with: NIKOLE BURKHELD and her children LARRY BURKHELD JANE BURKHELD
- [] Defendant shall remain [] within [] outside of a specified geographical boundary, to wit: _____
- [] Defendant shall not reside in a community protection zone (within 880 feet of the facilities or grounds of a public or private school). (RCW 9.94A.030(8)).
- [] The defendant shall participate in the following crime-related treatment or counseling services: _____
- [] The defendant shall undergo an evaluation for treatment for [] domestic violence [] substance abuse
- [] mental health [] anger management and fully comply with all recommended treatment.
- [] The defendant shall comply with the following crime-related prohibitions: _____
- [X] Other conditions: See 'Appendix A'
- [] For sentences imposed under RCW 9.94A.712, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

4.7 [] Work Ethic Camp. RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of

work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

- 4.8 Off Limits Order. (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections:

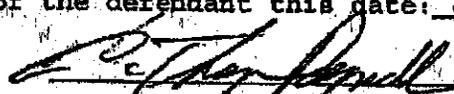
V. Notices and Signatures

- 5.1 Collateral Attack on Judgment. Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 Length of Supervision. 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 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose 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 9.94A.505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 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 or the clerk of the court 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.760 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

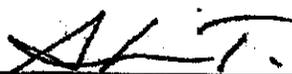
to 60 days of confinement per violation. RCW 9.94A.634.

- 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 clerk of the court 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.
- 5.8 []The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.
- 5.9 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.
- 5.10 Other: _____

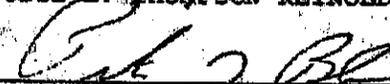
DONE IN OPEN COURT in the presence of the defendant this date: 3-29-07



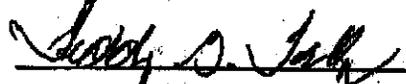
 JUDGE E. THOMPSON REYNOLDS



 Attorney for Defendant
 WSBA # 7449
 Print Name: STEVEN W. THAYER



 Prosecuting Attorney
 WSBA # 7174
 Print Name: PETER S. BANKS



 TEDDY GLENN TALLEY
 Defendant

Voting Rights Statement: I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 9A.84.660.

Defendant's signature: *Jessy D. Kelly*

CAUSE NUMBER of this case: 05-1-00111-7

I, SHARON K. VANCE, 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 the Court of said county and state, by: _____ Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. _____ Date of Birth 5-29-51
(If no SID take fingerprint card for State Patrol)

FBI No. _____ Local ID No. _____

PCN No. _____ Other _____

Alias name, SSN, DOB: _____

Race: Ethnicity: Sex:

Asian/Pacific Islander Black/African American Caucasian Hispanic Male

Native American Other: _____ Non-hispanic 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: Alissa L. Sene, Deputy Clerk.

Dated: March 29, 2007

DEFENDANT'S SIGNATURE: _____

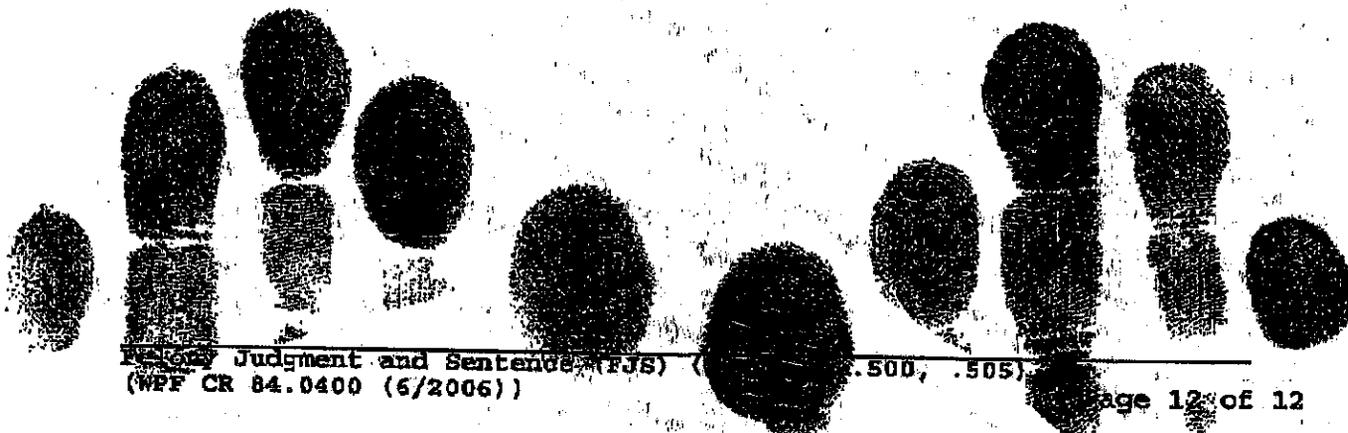
[Handwritten Signature]

Left 4 fingers taken simultaneously

Left Thumb

Right Thumb

Right 4 fingers taken simultaneously



APPENDIX "A"

- to devote time specific employment or occupation
- to pursue a prescribed course of secular study
- to notify the court or community corrections officer in advance of any change in defendant's address or employment
- to remain within prescribed geographical boundaries
- prohibited from the ownership, possession and/or control of any firearm or any deadly weapon as defined by statute.
- prohibited from the possession, control and/or consumption of alcohol.
- prohibited from the possession, control and/or consumption of any controlled substance.
- subject to random BAC, blood draw and/or urinalysis upon request of the Department of Corrections.
- required to obtain a substance abuse evaluation and fully comply with any recommended treatment.
- required to obtain an anger management evaluation and fully comply with any recommended treatment.
- restricted to travel within Skamania County, except as permitted by the Department of Corrections.
- subject to curfew as established by the Department of Corrections.
- prohibited from operating a motor vehicle without a valid operator's license and insurance as required by statute.
- required to be on his good behavior and have no further law violations.
- required to make regular monthly payments towards his legal financial obligations.

W. T. Smith, Judge
3/29/07

APPENDIX

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IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAMANIA,
STATE OF WASHINGTON,

Plaintiff,

vs.

TEDDY GLENN TALLEY,
DOB: 5-29-51
WMA: 5'08" 160 LBS
EYES: GRN

Defendant.

STATE OF WASHINGTON)
COUNTY OF SKAMANIA) ss

TO: THE SHERIFF OF SKAMANIA COUNTY

The defendant, TEDDY GLENN TALLEY has been convicted in the Superior Court of the State of Washington of the crime of: MURDER IN THE SECOND DEGREE and the Court has ordered that the defendant be punished by serving the determined sentence of:

- / 23 months on Count I
- _____ (days) (months) of partial confinement in the County Jail
- _____ (days) (months) of total confinement in the County Jail
- YOU, THE SHERIFF, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.
- YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

SKAMANIA COUNTY
FILED
MAR 29 2007
SHARON K. VANCE, CLERK
DEPUTY

NO. 05-1-00111-7

WARRANT OF COMMITMENT

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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.

[] The defendant is committed for up to thirty (30) days evaluation at Western State Hospital or Eastern State Hospital to determine amenability to sexual offender treatment.

YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections pending delivery to the proper officers of the Secretary of the Department of Social and Health Services.

YOU, THE PROPER OFFICERS OF THE SECRETARY OF THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES, ARE COMMANDED to receive the defendant for evaluation as ordered in the Judgment and Sentence.

DATED: March 19, 2010 by Direction of the Honorable:

E. THOMPSON REYNOLDS
JUDGE

Shaon K Vance
Clerk

By: Paula V Seene Deputy

APPENDIX

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FEB-23-2008 THU 01:08 PM WCO RECORDS

FAX NO. 360 477 4581

P. 02/02



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

JAIL TIME CERTIFICATION

The following information is requested for the purpose of crediting time spent in confinement prior to the transfer of the below listed subject:

NAME <i>Talley, Teddy G.</i>	DOC	DATE OF BIRTH: [REDACTED]
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COUNTY: SKAMANIA	CAUSE <i>05-1-0011-7</i>
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Please list all dates of arrest and release plus earned early release credits concerning the above subject up to the Date of Transfer, then return to the address below. Thank you.

START DATE	END DATE	TOTAL DAYS SERVED	EARNED EARLY RELEASE CREDITS
<i>10/28/05</i>	<i>03/29/07</i>	<i>516</i>	<i>0</i>

Dale M. Nelson
 SIGNATURE OF JAIL RECORDS OFFICIAL
 DATE *03/29/07*

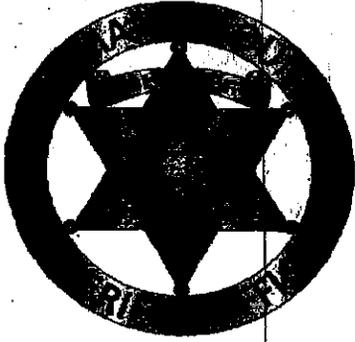
RECORDS OFFICER, DEPARTMENT OF CORRECTIONS
 DATE

Washington Corrections Center-Records
 P. O. Box 900
 Shelton, WA 98584

DOC 5-293 WCO (8/94)

APPENDIX

6



OFFICE OF THE SKAMANIA COUNTY
SHERIFF

Dave Cox
Undersheriff

Pat Bond
Chief Criminal Deputy

Marlea McKenzie
Chief Civil Deputy

David Waymire
Jail Superintendent

DAVID S. BROWN
SHERIFF

PO Box 790
200 Vancouver Ave.
Stevenson, WA 98648
Phone (509) 427-9490
Fax (509) 427-4369
www.skamaniasheriff.com
scso@cp.skamania.wa.us

To Whom It May Concern:

Upon reviewing the credit for time served for Talley, Teddy Glen it has been determined there was a mistake in the calculation. By my calculation Teddy is to receive 517 days credit for time served. The reason I calculate credit for time served being 517 days is by going in 24hr increments. Teddy was booked into the Skamania County Jail on 10/28/2005 on 10/26/2005 would be one day served and so on. 10/28/2005 to 03/29/2007 = 517.

Sgt J Wenz

Skamania County Sheriff's Office

APPENDIX

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Skamania County Sheriff's Office

SKAMANIA COUNTY JAIL FACILITY TRUSTEE PROGRAM

9.01.010

Trustee status in the Skamania County Jail Facility is a privilege. Skamania County Jail staff shall designate those prisoners who are allowed trustee status. When a vacancy occurs, jail staff shall select an inmate to fill the vacancy through application process. The final decision in appointing an inmate to trustee status shall be by the Corrections Sergeant or Jail Manager

Trustees are expected to comply with all jail rules and regulations. The jail staff supervises trustees, or other qualified persons, and is expected to complete their assigned duties.

An inmate wishing to participate in our trustee program must first meet the following criteria:

1. Sentenced on all charges
2. Have no outstanding warrants or holds from other agencies.
3. Must show the willingness and ability to perform all necessary duties.
4. Because trustees will be required to interact with other inmates and jail staff in conjunction with their duties, their attitude and personality may be the deciding factor in the selection process.
5. Any inmate with an active protection order in which the protected person resides in Skamania County will not be allowed to work outside our facility but may be approved for interior facility work.

Some Trustee duties are:

1. Prepare and set up inmate meals (while serving meals the trustees are not to enter pods)
2. Stock and rotate food when delivered
3. Keep the kitchen neat and clean
4. Wash, dry, fold and stack jail laundry
5. Sweep and mop the kitchen, elevator, laundry room, visitation and booking area daily.
6. Keep the Kitchen and trustee area neat and clean.
7. Wash vehicles
8. Participate in the "in custody" work crew program.
9. Other duties as assigned.

Trustee status may be revoked for the following

1. A warrant or new charges are filed against the inmate.
2. Violation of any state/federal laws, or any jail rule or regulation.
3. Inadequate performance of the duties as required, or requested by the jail staff.
4. Personality conflicts with the jail staff and/or the other inmates. The factors involving this conflict will be reviewed by the Corrections Sergeant or his designee.
5. Inmates may have their trustee status revoked at anytime by the jail staff.

Skamania County Sheriff's Office

Good Time:

- 1. Sentences may be reduced up to 1/3 for trustees, and work crew participants based on their performance, and the amount of sentence that was served as a trustee.

Good Time is not allowed for trustees who are serving time on fines, court ordered "not to receive good time" and Sex offenders.

Trustee Agreement:

- 1. Being a trustee at the Skamania County Jail is a privilege.
- 2. Your trustee privilege can be revoked for any violation.

I _____ have read, understand, and agree to follow the requirements listed above.

Inmate's Signature _____ Date _____

Witnessing Officer's Signature _____ Date _____

OFF PREMISE WORK REQUIREMENTS

9.01.020

SUPEVISOR OBLIGATIONS

There may be times when trustees are allowed to participate in work programs outside of the Sheriff's Office complex. These work details shall be limited to work only for County programs, supervised by County employees. Sex offenders or inmates with other agency holds may only participate in these off premise jobs when a Corrections Officer is present.

County employees who elect to use in custody Trustees shall be considered an extension of the Sheriff's Jail staff and shall comply with those rules and regulations regulating duties of Staff employees. Each Governmental employee who elects to use in custody Trustees shall comply with the following rules and regulations in addition to department policy and procedures.

- 1. **Supervisor shall keep records.**
Accurate attendance records, work completed records, and time spent on projects shall be kept for each inmate under supervision.

Skamania County Sheriff's Office

2. Supervisor shall provide safety orientation.

Prior to the start of a new project, a safety orientation shall be presented to the Trustee participants. Such safety considerations shall include those issues pertaining to the project or hazards associated with the project the Trustees will be involved with. Additionally the supervising Governmental department shall provide all necessary safety equipment to complete the task.

3. Supervisor shall be in charge of supervision of Trustees.

The supervising department shall provide a supervisor that shall oversee the work and safety of the Trustees. The supervisor shall have all authority to do what is necessary to insure the safety and well being of all participants of the work project. The supervisor shall be responsible for all activities associated with the work project and will conform to the listed restrictions involved with supervision of in custody Trustees.

- a. Trustees shall not have direct contact with the general public.
- b. Trustees are not allowed to go into or loiter in a public business.
- c. Trustees shall be in jail Trustee uniforms at all times during outside work details. At no time will a trustee be allowed to wear civilian attire. They must have a uniform that identifies them as jail inmates.
- d. Workers Insurance coverage will be the responsibility of the Sheriff's Office. (Non-covered charges will be the responsibility of supervising department.)
- e. Supervisor shall report, in writing, any observed violations to the Jail Sergeant, Jail Manager, or Sheriff.
- f. Supervisor shall be responsible for transportation from the Jail to the work site and back to the jail.

Skamania County Sheriff's Office

SKAMANIA COUNTY IN CUSTODY WORK CREW

10.01.010

It is the objective of the Skamania County Sheriff's Office In-Custody Work Crew Program to provide an opportunity for medium security prisoners to participate in outside work programs. To effectively achieve this objective, alternate means of security may be implemented. The use of leg restraints may be utilized in addition to the correction officer supervision of the inmates.

Supervision will consist of one corrections officer in uniform armed with OC spray and Taser. If no leg restraints are used the inmates shall be in constant observation of the work crew supervisor.

The inmates will be housed in the Skamania County Jail. They will be required to maintain their living units and themselves in a military fashion. They will undergo daily personal and housing inspections. They will address all Officers by "Sir" and Ma'am."

Inmates will generally work 9 hours a day, up to 7 days per week, Monday through Sunday. Work will consist of; road cleanup, trash removal, cemetery maintenance, woodcutting, and community oriented work programs. Any proceeds or benefits obtained by the in custody work crew will be utilized by the In Custody Work Program and/or returned to the community.

Note: The work Crew supervisor shall not take a member of the opposite sex on a work detail unless there are other inmates or staff present at all times.

In addition to labor, participants in the In Custody Work Crew program inmates may have an opportunity to attend classes within the jail facility oriented toward life skills, educational, and/or rehabilitative programs.

The use of the In-Custody Work Crew program will benefit the community, Skamania County Sheriff's Office, and the inmate population.

SPECIFICATIONS

10.01.020

Location:

The In-Custody Work Crew will work only in locations that can be satisfactorily supervised by one corrections officer. In areas within the populated parts of Skamania County a maximum of two consecutive days will be spent at one location. If the crew needs to be contacted they can be reached through dispatch.

Selection:

Inmates who wish to participate in the In-Custody Work Crew program shall submit their request in writing. Only those inmates classified as medium security or lower shall be

Skamania County Sheriff's Office

allowed to apply for the program. Post-sentenced inmates are eligible for the work crew program. Those inmates that have a valid felony warrant from other jurisdictions and no local charges are unable to participate without written authorization from the jurisdiction of the warrant specifying the inmate is eligible. Any inmate determined to be a risk of flight, assault, and/ or restricted by medical reasons will be determined ineligible. Inmate must also meet the following selection criteria,

1. Sentenced on all charges
2. Have no outstanding felony warrants or holds from other agencies.
3. Any inmate with an active protection order in which the protected person resides in Skamania County will not be allowed to work outside our facility.
4. Not be a Sex Offender.
5. A Criminal History check of all applicants will be done. Any person with an extensive criminal history that includes violent offenses may be dis-qualified from this process.

Inmates selected for the in custody work crew program will be selected by the Corrections Sergeant or his designee. All inmate requests should be forwarded to the Correction Sergeant.

Each inmate applying for the In Custody Work Crew program may be required to submit to a physical examination provided by Skamania County Jail Health Specialist for a determination of fitness for the work program.

Hours:

0745 till 1700 hrs. Inmates will be served breakfast, undergo personal and housing inspections, prepare their lunch meal, and be loaded into the work crew van prior to 0800. Inmates will be returned to the facility, strip searched by the In Custody Work Crew supervisor and returned to their housing unit prior to dinner service.

Supplies:

In Custody inmates will be issued the necessary clothing and gloves to perform the work crew service. Adequate footwear shall be the responsibility of the inmate.

Laundry:

Work uniforms will be laundered daily. They will set the uniforms out at night to be laundered by a trustee. Uniforms will need to be returned prior to the next working day. Sheets, towels, and blankets will be laundered on the regularly scheduled laundry day.

ITINERARY**10.01.030****Skamania County Sheriff's Office in Custody Work Crew Itinerary:**

0600 Breakfast

APPENDIX

8

STATE OF WASHINGTON
2009 SEP 22 P 11:11

39080-9-II

No. 82149-6

OF
CLERK

THE SUPREME COURT
OF THE STATE OF WASHINGTON

TEDDY GLEN TALLEY
PETITIONER

PERSONAL RESTRAINT
PETITIONER

BY RONALD J. CARPENTER
08 SEP -4 AM 7:54
RECEIVED
STATE OF WASHINGTON
CLERK

A. Status of Petitioner

Teddy Glen Talley is currently in the custody of the Washington State Department of Corrections (DOC), housed at McNeil Island Corrections Center (MICC). Mr. Talley seeks relief from his Jailors, Agencies, or Departments in joint working divisions of that Executive Branch of Government, in their refusal to award Mr. Talley 55-days "Early Release Time".

1. Mr. Talley is in custody pursuant to an order of Judgment and Sentence imposed by the Skamania County Superior Court. Judgment And Sentence (JS), App. A.

2. Mr. Talley entered into a plea agreement

after being charged for Murder in the 2nd degree pursuant to RCW 9A.32.050(1)(a).

3. Judge E. Thompson Reynolds was the presiding Judge in this case.

4. Peter S. Banks, WSPA #7174 was the Prosecuting Attorney for the State.

5. Steven W. Thayer, WSBA #7449 Defense Attorney

6. Following Teddy Talley's plea agreement for Murder in the 2nd degree 2005 murder, in 2007, the sentencing court imposed a sentence of 123-months' incarceration. JS App. A.

7. If Mr. Talley were to serve out his entire sentence without "Earned Release Time", he would have served 3,743-days, his release date would be January 29, 2016. App. D.

8. Mr. Talley was eligible for earned release time, which is defined in the Washington Administrative Code (WAC) 137-28-160 as "the combined earned time and good conduct time. DIRECTIVE: DOC 350.100 II.A.I; RCW 9.94A.728(1).

9. If Mr. Talley were given the full 10% earned release time, he would have served 3,369-days, his release date would then be January 17,

2015. The Jailor, Agencies, or Departments in joint working divisions of that Executive Branch of Government holding Mr. Talley in custody, denies Mr. Talley his 55-days "Earned Release Time".

10. In addition, Mr. Talley should also be awarded 1.11 days for each month for which he is incarcerated under the rule of lenity due to the ambiguity of the language found in DIRECTIVE DOC 350.100 II.A.I, which alleges to provide an inmate with the ability to earn early release credit by a created incentive for inmates to follow internal rules through false/and/or misleading information.

B. Ground for Relief

Ground I

"Violating The U.S. Const. XIV Amend. Under "Equal Protection Of The Law", "Due Process" And Under The Wn. Const. Art. I, § 3 "Due Process"

Mr. Talley should be awarded his 55-days "Early Release Time" because of the following reasons:

1.1 Because the Department of Corrections inadvertently miscalculated my "Earned Release Time Credits" by 55-days.

1.2 Because the Department of Corrections inadvertently miscalculated my "Actual Time" served during my pre-sentence confinement in Skamania County Jail by 2-days.

1.3 Because the Department inadvertently miscalculated my "Earned Release Time" during my presentence confinement in Skamania County Jail by 58-days.

1.4 Because Department of Corrections inadvertently miscalculated, or deliberately denied my "Earned Early Release Time" during my presentence confinement in Skamania County Jail in lieu off violating my equal protection rights.

Ground II

"Violation Of The U.S. Const. XIV Amend. Under "Due Process", And Wn. Const. Art. I, § 3 (Same)"

2.1 Because procedures for inmate "Earned Release Credits" lacks clarity for purposes of RCW 72.09.

C. Request for Relief

Because Mr. Talley has not had one single

infraction throughout his entire incarceration, and because Mr. Talley has never refused an available program, and because the law grants "Early Release Credits" for these reasons, this Court should grant Mr. Talley, his petition and award the 55-days "Earned Release Time".

Dated this 20th of August, 2008.

Respectfully submitted by,

Teddy Glen Talley
Teddy Glen Talley #304090 #107
McNeil Island Corrections Center
P.O. BOX 88-1000
Steilacoom, WA 98388-1000

D. Oath of Petitioner

THE STATE OF WASHINGTON }
IN THE COUNTY OF PIERCE } SS:

After being duly sworn, on oath, I depose and say:
"That I am the Petitioner, that I have read the petition, know its contents, and believe the petition is true."

Teddy Glen Talley
Teddy Glen Talley

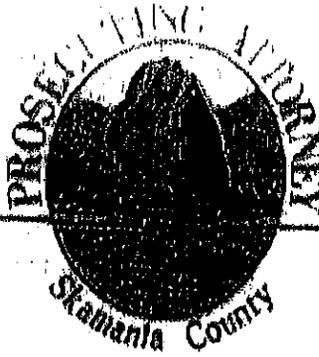
SUBSCRIBED AND SWORN to before me this 20th day of August 2008.
August 2008.

Daniel P. Helms
Notary Public in and for the
State of Washington, residing
at: Steilacoom WA Pierce Co. My
Commission expires: _____

Personal Restraint Petition: 5 of 5

Records and Identification Office
Authorized Officer pursuant to RCW 64.08.090

Peter S. Banks
Prosecutor
Christopher R. Lutz
Chief Criminal Deputy Prosecutor
Daniel C. McGill
Deputy Prosecutor



PO Box 90
101 W. Vancouver Ave.
Walla Walla, WA 99156
Civil 509-427-3790
Criminal 509-427-3796
Fax 509-427-3798

FAX TRANSMISSION

DATE: April 16, 2010 TIME: 3:50

TO: WA State Court of Appeals

FIRM: _____

FAX No.: 253-593-2806

SUBJECT AND/OR CASE: Teddy G. Talley

MESSAGE: 39080-9-TT

RECEIVED
APR 16 2010
CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON

Response of the County of Skamania
To Petitioners Motion for Discretionary
Review.

NO. OF PAGES 62 (including cover page)

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STATE OF WASHINGTON
SUPREME COURT
2010 APR 20 AM 8:00
AUD R. JARPER
CLERK

Peter S. Banks
 Prosecutor
 Christopher R. Lanz
 Chief Criminal Deputy Prosecutor
 Daniel C. McGill
 Deputy Prosecutor



2010 APR 16 10:59 AM
 210 PM Vancouver Ave
 Wenatchee WA 98801
 Civil 509-427-1790
 Criminal 509-427-3796
 Fax 509-427-3798

FAX TRANSMISSION

DATE: April 16, 2010 TIME: 3:50
 TO: WA State Court of Appeals
 FIRM: _____
 FAX No.: 253-593-2806
 SUBJECT AND/OR CASE: Teddy G. Talley
 MESSAGE: 39080-9-II

2010 APR 20 AM 7:59
 STATE OF WASHINGTON
 SUPREME COURT
 RECEIVED
 CLERK
 CARPENTER

Response of the County of Skamania
To Petitioners Motion for Discretionary
Review.

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