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2 B. STATUS OF PETITIONER:

3 On April 19, 1995, petitioner JEFFREY COATS, was sentenced on one count of
4 conspiracy to commit murder in the first degree, one count of conspiracy to commit
5 robbery in the first degree, and one count of robbery in the first degree based upon his
6 entry of a guilty plea. Appendix A. The plea was the result of a plea agreement where the
7 State dropped three of the original six charges. Appendices B, C, and D. The State
8 dismissed a count of conspiracy to commit kidnapping in the first degree, one count of
9 kidnapping in the first degree and a count alleging attempted murder in the first degree.
10 Appendices C and D. The Statement of Defendant on Plea of Guilty correctly stated that
11 the maximum term on Count I (conspiracy to commit murder), and Count III (robbery in
12 the first degree) was life; it incorrectly indicated that the maximum term for conspiracy to
13 commit robbery, Count II, was twenty years instead of the correct term of ten years. *See*
14 Appendix B to Personal Restraint Petition. When petitioner was sentenced, his judgment
15 incorrectly listed the maximum term as being "life" on Count II. Appendix A.

16 Petitioner did not file a direct appeal. On February 18, 2009, petitioner filed his
17 first personal restraint petition attacking his judgment and sentence. Petitioner asserts that
18 his plea was not knowing, intelligent and voluntary because he was misinformed of the
19 maximum penalty on the conspiracy to commit robbery in the first degree.

20 Petitioner does not claim to be indigent.
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1 C. ARGUMENT:

- 2 1. PETITIONER IS ENTITLED TO HAVE HIS JUDGMENT
3 AND SENTENCE CORRECTED TO REFLECT THE
4 PROPER STATUTORY MAXIMUM PENALTY FOR
5 COUNT II BUT OTHER PORTIONS OF HIS
6 JUDGMENT REMAIN FINAL.

7 Personal restraint procedure came from the State's habeas corpus remedy, which is
8 guaranteed by article 4, § 4 of the State Constitution. *In re Hagler*, 97 Wn.2d 818, 823,
9 650 P.2d 1103 (1982). Fundamental to the nature of habeas corpus relief is the principle
10 that the writ will not serve as a substitute for appeal. A personal restraint petition, like a
11 petition for a writ of habeas corpus, is not a substitute for an appeal. *Id.* at 824.

12 "Collateral relief undermines the principles of finality of litigation, degrades the
13 prominence of the trial, and sometimes costs society the right to punish admitted
14 offenders." *Id.* (citing *Engle v. Issac*, 456 U.S. 107, 102 S. Ct. 1558, 71 L.Ed.2d 783
15 (1982)). These costs are significant and require that collateral relief be limited in state as
16 well as federal courts. *Id.*

17 Because of the costs and risks involved, there is a time limit in which to file a
18 personal restraint petition. RCW 10.73.090(1) subjects petitions to a one-year statute of
19 limitation. The statute provides:

20 No petition or motion for collateral attack on a judgment and sentence in a
21 criminal case may be filed more than one year after the judgment becomes
22 final if the judgment and sentence is valid on its face and was rendered by
23 a court of competent jurisdiction.

24 RCW 10.73.090(1). The statute of limitations set forth in RCW 10.73.090(1) is a
25 mandatory rule that bars appellate consideration of personal restraint petitions filed after
the limitation period has passed, unless the petitioner demonstrates that the claims raised
fall within an exception to the time limit under RCW 10.73.090 or under RCW 10.73.100.

Under RCW 10.73.090(1), a collateral attack on judgment and sentence may be filed more

1 than a year after the judgment is final if the claim raised attacks the on facial validity of the
2 judgment and sentence or the jurisdiction of court. Under this provision, the “facial
3 invalidity” inquiry is directed to the judgment and sentence itself. “Invalid on its face”
4 means the judgment and sentence evidences the invalidity without further elaboration. *In*
5 *re PRP of Goodwin*, 146 Wn.2d 861, 866, 50 P.3d 618 (2002)(citing *In re PRP of*
6 *Stoudmire*, 141 Wn.2d 342, 354, 5 P.3d 1240 (2000), and *In re PRP of Thompson*, 141
7 Wn.2d 712, 719, 10 P.3d 380 (2000)). Some courts have interpreted the phrase “on its
8 face” to include those documents signed as part of a plea agreement. *Stoudmire*, 131
9 Wn.2d at 354; *Thompson*, 141 Wn.2d at 719. But the Supreme Court made clear in *In re*
10 *PRP of Hemenway*, 147 Wn.2d 529, 55 P.3d 615 (2002), that the plea documents are
11 relevant only where they may disclose invalidity in the judgment and sentence:
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13 To the extent that this court’s recent decision in *In re PRP of Stoudmire*
14 suggests that facial invalidity under RCW 10.73.090(1) refers to a facially
15 invalid plea, we take this opportunity to make clear that plea documents
16 are relevant only to the question under RCW 10.73.090(1) insofar as they
17 bear on the facial validity of the judgment and sentence.

18 *Hemenway*, 147 Wn.2d at 533 n. 2 (citations omitted).

19 Under RCW 10.73.100 a personal petition may be filed after one year has elapsed
20 if the claims raised are based solely on one or more of the following grounds:

- 21 (1) Newly discovered evidence, if the defendant acted with reasonable
22 diligence in discovering the evidence and filing the petition or motion;
- 23 (2) The statute that the defendant was convicted of violating was
24 unconstitutional on its face or as applied to the defendant’s conduct;
- 25 (3) The conviction was barred by double jeopardy under Amendment V of
the United States Constitution or Article I, Section 9 of the state
Constitution;
- (4) The defendant pled not guilty and the evidence introduced at trial was
insufficient to support the conviction;
- (5) The sentence imposed was in excess of the court’s jurisdiction; or

1 (6) There has been a significant change in the law, whether substantive or
2 procedural, which is material to the conviction, sentence, or other order
3 entered in a criminal or civil proceeding instituted by the state or local
4 government, and either the legislature has expressly provided that the
5 change in the law is to be applied retroactively, or a court, in interpreting a
6 change in the law that lacks express legislative intent regarding retroactive
7 application, determines that sufficient reasons exist to require retroactive
8 application of the changed legal standard.

9 RCW 10.73.100. *See also, State v. King*, 130 Wn.2d 517, 530-31, 925 P.2d 606 (1996); *In*
10 *re Detention of Aguilar*, 77 Wn. App. 596, 603, 892 P.2d 1091 (1995). Should an
11 untimely petition raise some claims that fall within an exception in RCW 10.73.100 and
12 some that do not, then the petition is dismissed as a “mixed petition.” A petitioner who
13 files a mixed petition is not entitled to have the court consider claims which fall under an
14 exception in RCW 10.73.100; rather the petition must be dismissed. *In re Personal*
15 *Restraint Petition of Hankerson*, 149 Wn.2d 695, 702, 72 P.3d 703 (2003); *In re Personal*
16 *Restraint Petition of Stenson*, 150 Wn.2d 207, 76 P.3d 241 (2003). The defendant bears
17 the burden of proving that his petition falls within an exception to the one-year time limit.
18 *Shumway v. Payne*, 136 Wn.2d 383, 399-400, 964 P.2d 349 (1998). To meet that burden
19 of proof, the defendant must state the applicable exception within his petition. *In re*
20 *Stoudmire*, 141 Wn.2d 342, 5 P.3d 1240 (2000).

21 Neither the Supreme Court nor the Court of Appeals may grant relief on a petition
22 that is time barred. *See* RAP 16.4 (d)¹.

23 ¹ RAP 16.4(d) provides, in part:

24 The appellate court will only grant relief by a personal restraint petition if other remedies which
25 may be available to petitioner are inadequate under the circumstances and if such relief may be
granted under RCW 10.73.090, .100, and .130.

1 Petitioner's judgment in this case became final on April 19, 1995, the day it was
2 filed with the clerk of the Superior Court. See RCW 10.73.090(3). Petitioner had until
3 April 19, 1996, in which to file a timely petition. He filed his petition on February 18,
4 2009, or well over twelve years too late. Petitioner claims that his judgment is invalid on
5 its face, so the time bar does not apply to his claim that his plea was involuntarily entered.
6 He asserts that he is entitled to withdraw his entire plea.

7 As will be discussed more fully below, controlling authority does not support
8 giving petitioner the remedy of withdrawal of his entire plea. The State does acknowledge
9 that his judgment contains a facial invalidity with respect to Count II, the conspiracy to
10 commit robbery in the first degree. The judgment indicates that the statutory maximum for
11 this crime is "life" when it should indicate that the statutory maximum is ten years. RCW
12 9A.28.040(3)(b).² Under several decisions of the Washington Supreme Court, however,
13 while petitioner is entitled to correction of this error, it does not affect the finality of that
14 portion of the judgment and sentence that was correct and valid when imposed. Under *In*
15 *Re Personal Restraint of Stoudmire*, 141 Wn.2d 342, 5 P.3d 1240 (2000), a facial
16 invalidity in the length of the sentence does not provide an exception for examining a time
17 barred claim regarding the voluntariness of the plea. Petitioner does not articulate any
18 facial invalidity with respect to Counts I and III of his judgment, and cites to no authority
19 that he is entitled to collateral relief on these counts. These portions of the judgment
20 remain valid.
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25 ² This statute provides that criminal conspiracies to commit a Class A felony other than murder in the first degree is a Class B felony. Robbery in the first degree is a Class A felony. RCW 9A.56.200(2). The statutory maximum sentence for a Class B felony is ten years. RCW 9A.20.021(1)(b).

1 In *Stoudmire*, the court was faced with an untimely personal restraint petition
2 raising numerous claims. Stoudmire challenged his convictions under two cause numbers;
3 in one of these cause numbers, he had pleaded guilty to two counts of indecent liberties,
4 one count of statutory rape in the second degree, one count of rape of a child in the second
5 degree, and one count of rape of a child in the third degree. *Stoudmire*, 141 Wn.2d at 347.
6 His petition raised numerous challenges to these convictions; some of the challenges
7 pertained to all of the counts, e.g., ineffective assistance of counsel, incorrect offender
8 score, and involuntary plea. Other challenges pertained only to certain counts. Stoudmire
9 claimed that the two counts of indecent liberties were filed after the statute of limitations
10 had expired; he claimed that there was no factual basis for the rape of a child in the third
11 degree, and that the sentences on both child rape convictions exceeded the statutory
12 maximum of the crime. *Id.* The court analyzed whether Stoudmire's untimely claims fell
13 within any exception in RCW 10.73.090 or 10.73.100. The court ultimately dismissed
14 claims which fell under exceptions found under RCW 10.73.100 because Stoudmire had
15 submitted a mixed petition, including claims such as ineffective assistance of counsel for
16 which there was no applicable exception. The court did examine claims that fell under the
17 exceptions in RCW 10.93.090 pertaining to whether the court lacked jurisdiction or
18 whether the judgment was facially invalid. The court noted:

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20 If petitioner can show that *his claims* meet the conditions set forth in
21 RCW 10.73.090(1), they are not time-barred, and this court may consider
22 them.

23 *Stoudmire*, 141 Wn.2d at 351 (emphasis added).
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1 Ultimately, the court found that two of Stoudmire's claims³ fell within exceptions
2 to RCW 10.73.090(1), and could be considered. First, the court found that the judgment
3 was invalid on its face because it could be shown that the statute of limitations had expired
4 before the State filed the two indecent liberties counts; it remanded for dismissal of those
5 counts. *Id.* at 355. Secondly, the court found that the 198 month sentence on the rape of a
6 child in the second degree, a Class B felony, and the 102 month sentence on the rape of a
7 child in the third degree, a Class C felony, both were facially invalid because they each
8 exceeded the statutory maximum terms of ten and five years, respectively. The remedy the
9 court provided was remand for correction of the erroneous sentence. *Id.* at 356.
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11 Importantly, the court did not find that the presence of a facial invalidity regarding the
12 length of the sentence provided a mechanism for Stoudmire to raise his untimely claim of
13 an involuntary plea.⁴ The court did not allow Stoudmire to circumvent the time bar by
14 bootstrapping a claim that did not fall within the exceptions of RCW 10.73.090 and .100,
15 to a claim for which there was an exception.

16 *Stoudmire* is not the only case where a court, in deciding the merits of an untimely
17 petition, has limited the remedy to correction of the facial invalidity. *See e.g., State v.*
18 *Calhoun*, 134 Wn. App. 84, 90 n.5, 138 P.3d 659 (2006) ("Calhoun also asserts that these
19 invalidities and errors constitute facial invalidities that overcome the one-year time bar and
20 allow him to challenge the voluntariness of his plea. However, as noted, these errors do
21 not pertain to the voluntariness of Calhoun's plea. And Calhoun has cited no authority to
22 support this contention that the invalidities and errors should further serve as a basis to
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25 ³ These claims affected a total of four of the five counts in the cause number.

1 allow him to withdraw his plea . . .”); *In re PRP of Thompson*, 141 Wn.2d 712, 719, 725,
2 10 P.3d 380 (2000)(court finds the judgment was invalid on its face because it showed that
3 Thompson pleaded guilty to an offense that occurred before the effective date of the statute
4 creating the offense; the remedy was dismissal of charge without prejudice). The court in
5 *In re PRP of Goodwin*, 146 Wn.2d 861, 866-67, 877, 50 P.3d 618 (2002), found that
6 defendant’s untimely claim that his offender score included “washed out” juvenile offenses
7 was not barred as his judgment was facially invalid for including these offenses as criminal
8 history. The court remanded for resentencing without the washed out convictions.
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10 Similarly, in *In re PRP of West*, 154 Wn.2d 204, 110 P.3d 1122 (2005), the
11 sentencing judge made a handwritten notation on West’s judgment and sentence explaining
12 that West stipulated to ten years flat time with no earned early release.⁵ *West*, 154 Wn.2d
13 at 206. West filed an untimely personal restraint petition claiming that the handwritten
14 notation rendered the judgment and sentence facially invalid because it was not within the
15 court’s power to prohibit the accumulation of earned early release. *West*, 154 Wn.2d at
16 207. The Supreme Court determined that the trial court had no authority to control early
17 release, that the court’s notation on the judgment and sentence thus rendered the judgment
18 facially invalid, and that imposition of a sentence not authorized by the Sentencing Reform
19 Act was a fundamental defect which justified collateral relief. *West*, 154 Wn.2d at 213. In
20 determining what remedy was appropriate, the court explained:
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24 ⁴ The claim of involuntary plea does not fall within the exceptions found in RCW 10.73.090(1). *In re*
25 *Personal Restraint of Hemenway*, 147 Wn.2d 529, 531, 55 P.3d 615 (2002).

⁵ West was originally charged with an offense that would have constituted her third strike. West
plea bargained for a reduction of the charge in exchange for her agreement to serve 10 years flat
time. *West*, 154 Wn.2d at 206.

1 This court has been clear that the imposition of an unauthorized sentence
2 does not require vacation of the entire judgment or granting of a new trial.
3 The error is grounds for reversing only the erroneous portion of the
4 sentence imposed.

5 *West*, 154 Wn.2d at 215 (citing *State v. Eilts*, 94 Wn.2d 489, 496, 617 P.2d 993 (1980));
6 *see also, Goodwin*, 146 Wn.2d at 877 (“Correcting an erroneous sentence in excess of
7 statutory authority does not affect the finality of that portion of the judgment and sentence
8 that was correct and valid when imposed.”). The court in *West* thus remanded to trial court
9 for correction of the invalid judgment and sentence in the form of deletion of the
10 handwritten notation. *West*, 154 Wn.2d at 215.

11 The court in *In re PRP of Mayer*, 128 Wn. App. 694, 117 P.3d 353 (2005), was
12 faced with a claim by Mayer that his plea to second degree murder was involuntary
13 because the plea documents and judgment and sentence listed the crime as first degree
14 murder, thus making the documents facially invalid. *Mayer*, 128 Wn. App. at 700. The
15 court held that an examination of these documents showed that the error was a scrivener’s
16 error that did not render the plea invalid:

17 [Petitioner’s] claim that the citation error made his plea involuntary
18 amounts to a conclusory allegation of prejudice insufficient to warrant
19 relief in a personal restraint petition.

20 *Mayer*, 128 Wn. App. at 701 (citing *In re PRP of Cook*, 114 Wn.2d 802, 813-14, 792 P.2d
21 506 (1990)). The court held that the proper remedy was remand for correction of the
22 scrivener’s error. *Mayer*, 128 Wn. App. at 702.

23 Just recently, the Washington Supreme Court reiterated, “[w]hen a judgment and
24 sentence is facially invalid, the proper remedy is remand for correction of the error.” *In re*
25 *Tobin*, 165 Wn.2d 172, 176, 196 P.3d 670, 672 (2008).

1 As the above cases illustrate, the remedy available in the case before the court is
2 remand for correction of the portion of the sentence that is invalid. This court should
3 remand to the trial court for correction of the statutory maximum only as to Count II. The
4 invalidity on the judgment and sentence does not provide the means for petitioner to attack
5 the validity of his plea eleven years after it was entered, nor does it provide any basis for
6 him attacking the finality of the sentence on Counts I and III.

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8 3. PETITIONER CANNOT SHOW ACTUAL AND
9 SUBSTANTIAL PREJUDICE STEMMING FROM ERROR OF
10 CONSTITUTIONAL MAGNITUDE.

11 Assuming, *arguendo*, that petitioner can challenge the validity of his plea,
12 petitioner has not sustained his burden of showing actual and substantial prejudice
13 stemming from constitutional error necessary to obtain collateral relief.

14 Even where a judgment and sentence is invalid on its face, in order to obtain relief
15 by way of a personal restraint petition, a petitioner must show, by a preponderance of the
16 evidence, actual and substantial prejudice resulting from alleged constitutional error. *In re*
17 *PRP of Cook*, 114 Wn.2d 802, 813, 792 P.2d 506 (1990); *In re PRP of Hinton*, 152
18 Wn.2d 853, 100 P.3d 801 (2004). This is an especially high standard. The rule that
19 constitutional errors must be shown to be harmless beyond a reasonable doubt has no
20 application in the context of personal restraint petitions. *In re Mercer*, 108 Wn.2d 714,
21 718-721, 741 P.2d 559 (1987); *Hagler*, 97 Wn.2d at 825. Mere assertions are insufficient
22 in a collateral action to demonstrate actual prejudice. Inferences, if any, must be drawn in
23 favor of the validity of the judgment and sentence and not against it. *Hagler*, 97 Wn.2d at
24 825-26.

1 In this case, petitioner asserts that he did not enter a knowing, voluntary, and
2 intelligent plea because he was misinformed as to the statutory maximum on Count II. Due
3 process requires that a defendant's guilty plea be knowing, voluntary, and intelligent. *In*
4 *re PRP of Isadore*, 151 Wn.2d 294, 297, 88 P.3d 390 (2004) (citing *Boykin v. Alabama*,
5 395 U.S. 238, 242, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969)). A plea is involuntary if it is
6 not made with an understanding of all of the direct consequences of the plea. *State v.*
7 *Calhoun*, 134 Wn. App. 84, 91, 138 P.3d 659 (2006) (citing *State v. Paul*, 103 Wn. App.
8 487, 494-95, 12 P.3d 1036 (2000)). A "direct" consequence includes one that "represents
9 a definite, immediate, and largely automatic effect on the range of the defendant's
10 punishment." *State v. Ross*, 129 Wn.2d 279, 284, 916 P.2d 405 (1996) (quoting *State v.*
11 *Barton*, 93 Wn.2d 301, 305, 609 P.2d 1353 (1980)). In *Ross*, our Supreme Court
12 recognized that, "To identify a punishment in the context of a direct consequence of a
13 guilty plea, we examine whether the effect enhances the defendant's sentence or alters the
14 standard of punishment." *Ross*, 129 Wn.2d at 285 (citing *State v. Ward*, 123 Wn.2d 488,
15 513, 869 P.2d 295 (1994), and *Barton*, 93 Wn.2d at 306)). Under this definition, the
16 courts have held that the statutory maximum is a direct consequence of a plea. *See In re*
17 *PRP of Vensel*, 88 Wn.2d 552, 554-5, 564 P.2d 326 (1977) ("We believe it is important at
18 the time a plea of guilty is entered, whether in justice or superior court, that the record
19 show on its face the plea was entered voluntarily and intelligently, and affirmatively show
20 the defendant understands the maximum term which may be imposed").

23 In this case the Statement of Defendant on Plea of Guilty erroneously listed the
24 statutory maximum as being twenty years when it should have stated ten years. The State
25 agrees that the plea form contained the incorrect statutory maximum on Count II, listing

1 twenty years instead of the correct length of ten years, and that another error was
2 committed when the judgment erroneously listed the maximum term as “life” on Count II.
3 But while these facts may establish the “error,” petitioner must show that he suffered
4 actual and substantial prejudice resulting from this misadvisement in order to obtain relief.
5 The Supreme Court has stated on more than one occasion that to obtain collateral relief
6 based on a constitutional error, the petitioner must demonstrate by a preponderance of the
7 evidence that petitioner was actually and substantially prejudiced by the error. *In re PRP*
8 *of St. Pierre*, 118 Wn.2d 321, 328-29, 823 P.2d 492 (1992); *In re Mercer*, 108 Wn.2d 714,
9 718 21, 741 P.2d 559 (1987)(The rule that constitutional errors must be shown to be
10 harmless beyond a reasonable doubt has no application in the context of personal restraint
11 petitions.); *Hagler*, 97 Wn.2d at 825.

12
13 Petitioner fails to show actual and substantial prejudice. Here, petitioner was
14 pleading guilty as part of a favorable plea agreement that dropped three violent felonies,
15 two of which were serious violent offenses: attempted murder in the first degree,
16 kidnapping in the first degree, and conspiracy to commit kidnapping in the first degree.
17 This is not a situation where petitioner was misinformed of the applicable standard range
18 on the charges in the original information, thus creating the possibility that, had petitioner
19 known he was facing a shorter sentence than indicated, he would not have pleaded guilty
20 and would have risked going to trial. *See State v. Mendoza*, 157 Wn.2d 582, 141 P.3d 49
21 (2006); *In re PRP of Isadore*, 151 Wn.2d 294, 88 P.3d 290 (2004). Rather petitioner was
22 facing trial on six felonies, four of which were serious violent felonies, which upon
23 conviction would result in mandatory consecutive sentences. His plea agreement required
24 him to enter a plea to a single serious violent offense and two violent felonies, where the
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1 sentences would presumptively run concurrently. His plea agreement significantly reduced
2 the sentencing risk he was facing at trial. Moreover, petitioner was properly informed that
3 his guilty plea did subject him to a life sentences on two of his crimes. At the same time
4 that he was pleading guilty to conspiracy to commit robbery in the first degree he was also
5 pleading guilty to two other charges, both of which had maximum terms of life. Petitioner
6 entered his plea on these three convictions knowing that he was exposing himself to a
7 maximum term of life on two counts and with knowledge that the sentences on all three of
8 his current offenses would run concurrently. He was correctly informed of the standard
9 ranges he faced on all three offenses. Ultimately, the sentence that he received on the
10 conspiracy to commit robbery was completely subsumed by the lengthier sentences he
11 received on the conspiracy to commit murder in the first degree conviction, and the
12 robbery conviction. Under these circumstances, petitioner fails to articulate any prejudice
13 that he suffered as a result of the misinformation regarding the statutory maximum term on
14 Count II. Petitioner's claim that the misinformation made his plea involuntary is nothing
15 more than "a conclusory allegation of prejudice insufficient to warrant relief in a personal
16 restraint petition." *Mayer*, 128 Wn. App. at 701.

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18 Petitioner cites to cases which hold that a criminal defendant need not demonstrate
19 that misinformation affected his decision to plead guilty. *In re Pers. Restraint of Isadore*,
20 151 Wn.2d 294, 88 P.3d 390 (2004); *State v. Mendoza*, 157 Wn. 2d 582, 587, 141 P.3d 49
21 (2006). While these cases do stand for this proposition, neither case presents a factual or
22 procedural situation similar to petitioner's. Mendoza challenged the voluntariness of his
23 plea on direct appeal because at the time of the plea, he was told that his standard range
24 would be higher than the correct range, which was determined at sentencing. While the
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1 Court found that he had not been correctly informed at the time of the plea, it found that
2 Mendoza had waived any right to challenge the voluntariness of his plea by not objecting
3 or moving to withdraw his plea when informed of the correct range prior to sentencing.
4 *Mendoza* illustrates that not every misadvisement as to the direct consequences of a guilty
5 plea automatically results in the right to relief from entry of that plea. Moreover, because
6 *Mendoza* was a case on direct appeal, the court does not address the need to show actual
7 prejudice flowing from the constitutional error that is necessary to obtain relief in a
8 collateral attack. In *Isadore*, the defendant entered a guilty plea, but was not advised
9 regarding a term of mandatory community placement, as the prosecutor and defense
10 counsel were unaware of the required condition. After sentencing, the Department of
11 Corrections notified the prosecutor of the error. After the time for appeal had expired, the
12 court granted a prosecutor's motion to amend the judgment to include the term of
13 community placement. In response, Isadore filed a personal restraint petition seeking
14 specific performance of his plea agreement, which the court granted. A significant
15 difference between petitioner's situation and Isadore's, is that Isadore was burdened with
16 the imposition of a direct consequence of which he was not informed, whereas with
17 petitioner, looking at his plea agreement as a whole, he has not been burdened with any
18 direct consequence of which he was not advised. In other words, Isadore could show
19 actual prejudice whereas petitioner cannot. While a criminal defendant need not
20 demonstrate that misinformation affected his decision to plead guilty under *Isadore*, that
21 does not alter the fact that he must demonstrate actual prejudice flowing from the error in
22 order to receive collateral relief. *Isadore* does not indicate that the court is abandoning
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1 longstanding principles pertaining to collateral attacks that require a showing of actual
2 prejudice before relief is warranted.

3 Petitioner has failed to sustain his burden in this petition. It is petitioner who holds
4 the burden of proving actual and substantial prejudice stemming from constitutional error.
5 Petitioner has failed to do that in this case. As a result, the petition should be dismissed.

6 D. CONCLUSION:

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8 For all of the above stated reasons, this court should remand this case for correction
9 of the judgment and sentence, but dismiss the petitioner's invalid plea claim. Petitioner
10 has not shown that he sustained actual and substantial prejudice resulting from
11 constitutional error.

12 DATED: June 4, 2009.

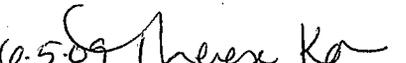
13 GERALD A. HORNE
14 Pierce County
15 Prosecuting Attorney

16 

17 KATHLEEN PROCTOR
18 Deputy Prosecuting Attorney
19 WSB #14811

18 Certificate of Service:

19 The undersigned certifies that on this day she delivered by U.S. mail
20 to petitioner true and correct copies of the document to which this certificate
21 is attached. This statement is certified to be true and correct under
22 penalty of perjury of the laws of the State of Washington.
23 Signed at Tacoma, Washington, on the date below.

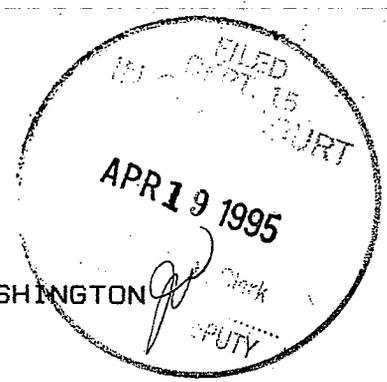
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25 Date Signature

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STATE OF WASHINGTON
DEPUTY

APPENDIX "A"

Judgment and Sentence

CERTIFIED



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

STATE OF WASHINGTON,
Plaintiff,
vs.
JEFFREY COATS,
Defendant.

CAUSE NO. 94-1-04849-1
WARRANT OF COMMITMENT

APR 19 1995

- 1) [] County Jail
- 2) [X] Dept. of Corrections
- 3) [] Other - Custody

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

[] 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).

[X] 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

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

[] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement or placement not covered by Sections 1 and 2 above).

Dated: 19 April 1995

By direction of the Honorable

[Signature]
J U D G E

TED RUTT

C L E R K

By: Sandy Dyppa

D E P U T Y C L E R K

CERTIFIED COPY DELIVERED TO SHERIFF

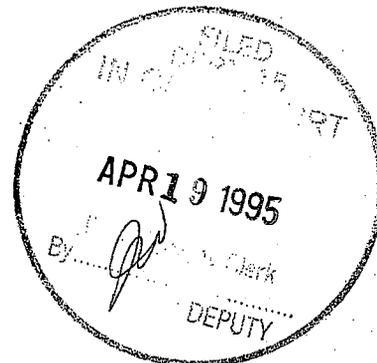
Date APR 19 1995 By Sandy Dyppa Deputy

STATE OF WASHINGTON, County of Pierce
ss: I, Ted Rutt, Clerk of the above
entitled Court, do hereby certify that
this foregoing instrument is a true and
correct copy of the original now on file
in my office.

IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of Said Court this
_____ day of _____, 19__.

TED RUTT, Clerk

By: _____ Deputy



STATE OF WASHINGTON, County of Pierce
ss: I, Kevin Stock, Clerk of the above
entitled Court, do hereby certify that this
foregoing instrument is a true and correct
copy of the original now on file in my office.
IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of said Court, this
day of JUN 05 2009, 20__

Kevin Stock, Clerk
By: _____ Deputy

CERTIFIED



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

STATE OF WASHINGTON,
Plaintiff,
vs.
JEFFREY COATS,
Defendant.

CAUSE NO. 94-1-04849-1
JUDGMENT AND SENTENCE
(FELONY)

APR 19 1995

DOB: 5/8/80
SID NO.: WA17139518
LOCAL ID:

I. HEARING

- 1.1 A sentencing hearing in this case was held on 19 April 1995.
- 1.2 The defendant, the defendant's lawyer, JOHN MESKE, and the deputy prosecuting attorney, KATHLEEN PROCTOR, were present.

SAMUEL DENSLER

II. FINDINGS

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

2.1 CURRENT OFFENSES(S): The defendant was found guilty on MARCH 17, 1995 by

plea jury-verdict bench trial of:

Count No.: I
Crime: CONSPIRACY TO COMMIT MURDER IN THE FIRST DEGREE
RCW: 9A.28.040 and 9A.32.030(1)(a)
Date of Crime: 8/30/94 to 9/6/94
Incident No.: TPD 94 249 0645

Count No.: II
Crime: CONSPIRACY TO COMMIT ROBBERY IN THE FIRST DEGREE
RCW: 9A.28.040 and 9A.56.190 and 9A.56.200(1)(a)(b)
Date of Crime: 8/30/94 to 9/6/94
Incident No.: SAME

JUDGMENT AND SENTENCE
(FELONY) - 1

ENTERED JUDGMENT #..... 95-9-03587-7

94-1-04849-1

Count No.: III
 Crime: ROBBERY IN THE FIRST DEGREE
 RCW: 9A.56.190 and 9A.56.200(1)(a)(b), 9A.08.020, 9.94A.125, 9.94A.370
 Date of Crime: 9/6/94
 Incident No.: SAME

- Additional current offenses are attached in Appendix 2.1.
- A special verdict/finding for use of deadly weapon was returned on Count(s).
- A special verdict/finding of sexual motivation was returned on Count(s).
- A special verdict/finding of a RCW 69.50.401(a) violation in a school bus, public transit vehicle, public park, public transit shelter or within 1000 feet of a school bus route stop or the perimeter of a school grounds (RCW 69.50.435).
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400(1)):

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

<u>Crime</u>	<u>Sentencing Date</u>	<u>Adult or Juv. Crime</u>	<u>Date of Crime</u>	<u>Crime Type</u>
INCEST	6/9/92	JUVI	10/22/91	NV

- Additional criminal history is attached in Appendix 2.2.
- Prior convictions served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(11)):

2.3 SENTENCING DATA:

Offender Seriousness Range Maximum

JUDGMENT AND SENTENCE
 (FELONY) - 2

94-1-04849-1

	Score	Level	Months	Years
Count No. I:	4	XIV	210.75 - 270 mos	LIFE
Count No. II:	4	IX	38.25 - 51 mos	LIFE
Count No. III:	4	IX	51-69 mos	LIFE

Additional current offense sentencing data is attached in Appendix 2.3.

2.4 EXCEPTIONAL SENTENCE:

Substantial and compelling reasons exist which justify a sentence above below the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix 2.4.

2.5 RESTITUTION:

Restitution will not be ordered because the felony did not result in injury to any person or damage to or loss of property.
 Restitution should be ordered. A hearing is set for _____.
 Extraordinary circumstances exist that make restitution inappropriate. The extraordinary circumstances are set forth in Appendix 2.5.

2.6 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS: The court has considered 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 specifically finds that the defendant has the ability to pay:

- no legal financial obligations.
 the following legal financial obligations:
- crime victim's compensation fees.
 - court costs (filing fee, jury demand fee, witness costs, sheriff services fees, etc.)
 - county or interlocal drug funds.
 - court appointed attorney's fees and cost of defense.
 - fines.
 - other financial obligations assessed as a result of the felony conviction.

A notice of payroll deduction may be issued or other income-

JUDGMENT AND SENTENCE
(FELONY) - 3

Office of Prosecuting Attorney
946 County-City Building
Tacoma, Washington 98402-2171
Telephone: 591-7400

94-1-04849-1

withholding action may be taken, without further notice to the offender, if a monthly court-ordered legal financial obligation payment is not paid when due and an amount equal to or greater than the amount payable for one month is owed.

2.7 SPECIAL FINDINGS PURSUANT TO RCW 9.94A.120:

- The defendant is a first time offender (RCW 9.94A.030(20)) who shall be sentenced under the waiver of the presumptive sentence range pursuant to RCW 9.94A.120(5).
- The defendant is a sex offender who is eligible for the special sentencing alternative under RCW 9.94A.120(7)(a). The court has determined, pursuant to RCW 9.94A.120(7)(a)(ii), that the special sex offender sentencing alternative is appropriate.

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.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 LEGAL FINANCIAL OBLIGATIONS. Defendant shall pay to the Clerk of this Court:

\$ 2438.72, Restitution to:
USAA CASUALTY
P.O. Box 34544
Seattle WA 98124-1544

\$ _____, Court costs (filing fee, jury demand fee, witness costs, sheriff service fees, etc.);

\$ 100, Victim assessment;

\$ _____, Fine; VUCSA additional fine waived due to indigency (RCW 69.50.430);

JUDGMENT AND SENTENCE (FELONY) - 4

94-1-04849-1

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4 \$ _____, Fees for court appointed attorney;
5 \$ _____, Washington State Patrol Crime Lab costs;
6 \$ _____, Drug enforcement fund of _____;
7 \$ _____, Other costs for: _____;
8 \$ 2538.72, TOTAL legal financial obligations including
restitution [] not including restitution.

9 Payments shall not be less than \$ _____ per month. Payments shall
10 commence on _____. AS DIRECTED BY CCO

11 Restitution ordered above shall be paid jointly and severally with:

12 Anthony Pugh ^{Name} 94-1-03753-8 ^{Cause Number}
13 Gene Anderson

14 The defendant shall remain under the court's jurisdiction and the
15 supervision of the Department of Corrections for a period up to ten
16 years from the date of sentence or release from confinement to assure
17 payment of the above monetary obligations.

18 Any period of supervision shall be tolled during any period of time the
19 offender is in confinement for any reason.

20 Defendant must contact the Department of Corrections at 755 Tacoma
21 Avenue South, Tacoma upon release or by _____.

22 [] Bond is hereby exonerated.

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28 JUDGMENT AND SENTENCE
(FELONY) - 5

Office of Prosecuting Attorney
946 County-City Building
Tacoma, Washington 98402-2171
Telephone: 591-7400

4.2 CONFINEMENT OVER ONE YEAR: The court imposes the following sentence:

(a) CONFINEMENT: Defendant is sentenced to following term of total confinement in the custody of the Department of Corrections commencing TODAY.

240 months on Count No. (concurrent consecutive
51 months on Count No. . concurrent consecutive
109 months on Count No. . concurrent consecutive

Actual number of days of total confinement ordered is: _____

This sentence shall be concurrent consecutive with the sentence in _____;

Credit is given for 227 days served;

(b) COMMUNITY PLACEMENT (RCW 9.94A.120(8)(b)). The defendant is sentenced to community placement for one year two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150(1) and (2), whichever is longer. The terms of community placement shall include the following conditions:

- (i) The defendant shall report to and be available for contact with the assigned community corrections officer as directed.
- (ii) The defendant shall work at Department of Corrections-approved education, employment and/or community service.
- (iii) The defendant shall not consume controlled substances except pursuant to lawfully issued prescriptions.
- (iv) The defendant shall not unlawfully possess controlled substances while in community custody.
- (v) The defendant shall pay supervision fees as determined by the Department of Corrections.

OTHER SPECIAL CONDITIONS AND CRIME RELATED PROHIBITIONS:

- (c) HIV TESTING. The Health Department or designee shall test the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. (RCW 70.24.340)
- (d) DNA TESTING. The defendant shall have a blood sample drawn for purpose of DNA identification analysis. The Department of Corrections shall be responsible for obtaining the sample prior to the defendant's release from confinement. (RCW 43.43.754)

PURSUANT TO 1993 LAWS OF WASHINGTON, CHAPTER 419, IF THIS OFFENDER IS FOUND TO BE A CRIMINAL ALIEN ELIGIBLE FOR RELEASE AND DEPORTATION BY THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, SUBJECT TO ARREST AND REINCARCERATION IN ACCORDANCE WITH THIS LAW, THEN THE UNDERSIGNED JUDGE AND PROSECUTOR CONSENT TO SUCH RELEASE AND DEPORTATION PRIOR TO THE EXPIRATION OF THE SENTENCE.

EACH VIOLATION OF THIS JUDGMENT AND SENTENCE IS PUNISHABLE BY UP TO 60 DAYS OF CONFINEMENT. (RCW 9.94A.200(2)).

ANY DEFENDANT CONVICTED OF A SEX OFFENSE MUST REGISTER WITH THE COUNTY SHERIFF FOR THE COUNTY OF THE DEFENDANT'S RESIDENCE WITHIN 24 HOURS OF DEFENDANT'S RELEASE FROM CUSTODY. RCW 9A.44.130.

PURSUANT TO RCW 10.73.090 AND 10.73.100, THE DEFENDANT'S RIGHT TO FILE ANY KIND OF POST SENTENCE CHALLENGE TO THE CONVICTION OR THE SENTENCE MAY BE LIMITED TO ONE YEAR.

Date: 19 April 1995

[Signature]
JUDGE

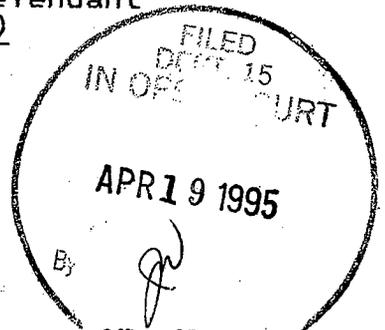
Presented by:

Approved as to form:

[Signature]
Deputy Prosecuting Attorney
WSB # 6289

[Signature]
Lawyer for Defendant
WSB # 17400

STATE OF WASHINGTON, County of Pierce
ss: I, Kevin Stock, Clerk of the above
entitled Court, do hereby certify that this
foregoing instrument is a true and correct
copy of the original now on file in my office.
IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of said Court this
day of JUN 05 2009, 2009
By [Signature] Kevin Stock, Clerk Deputy



SENTENCE OVER ONE YEAR - 2

CERTIFIED

Office of Prosecuting Attorney
946 County-City Building
Tacoma, Washington 98402-2171
Telephone: 591-7400

FINGERPRINTS

Right Hand
Fingerprint(s) of: JEFFREY COATS, Cause #94-1-04849-1

Attested by: Ted Rutt CLERK
By: DEPUTY CLERK Judith E. Whitmer Date: 4-19-95

CERTIFICATE

OFFENDER IDENTIFICATION

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

State I.D. #WA17139518

Date of Birth 5/8/80

Sex MALE

Dated: _____

Race WHITE

CLERK

ORI _____

By: _____
DEPUTY CLERK

OCA _____

OIN _____

DOA _____



FINGERPRINTS

APPENDIX "B"

Plea of Guilty

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

DEPARTMENT 15

FILED
IN COUNTY CLERK'S OFFICE

A.M. NOV 04 1997 P.M.

STATE OF WASHINGTON,

PIERCE COUNTY, WASHINGTON
TED RUTY, COUNTY CLERK

Plaintiff,

BY

DEPUTY

NO. 94-1-04849-1

vs.

JEFFREY COATS,

Defendant.

VERBATIM REPORT OF PROCEEDINGS
PLEA OF GUILTY

March 17, 1995

Pierce County Courthouse

Tacoma, Washington

ORIGINAL

Before the

HONORABLE THOMAS J. FELNAGLE

A P P E A R A N C E S

For the Plaintiff:

MS. KATHLEEN PROCTOR
Attorney at Law
Tacoma, Washington

For the Defendant:

MR. JOHN MESKE
Attorney at Law
Tacoma, Washington

REPORTED BY: SHERI L. SCHELBERT, CSR # SC-HE-LS-L312DB

2 NOV - 4 1997

1 MARCH 17, 1995

2 MORNING SESSION

3 * * * * *

4 MR. MESKE: Good afternoon, Your Honor.

5 THE COURT: Good afternoon.

6 MS. PROCTOR: Your Honor, this is the matter of
7 State of Washington versus Jeffrey Coats; Cause Number
8 94-1-04849-1. This matter comes before the Court for
9 entry of a plea. For the record, my name is Kathleen
10 Proctor, representing the State. Mr. Coats is now
11 entering the courtroom, and his attorney, Mr. Meske, is
12 present.

13 MR. MESKE: Good afternoon, Your Honor. For the
14 record, John Meske, representing Mr. Jeffrey Coats, who
15 is present standing to my left.

16 Your Honor, the State and Mr. Coats have arrived
17 at a compromised resolution of this matter. We have
18 been provided with a copy of the Amended Information,
19 and we waive formal reading of that Information. We
20 will be entering a plea to that charge if the Court
21 accepts that Information.

22 THE COURT: Let me ask whether the victim has been
23 advised and whether the victim is in agreement.

24 MS. PROCTOR: Your Honor, I have not called the
25 victim today to say this was happening. However, he

1 was aware this offer was out to Mr. Coats, and he was
2 aware he might be entering a plea to this, and he had
3 no objection to the offer that was made at the time it
4 was presented.

5 THE COURT: The Court will accept the filing of
6 the Information conditioned on our obtaining a valid
7 plea of guilty today.

8 MR. MESKE: Thank you, Your Honor. To advise the
9 Court, Mr. Coats is 14 years of age. I've gone over
10 the Statement of Defendant on Plea of Guilty. I met
11 with Mr. and Mrs. Coats, Jeffrey's mother and father,
12 last night and had a long discussion with Jeffrey and
13 went over what would be the substantive contents of
14 this particular plea.

15 Today, Mr. Coats and I have gone over all sections
16 of the defendant -- the Statement of Defendant on Plea
17 of Guilty.

18 I believe Mr. Coats understands the constitutional
19 rights he's giving up. Your Honor, I believe he
20 understands that he's giving up his right to have a
21 trial in this matter and to provide witnesses to
22 contradict any of the allegations, and he understands
23 he's giving up his right to an appeal.

24 There is a factual statement that is handwritten
25 out I believe on the second-to-the-last page. I

1 believe it sets forward a factual basis. We are also
2 prepared to stipulate to the factual statement that has
3 been provided by the State for the Amended
4 Information.

5 I believe this is a free and voluntary plea, Your
6 Honor, and I ask the Court to accept it.

7 THE COURT: Thank you. Mr. Coats, have you had a
8 chance to go over this statement of defendant on plea
9 of guilty with Mr. Meske and do you think you
10 understand everything that's in it?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Did he answer any questions you might
13 have?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: You've been through the eighth grade.
16 Were you able to read this form?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Your constitutional rights are set out
19 here, and they include the right to a trial, the right
20 to testify or remain silent, the right to call and
21 question witnesses, and if you were found guilty after
22 trial, you'd have the right to appeal. You also have
23 the right to testify. Do you understand you have all
24 those rights, but that you give them up by pleading
25 guilty?

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THE DEFENDANT: Yes, Your Honor.

THE COURT: The elements of each of these three crimes are set out. Those are the things that the State would have to prove beyond a reasonable doubt if you went to trial. Did Mr. Meske explain the elements of each of these crimes to you and do you understand them?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Now, one of the things that you undoubtedly know is happening is that one of your co-defendants has just been tried, and the jury is just about to come back with a verdict. The Court has no idea what that verdict may be, but what I want to know from you is that you're not going to seek to turn around and try and get out of this plea because of anything that might come out of that jury verdict, are you?

THE DEFENDANT: No.

THE COURT: These crimes have the following penalties that attach to them: Robbery in the First Degree has a maximum penalty of life in prison and a standard range, based on your known criminal history, of 51 to 68 months. Conspiracy to Commit Robbery in the First Degree has a maximum penalty of 20 years in prison and/or a \$50,000 fine and a standard sentencing

1 range, based on your known criminal history, of 38.25
2 months to 51 months. Conspiracy to Commit Murder in
3 the First Degree has a maximum penalty of life in
4 prison and a standard range, based on your known
5 criminal history, of 210.75 to 270 months.

6 Is that what you believe the standard ranges for
7 these crimes to be?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do you understand that, if you have
10 more criminal history than is known, those standard
11 ranges could be higher, the State's recommendation
12 might be higher, and you could not later withdraw your
13 plea of guilty?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: It says here that the prosecutor is
16 going to make the following recommendation: That you
17 get 240 months in prison, credit for time served, 24
18 months of community placement, pay \$100 crime victim
19 penalty assessment, and be responsible for restitution
20 to the victim.

21 Is that what you understand the State's
22 recommending?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Do you understand that the Court does
25 not have to follow that recommendation?

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THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you understand that the Court could sentence you to the highest standard range available for any one of these offenses and you could not later appeal that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you understand also that there is something called an exceptional sentence, and if the Court found that there were facts sufficient to support an exceptional sentence, you could be sentenced to up to life in prison? Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Now, I want to address one question to Mr. Meske. I know that, with regard to one of the co-defendants, there's been some question about merger of some of the offenses and what's appropriate with regard to computing the standard range for sentencing purposes. Have there been any discussions about that, and is there any chance that the defendant may later claim that he was misled with regard to the standard ranges for each of these three offenses?

MR. MESKE: Your Honor, I believe there has been discussion as to the Information, and it's our understanding that the crimes that are alleged are three separate and distinct crimes, and on that basis,

1 we are entering the plea. We understand that the
2 sentencing recommendation -- I mean the standard
3 sentencing range for the separate, distinct crimes are
4 as they are reflected in the --

5 THE COURT: You believe you've looked into this
6 matter and that this will not be a basis for later
7 withdrawal of the guilty plea; is that correct?

8 MR. MESKE: That's correct, Your Honor.

9 MS. PROCTOR: If I might also add, these are the
10 highest ranges, counting each one separately, so that
11 he is not looking at the range increasing under that.
12 This is the absolute maximum counting each one as a
13 serious violent crime for the offender score.

14 THE COURT: Thank you. Paragraph 13 indicates
15 that, "On or about September 6th, 1994, in Pierce
16 County, Washington, I conspired with two other persons
17 to commit a robbery and completed the robbery by
18 forcibly taking money from the person of David
19 Grenier. We planned to take a black BMW.

20 "As to the Conspiracy to Commit Murder in the
21 First Degree, I believe that I am innocent, but I am
22 pleading guilty because I believe there is a strong
23 likelihood that I would be found guilty if I went to
24 trial and I wish to take advantage of the State's
25 offer. At the time of the robbery, we had a pipe in a

1 bag, which we said was a gun."

2 And then it looks like your signature follows. Is
3 that your signature after that statement?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Is that a true statement of what
6 happened?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: How do you plead to the charge of
9 Conspiracy to Commit Murder in the First Degree, guilty
10 or not guilty?

11 THE DEFENDANT: Guilty.

12 THE COURT: How do you plead to the charge of
13 Conspiracy to Commit Robbery in the First Degree,
14 guilty or not guilty?

15 THE DEFENDANT: Guilty.

16 THE COURT: How do you plead to the charge of
17 Robbery in the First Degree, guilty or not guilty?

18 THE DEFENDANT: Guilty.

19 THE COURT: Is anybody forcing you to enter any of
20 those pleas?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Has anybody threatened you?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Has anybody promised you anything to
25 get you to plead?

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THE DEFENDANT: No, Your Honor.

THE COURT: I'll accept your pleas of guilty.
I'll find that they're voluntarily made, that you've
knowingly waived your constitutional rights.

After reviewing the Affidavit of Probable Cause, I
find that there are facts sufficient to support each of
the three charges.

MS. PROCTOR: Your Honor, you said probable
cause. This is a specialized affidavit for the factual
basis of his plea, just so the record is clear that
that is what the Court has read.

THE COURT: I'm sorry, it is entitled Affidavit
for Factual Basis for Defendant's Plea, and it is dated
the 1st day of March, 1995, and signed by Kathleen
Proctor.

MS. PROCTOR: It shouldn't be dated the 1st day of
March. It should be dated the 17th day of March.
Thank you, Your Honor. Let me correct that.

THE COURT: The date has now been corrected to
read the 17th day of March, 1995.

Did you check this date of April 19th with Judy to
be sure that was available?

MS. PROCTOR: Yes. That's where we obtained the
date, Your Honor, is from your judicial assistant.

THE COURT: All right. Sentencing is set for

1 April 19th, 9:00 a.m., Room 833.

2 (Proceedings concluded.)
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23 STATE OF WASHINGTON, County of Pierce
24 ss: I, Kevin Stock, Clerk of the above
25 entitled Court, do hereby certify that this
foregoing instrument is a true and correct
copy of the original now on file in my office.
IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of said Court this
day of JUN 05 2000, 20
Kevin Stock, Clerk
By [Signature] Deputy

CERTIFIED

APPENDIX "C"

Information

CERTIFIED

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff,

vs.

JEFFREY COATS,

Defendant.

CAUSE NO. 94-1-04849-1 DEC 01 1994

INFORMATION

FILED
IN COUNTY CLERK'S OFFICE

DEC 1 1994

PIERCE COUNTY WASHINGTON
TED RUTT, COUNTY CLERK
BY [Signature] DEPUTY

DOB: 5/8/80 W/M
SS#: UKN SID#: UKN DOL#: UKN

CO-DEFS: GENE ANDERSON, CAUSE #94-1-03754-6
ANTHONY PUGH, CAUSE #94-1-03753-8

I, JOHN W. LADENBURG, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse JEFFREY COATS of the crime of CRIMINAL CONSPIRACY TO COMMIT KIDNAPPING IN THE FIRST DEGREE, committed as follows:

That JEFFREY COATS, in Pierce County, Washington, on or about the 30th day of August through the 6th day of September, 1994, did unlawfully and feloniously agree with one or more persons, to-wit: Gene Anderson and Anthony Pugh and Will Davis, to engage in or cause the performance of conduct constituting the crime of KIDNAPPING IN THE FIRST DEGREE, with the intent that such conduct be performed, and one or more of the persons involved in the agreement took a substantial step in pursuance of the agreement, contrary to RCW 9A.28.040 and RCW 9A.40.020(1)(b)(c), and against the peace and dignity of the State of Washington.

INFORMATION - 1

ORIGINAL

Office of Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, Washington 98402-2171
Main Office: (206) 591-7400

COUNT II

I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do accuse JEFFREY COATS of the crime of CRIMINAL CONSPIRACY TO COMMIT ROBBERY IN THE FIRST DEGREE, a crime based on the same conduct or series of acts connected together, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That JEFFREY COATS, in Pierce County, Washington, on or about the 30th day of August through the 6th day of September, 1994, did unlawfully and feloniously agree with one or more persons, to-wit: Gene Anderson and Anthony Pugh and Will Davis, to engage in or cause the performance of conduct constituting the crime of ROBBERY IN THE FIRST DEGREE, with the intent that such conduct be performed, and one or more of the persons involved in the agreement took a substantial step in pursuance of the agreement, contrary to RCW 9A.28.040 and RCW 9A.56.190 and 9A.56.200(1)(a)(b), and against the peace and dignity of the State of Washington.

COUNT III

I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do accuse JEFFREY COATS of the crime of CRIMINAL CONSPIRACY TO COMMIT MURDER IN THE FIRST DEGREE, a crime based on the same conduct or series of acts connected together, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

1
2 That JEFFREY COATS, in Pierce County, Washington, on or about the
3 30th day of August through the 6th day of September, 1994, did
4 unlawfully and feloniously agree with one or more persons, to-wit:
5 Gene Anderson and Anthony Pugh and Will Davis, to engage in or cause
6 the performance of conduct constituting the crime of MURDER IN THE
7 FIRST DEGREE, with the intent that such conduct be performed, and one
8 or more of the persons involved in the agreement took a substantial
9 step in pursuance of the agreement, contrary to RCW 9A.28.040 and RCW
10 9A.32.030(1)(a), and against the peace and dignity of the State of
11 Washington.

12
13 COUNT IV

14 And I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do
15 accuse JEFFREY COATS of the crime of KIDNAPPING IN THE FIRST DEGREE, a
16 crime of the same or similar character, and/or so closely connected in
17 respect to time, place and occasion that it would be difficult to
18 separate proof of one charge from proof of the others, committed as
19 follows:

20 That JEFFREY COATS, or an accomplice, in Pierce County,
21 Washington, on or about the 6th day of September, 1994, did unlawfully
22 and feloniously with intent to facilitate commission of either the
23 felony of murder in the first degree or robbery in the first degree,
24 intentionally abduct David Grenier, a human being, and in the
25 commission thereof, or in immediate flight therefrom, the defendant or
26 an accomplice was armed with a deadly weapon, to-wit: a knife or a
27 metal pipe, that being a deadly weapon as defined in RCW 9.94A.125,

28 INFORMATION - 3

1
2 and adding additional time to the presumptive sentence as provided in
3 RCW 9.94A.370, contrary to RCW 9A.40.020(1)(b) and 9A.08.020, and
4 against the peace and dignity of the State of Washington.

5
6 AND IN THE ALTERNATIVE

7 I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do accuse
8 JEFFREY COATS of the crime of KIDNAPPING IN THE FIRST DEGREE,
9 committed as follows:

10 That JEFFREY COATS, in Pierce County, Washington, on or about the
11 6th day of September, 1994, did unlawfully and feloniously with intent
12 to inflict bodily injury on David Grenier, intentionally abduct such
13 person, and in the commission thereof, or in immediate flight
14 therefrom, the defendant or an accomplice was armed with a deadly
15 weapon, to-wit: a knife or a metal pipe, that being a deadly weapon
16 as defined in RCW 9.94A.125, and adding additional time to the
17 presumptive sentence as provided in RCW 9.94A.370, contrary to RCW
18 9A.40.020(1)(c) and 9A.08.020, and against the peace and dignity of
19 the State of Washington.

20
21 COUNT V

22 And I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do
23 accuse JEFFREY COATS of the crime of ROBBERY IN THE FIRST DEGREE, a
24 crime of the same or similar character, and/or so closely connected in
25 respect to time, place and occasion that it would be difficult to
26 separate proof of one charge from proof of the others, committed as
27 follows:

28 INFORMATION - 4

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That JEFFREY COATS, or an accomplice, in Pierce County, Washington, on or about the 6th day of September, 1994, did unlawfully and feloniously take personal property with intent to steal from the person or in the presence of David Grenier, against such person's will by use or threatened use of immediate force, violence, or fear of injury to David Grenier, and in the commission thereof, or in immediate flight therefrom, defendant or an accomplice was armed with a deadly weapon or displayed what appeared to be a firearm or other deadly weapon, to-wit: a knife or metal pipe, that being a deadly weapon as defined in RCW 9.94A.125, and adding additional time to the presumptive sentence as provided in RCW 9.94A.370, contrary to RCW 9A.56.190 and 9A.56.200(1)(a)(b) and 9A.08.020, and against the peace and dignity of the State of Washington.

COUNT VI

And I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do accuse JEFFREY COATS of the crime of ATTEMPTED MURDER IN THE FIRST DEGREE, a crime of the same or similar character, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That JEFFREY COATS, or an accomplice in Pierce County, Washington, on or about the 6th day of September, 1994, did unlawfully and feloniously with premeditated intent to cause the death of another person, take a substantial step toward killing David Grenier, a human

being, contrary to RCW 9A.32.030(1)(a) and 9A.28.020 and 9A.08.020,
and against the peace and dignity of the State of Washington.

DATED this 1st day of December, 1994.

JOHN W. LADENBURG
Prosecuting Attorney in and for
said County and State.

mj

By: Kathleen Proctor
KATHLEEN PROCTOR
Deputy Prosecuting Attorney
WSB #14811

STATE OF WASHINGTON, County of Pierce
ss: I, Kevin Stock, Clerk of the above
entitled Court, do hereby certify that this
foregoing instrument is a true and correct
copy of the original now on file in my office.
IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of this Court this
day of UN 05 2009, 2009
Kevin Stock, Clerk
By [Signature] Deputy

INFORMATION - 6

CERTIFIED

Office of Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, Washington 98402-2171
Main Office: (206) 591-7400

CERTIFIED

NO. 94-1-04849-1

AFFIDAVIT FOR DETERMINATION OF PROBABLE CAUSE

FILED IN COUNTY CLERK'S OFFICE

DEC 1 1994

PIERCE COUNTY WASHINGTON TED RUTT, COUNTY CLERK BY _____ DEPUTY

STATE OF WASHINGTON)
) SS
County of Pierce)

Kathleen Proctor, being first duly sworn on oath, deposes and says:

That she is a deputy prosecuting attorney for Pierce County and is familiar with the police report and/or investigation conducted by the Tacoma Police Department, case number 94-249-0645;

That this case contains the following upon which this motion for the determination of probable cause is made:

That in Pierce County, Washington, on or about the 6th day of September, 1994, the defendant, together with accomplices, abducted Mr. Grenier, stole his car, cash, and other personal property, and were preparing to kill him when he escaped from them. These crimes were agreed upon in advance among the conspirators.

The defendant, together with two other juveniles, got together in advance of the criminal episode and mutually agreed that they wanted to "jack" someone for their car (rob the person). They discussed a particular BMW automobile that was frequently located in a particular parking garage in downtown Tacoma. They agreed that the car owner would be killed, with one conspirator contributing the specific proposal that the victim's throat be cut and his tongue pulled through the opening so that it lay on his chest -- a so called "Cuban necktie" killing.

Soon after this agreement, on the day in question, three of the conspirators, Pugh, Anderson, and Coats met to carry out the scheme. One was armed with a large kitchen knife. Another had a metal pipe that, when partially concealed, resembled a gun.

They went to the garage where the BMW was ordinarily kept, and laid in wait for the car owner. A security patrol officer found the youths and chased them off the property. They did not abandon their plans, however, and they spotted a "Lexus" automobile owned by the victim pulling into a different parking garage. They approached the victim and pretended to want to know the time of day. One of the trio placed the metal pipe against the victim's torso and stated that he had a gun. The victim was

1 convinced that he was being confronted with armed persons. He
2 complied with the demand that he get into his car and drive, with
the trio also in the car.

3 He was directed to various locations around town. He was
specifically ordered to go to his bank and there he obtained
4 \$1,500 in currency which he was forced to hand over to the trio.
He was ordered to stop at a market at one point where one of the
5 three purchased some duct tape. He was ordered to a secluded
location where he was then put in the back seat and his hands a
6 feet were bound with the tape. He was shown a large kitchen
knife and told that it would be a shame to bloody up the interior
of his nice car.

7 Eventually he was driven to a remote spot by the Puyallup
8 river. Care was taken to find a place where others would not see
what was about to occur. The victim was forced into the trunk of
9 his car after he was forced to describe how to operate his car's
elaborate electronic security system. Duct tape was placed over
his eyes and mouth.

10 The trio were in the car and the victim could hear them
11 discussing whether to beat the victim with a large wrench or the
pipe. He believed they were deciding exactly how they were going
to kill him.

12 Surprisingly the trunk popped open when one of the youths
13 was trying to manipulate controls in the car. The victim, having
managed to work his legs free of tape, jumped out of the car and
14 ran away. He was pursued briefly by one of the trio, but he
managed to jump on to the running board of a moving sanitation
truck and escape.

15 Persons overheard the youths bragging about their criminal
16 episode and police were called. The defendant told police
officers that he had been involved in the planning but had not
17 participated in the actual execution of the crimes. A co-
defendant told police that Coats was present during the crimes.
18 The victim also described Coats as being present. The juvenile
court has declined jurisdiction over defendant Coats.

19 Kathleen Proctor

20 Acknowledged and sworn to before me this 1st day of
21 December, 1994.

22 Michelle Jones
23 Notary Public in and for the State
of Washington, residing at Tacoma
24 Commission Expires: 1-70-97

25 STATE OF WASHINGTON, County of Pierce
26 ss: I, Kevin Stock, Clerk of the above
entitled Court, do hereby certify that this
foregoing instrument is a true and correct
27 copy of the original now on file in my office.
IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of said Court this
28 day of JUN 05 2000, 20
Kevin Stock, Clerk
By _____ Deputy

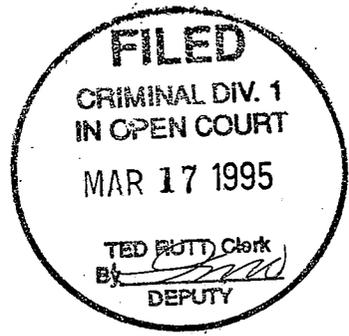
CERTIFIED

Office of Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, Washington 98402-2171
Main Office: (206) 591-7400

APPENDIX “D”

Amended Information

CERTIFIED



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff,

vs.

JEFFREY COATS,

Defendant.

CAUSE NO. 94-1-04849-1

AMENDED INFORMATION

MAR 20 1995

I, JOHN W. LADENBURG, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse JEFFREY COATS of the crime of CONSPIRACY TO COMMIT MURDER IN THE FIRST DEGREE, committed as follows:

That JEFFREY COATS, in Pierce County, Washington, on or about the 30th day of August through the 6th day of September, 1994, did unlawfully and feloniously agree with one or more persons, to-wit: Gene Anderson, Anthony Pugh and Will Davis, to engage in or cause the performance of conduct constituting the crime of Murder in the First Degree of the unknown owner of a BMW automobile, with the intent that such conduct be performed, and one or more of the persons involved in the agreement took a substantial step in pursuance of the agreement,

AMENDED INFORMATION - 1

ORIGINAL

Office of Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, Washington 98402-2171
Main Office: (206) 591-7400

1
2 contrary to RCW 9A.28.040 and RCW 9A.32.030(1)(a), and against the
3 peace and dignity of the State of Washington.

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COUNT II

And I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do
accuse JEFFREY COATS of the crime of CONSPIRACY TO COMMIT ROBBERY IN
THE FIRST DEGREE, a crime of the same or similar character, and/or so
closely connected in respect to time, place and occasion that it would
be difficult to separate proof of one charge from proof of the others,
committed as follows:

That JEFFREY COATS, in Pierce County, Washington, on or about the
30th day of August through the 6th day of September, 1994, did
unlawfully and feloniously agree with one or more persons, to-wit:
Gene Anderson, Anthony Pugh and Will Davis, to engage in or cause the
performance of conduct constituting the crime of Robbery in the First
Degree of the unknown owner of a BMW automobile, with the intent that
such conduct be performed, and one or more of the persons involved in
the agreement took a substantial step in pursuance of the agreement,
contrary to RCW 9A.28.040 and RCW 9A.56.190 and 9A.56.200(1)(a)(b),
and against the peace and dignity of the State of Washington.

COUNT III

And I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do
accuse JEFFREY COATS of the crime of ROBBERY IN THE FIRST DEGREE, a
crime of the same or similar character, and/or so closely connected in
respect to time, place and occasion that it would be difficult to
separate proof of one charge from proof of the others, committed as follows:

AMENDED INFORMATION - 2

1
2 That JEFFREY COATS, in Pierce County, Washington, on or about the
3 6th day of September, 1994, did unlawfully and feloniously take
4 personal property with intent to steal from the person or in the
5 presence of David Grenier, against such person's will by use or
6 threatened use of immediate force, violence, or fear of injury to
7 David Grenier, and in the commission thereof, or in immediate flight
8 therefrom, defendant or an accomplice was armed with a deadly weapon
9 or displayed what appeared to be a firearm or other deadly weapon, to-
10 wit: a knife or a metal pipe, that being a deadly weapon as defined
11 in RCW 9.94A.125, and adding additional time to the presumptive
12 sentence as provided in RCW 9.94A.370, contrary to RCW 9A.56.190 and
13 9A.56.200(1)(a)(b) and 9A.08.020, and against the peace and dignity
14 of the State of Washington.

15 DATED this day of March, 1995.

16
17 City Case

JOHN W. LADENBURG
Prosecuting Attorney in and for
said County and State.

19 By: Kathleen Proctor
KATHLEEN PROCTOR
Deputy Prosecuting Attorney
WSB #14811

24 STATE OF WASHINGTON, County of Pierce
25 ss: I, Kevin Stock, Clerk of the above
26 entitled Court, do hereby certify that this
27 foregoing instrument is a true and correct
28 copy of the original now on file in my office.
IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of said Court this
day of JULY 13 2009, 20
Kevin Stock, Clerk Deputy

AMENDED INFORMATION - 3

CERTIFIED

Office of Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, Washington 98402-2171
Main Office: (206) 591-7400

CERTIFIED

NO. 94-1-04849-1

AFFIDAVIT FOR FACTUAL BASIS FOR DEFENDANT'S PLEA

STATE OF WASHINGTON)
) ss
County of Pierce)

Kathleen Proctor, being first duly sworn on oath, deposes
and says:

That she is a deputy prosecuting attorney for Pierce County
and is familiar with the police report and/or investigation
conducted by the Tacoma Police Department, case number 94-249-
0645;

That if this case went to trial, the State would expect to
present the following evidence:

Gene Anderson would testify to the following: In the last
few days of August, 1994 while he was eating in the dining room
of Cushman House, a group home in Tacoma, Jeffrey Coats raised
the idea of stealing a car. Anthony Pugh and Will Davis were
also present at this conversation. The four agreed to do this.
On September 5th, late at night, the four met again in Jeffrey
Coats' room. There the plan was developed that the car they
would steal was a specific BMW that was often parked in downtown
Tacoma. Coats was the person that knew of this vehicle. It was
also decided that they would wait for the owner of the vehicle
and abduct him so that they could force him to withdraw money
from his bank. Coats produced an "L" shaped metal bar that they
could hide inside a backpack so that the victim would believe
they had a gun. Will Davis then suggested that they give the
owner of the BMW a "human necktie" which means to slit a person's
throat and pull the person's tongue out through the opening. No
one voiced any opposition to any part of this plan. Coats
assigned duties to the various participants. Anthony Pugh's
assignment was to acquire knives that could be used as weapons
and that could be used to perform the "human necktie." Pugh was
chosen for this task because he worked in the kitchen. Coats,
using pages from his day planner, wrote out schedules for the
participants for Sept. 6, 1994, the day set to execute the plan.
On September 6, 1994, Coats, Pugh and Anderson met near the
driveway of Cushman House and went downtown to the garage where
the BMW was parked. The three waited for the BMW owner to
return, but were chased away by a security guard before that

ORIGINAL

1 happened. They were armed with a kitchen knife with a 4 1/4 inch
2 blade and the metal pipe which was conceal inside a bag. The
3 three then went in search of another vehicle eventually deciding
upon the car belonging to Mr. Grenier.

4 Chris Wells an employee of Cushman House would testify that
he confiscated a knife from Anthony Pugh's room on September 5,
1994.

5 Don Evans would testify that on the morning of September 6,
1994, shortly after he got to work at 7:00 a.m., he was
6 approached by Coats, Pugh and Anderson separately, but within a
ten minute span. Each was trying to get signed out of Cushman
7 House. He then saw Pugh carrying a black nylon bag. Pugh exited
the building and threw the bag over a fence. When asked bout
8 this, pugh told him the bag was garbage. He recovered the bag
which contained four eight inch blade butcher knives, four towels
9 and a twin bedspread.

10 The police recovered Coats' day planner which had his
schedule and the schedule which had been prepared for Gene
Anderson.

11 David Grenier would testify that as he was parking his car
in a lot at 9th and A streets in Tacoma when he was approached by
12 a person whom he later identified as Pugh. Pugh approached the
victim and pretended to want to know the time of day. Pugh then
13 placed a bag against the victim's torso and stated that he had a
gun. The victim was convinced that he was being confronted with
14 armed persons. He initially resisted but when two other teens
came to support Pugh, he complied with the demand that he get
15 into his car and drive. The trio was also in the car.

16 He was directed to various locations around town. He was
specifically ordered to go to his bank and there he obtained
\$1,500 in currency which he was forced to hand over to the trio.
17 He was ordered to stop at a market at one point where one of the
three purchased some duct tape. He was ordered to a secluded
18 location where he was then put in the back seat and his hands a
feet were bound with the tape. He was shown a large kitchen
19 knife and told that it would be a shame to bloody up the interior
of his nice car.

20 Eventually he was driven to a remote spot by the Puyallup
river. Care was taken to find a place where others would not see
21 what was about to occur. The victim was forced into the trunk of
his car. Duct tape was placed over his eyes and mouth. The
22 trunk was closed. The trunk was then opened and he could see one
of the trio holding out another length of tape. A piece of tape
23 was placed over his nose so he was unable to breath. He broke
free of some of his restraints and pulled the tape off his nose.
24 The lid of the trunk was quickly shut.

25 The victim could hear the trio discussing what to beat him
with and something about suffocation. He believed they were
deciding exactly how they were going to kill him.

26 Surprisingly the trunk popped open when one of the youths
was trying to manipulate controls in the car. The victim, having
27 managed to work his legs free of tape, jumped out of the car and
ran away. He was pursued briefly by one of the trio, but he
28 managed to jump on to the running board of a moving sanitation

1 truck and escape. One of the trio was wearing a name badge with
2 "J. Coats" on it.

3 Officers Yerbury and Tennyson were dispatched to Cushman
4 House later that day. Coats told police officers that he had
5 been involved in the planning but had not participated in the
6 actual execution of the crimes. Anderson told police that Coats
7 was present during the crimes.

Kathleen Proctor

8 Acknowledged and sworn to before me this ^{17th} 1st day of
9 March, 1995.

Shannon D Sullis

10 Notary Public in and for the State
11 of Washington, residing at QAC
12 Commission Expires: 4-20-96

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24 STATE OF WASHINGTON, County of Pierce
25 ss: I, Kevin Stock, Clerk of the above
26 entitled Court, do hereby certify that this
27 foregoing instrument is a true and correct
28 copy of the original now on file in my office.
IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of said Court this
day of JUN 05 2009, 20
Kevin Stock, Clerk
By _____ Deputy

CERTIFIED

Office of Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, Washington 98402-2171
Main Office: (206) 591-7400



Washington State Court of Appeals
Division Two

950 Broadway, Suite 300, Tacoma, Washington 98402-4454

David Ponzoha, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, Issue Summaries, and General Information at <http://www.courts.wa.gov/courts>

June 2, 2009

Kathleen Proctor
Pierce County Prosecuting Atty Ofc
930 Tacoma Ave S Rm 946
Tacoma, WA, 98402-2171

Jeffrey Erwin Ellis
Ellis Holmes & Witchley PLLC
705 2nd Ave Ste 401
Seattle, WA, 98104-1718

CASE #: 38894-4-II

Personal Restraint Petition of: Jeffrey Coats

Case Manager: Laura

Counsel for Respondent:

Our records indicate that the above-referenced petition has not been timely perfected due to your failure to file the response on or before May 26, 2009.

Accordingly, a **sanction of \$150 will be imposed against you unless the item indicated above is filed with this court on or before fifteen days from the date of this letter.** If you do not file the item referred to above on or before the aforementioned date, a check for the amount of the sanction, payable to the State of Washington, will be due. Once a sanction becomes due, no further filings will be accepted until that sanction is paid in full.

Further, this appeal is scheduled for other and further sanctions for want of prosecution pursuant to a motion by the clerk. The motion will be considered, without oral argument, if the document is not filed by June 22, 2009. The clerk's motion for further sanctions will be stricken if the defect in perfection is cured prior to that date. Please note, however, that striking the clerk's motion will not release you from the payment of the sanction imposed on June 17, 2009, unless perfection of this appeal occurs on or before that date.

Very truly yours,

David C. Ponzoha
Court Clerk

DCP:ldr



Washington State Court of Appeals
Division Two

950 Broadway, Suite 300, Tacoma, Washington 98402-4454

David Ponzoha, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, Issue Summaries, and General Information at <http://www.courts.wa.gov/courts>

March 25, 2009

Kathleen Proctor
Pierce County Pros. Atty.
930 Tacoma Ave S., Rm. 946
Tacoma, WA, 98402-2171

Jeffrey Erwin Ellis
Ellis Holmes & Witchley PLLC
705 2nd Ave Ste 401
Seattle, WA, 98104-1718

CASE #: 38894-4-II

Personal Restraint Petition of: Jeffrey Coats

Dear Counsel:

We have received the Personal Restraint Petition for post-conviction relief noted above. Since this petition is in proper form, we have filed it. RAP 16.3 et seq.

As RAP 16.9 requires, the respondent must, within 60 days of receiving this letter and the enclosed copy of the petition, file and serve a response to the petition on petitioner or petitioner's counsel and this court. If referring to the record of another proceeding answers the petition, include a copy of the relevant parts of that record. If a brief supports the petition, we have enclosed a copy, and the respondent's answering brief is likewise due within 60 days. RAP 16.10. If the respondent determines that the relief sought is appropriate, he should so stipulate.

This court has initially waived petitioner's filing fee based on his affidavit stating that he is indigent. Please include in the response any information you possess with regard to indigency and state whether you will contest petitioner's indigency claim.

Petitioner may file a reply brief if done so within 30 days of receiving service of the respondent's brief. See RAP 16.10(a)(2). When the time for filing briefs has expired, the Chief Judge will consider the petition and enter appropriate orders. The court will defer any decisions on motions for appointment of counsel and/or motions for production of the record at public expense, if any, until we submit your petition to the Chief Judge for consideration. RAP 16.11(a). You will be notified if the court decides to call for additional briefs or portions of the record other than what the parties filed or decides that oral argument will be scheduled. Thank you for your attention to this matter.

Very truly yours,

David C. Ponzoha,
Court Clerk

DCP: ldr
Encl.