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NO. 64265-1-1

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

In re Personal Restraint Petition of
DEVON ADAMS,
Petitioner.

STATE'S RESPONSE TO PERSONAL RESTRAINT PETITION

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A. ISSUES PRESENTED

Adams alleges his trial counsel was ineffective because he did not raise a mental defense in his murder trial, and because he did not convey an alleged plea offer to him. Should this Court dismiss Adams' petition because (1) the petition is untimely, (2) the petition is a successive petition, (3) the petition is not supported by admissible evidence, (4) Adams cannot show trial counsel was ineffective, and (5) Adams received a fair trial so he cannot obtain relief for any deficiency in plea negotiations?

B. STATEMENT OF THE CASE

On September 10, 1999, Devon Paul Adams was charged by Information with Murder in the First Degree for shooting and killing Franklin Brown. Appendix A. The murder charge carried a firearm enhancement. Id. In addition, Adams was charged with Unlawful Possession of a Firearm in the Second Degree. Id. The charges were never lowered and the Information never amended in any way.

Franklin Adams was a 41 year old mentally challenged local handyman and alcoholic.¹ He was known in the neighborhood as a passive peaceful man who would wander from door to door with a weed-whacker seeking tasks to perform to earn some money.

On September 8, 1999, at about 9:00 p.m., Adams, who had been drinking and was high on sherm, confronted Brown on a residential street in south Seattle. Adams was with three friends who tried to persuade Adams to leave Brown alone. Brown was unarmed, carrying only his weed-whacker and with an extension cord draped over his shoulder. Adams' friends believed Adams intended to "jack" Brown. Unbeknownst to Adams, what ensued next was observed not only by Adams' companions, but by two neighbors.

Adams began harassing Brown and proceeded to go through Brown's pockets looking for drugs or money. When Brown verbally responded, Adams called Brown a "bitch" and a "nigger." Brown could be heard asking Adams to leave him alone.

¹ Despite the fact that ineffective assistance of counsel is gauged on the record as a whole, prejudice must be proven, and tactical decisions cannot be a basis for an ineffective assistance of counsel claim. Adams has failed to provide this Court with a verbatim report of proceedings. The facts of the case recited herein are obtained from the Certification for Determination of Probable Cause, the State's trial memorandum, and the affidavits of trial counsel. See Appendix B, C, D and E.

Instead of leaving Brown alone, Adams pulled out a handgun, held it to Brown's neck and said, "you don't know who I am." After a few moments, Adams lowered the gun, picked up the beer he had been drinking, and began walking away. However, Adams' assaultive behavior did not end there. Instead, the witnesses saw Adams put his beer back down, turn, and again shove his gun into Brown's neck. Adams then began shooting, firing at least eight rounds. Brown fell to the ground immediately, but Adams did not cease firing. Instead he fired multiple shots into Brown's back, with the bullets later recovered from the soil under Brown's body.

Two days after killing Brown, Adams contacted longtime defense attorney Michael Danko, who arranged for his surrender. Appendix E and F. Brown had retained Danko on a prior criminal case wherein Danko had negotiated a plea deal whereby an assault charge was dropped for a plea of guilty to one count of felony violation of a court order. Appendix G. On September 13, Danko entered a notice of appearance on behalf of Adams on the murder case. Appendix H.

In March of 2000, Adams proceeded to trial before the Honorable Judge Carol Schapira. Danko sought and received jury instructions on the lesser included and lesser degree offenses of murder in the second degree, manslaughter in the first degree and manslaughter in the second degree. Appendix I and J. In addition, trial counsel successfully argued that the court should give voluntary intoxication instructions as well. Id. On April 6, 2000, the jury found Adams guilty as charged. Appendix K.

Post trial, as he had done prior to trial, trial counsel sought to determine the status of a felony vehicular assault investigation involving Adams that was pending a charging decision with the King County Prosecutor's Office. Appendix L. Prior to Adams' murder trial, the State advanced but a single potential plea offer--plead guilty as charged to murder in the first degree and the State would agree not to file vehicular assault charges arising out of the incident trial counsel had inquired about. Appendix M. This is the only plea offer ever advanced by the State. Appendix D and E.

This potential offer went no further as Adams denied he was the driver of the vehicle in the vehicular assault case.² Id.

Post trial, counsel also sought and obtained an order allowing Doctor John Berberich to meet with Adams in the King County Jail in order to conduct a psychological evaluation of Adams in the hopes of finding evidence to support an exceptional sentence. Appendix Q.

At sentencing, counsel sought an exceptional sentence below the standard range based on the report by Doctor Berberich, the facts of the case, and RCW 9.94A.390(1)(e).³ Appendix F and R. In pertinent part, former RCW 9.94A.390(1)(e) allowed for a sentence below the standard range if "[t]he defendant's capacity to appreciate the wrongfulness of his or her conduct or to conform his

² As a result of Adams' claim that he was not the driver, the filing of charges was delayed until DNA testing could be completed. With positive forensic evidence and DNA test results, a charge of vehicular assault was filed against Adams on February 8, 2002. Appendix N. No bail was requested by the State as Adams was in custody on his murder conviction. Id. Adams again retained Danko as counsel and on February 22, 2002, Danko entered a notice of appearance and was able to get bail set at \$5000 so that Adams could receive credit for time served on any resolution. Appendix O. Danko then negotiated a plea deal whereby Adams received a concurrent sentence, credit for the time he had already served, a no additional confinement time for the vehicular assault. Appendix P.

³ Since recodified at RCW 9.94A.535.

or her conduct to the requirements of the law, was significantly impaired."

In his report to the court, counsel indicated that Adams had only "a vague recollection" of the shooting. Appendix F. Recognizing that voluntary use of alcohol and drugs is excluded by statute as a basis for an exceptional sentence, counsel argued that, along with Adams' alcohol and drug problems (Adams admitted to drinking and smoking sherm), Adams suffered from mental health conditions that could support the imposition of an exceptional sentence. Id. Counsel's claim was based on the report authored by Doctor Berberich.

In his report, Doctor Berberich detailed a long history of violent behavior by Adams, stating that he was "uncontrollable" by the fifth grade, was committing car thefts, burglaries and robberies by age 13 and 14, that he had an "extensive drug history" starting at age 12, and that Adams was "well known for being belligerent and very difficult to deal with" when he was on sherm or had been drinking. Appendix R. Berberich stated that past attempts at drug treatment and anger management had proven unsuccessful. Under the influence of drugs or alcohol, Adams was "predisposed ... toward[s] violent acting out." Id.

Still, Doctor Berberich opined, Adams suffered from an anti-personality disorder and post traumatic stress disorder, and that in combination with his alcohol and drug use, his ability to appreciate the wrongfulness of his behavior at the time he shot and killed Franklin Brown was impaired. "It is reasonable to assume," the doctor opined, that Adams would experience great fear when involved in an argument with another man.⁴ Id. It is unclear whether Doctor Berberich reviewed the facts of the homicide in rendering his opinion.⁵

Ultimately, Adams' trial counsel persuaded the court into granting an exceptional sentence of 360 months, a sentence substantially below the standard sentence range of 471 to 608 months. Appendix S and T. The court stated that the diminished capacity claim would not have amounted to a complete defense at

⁴ Doctor Berberich did not provide any other evidence or records supporting his opinion, and did not state his opinion in solid terms or even the standard, "to a reasonable degree of medical certainty."

⁵ For example, the evidence showed that this was not a confrontational matter or that Adams acted in fear or self-defense. Rather, the evidence showed Adams approached and harassed a defenseless mentally ill man and ultimately killed him in anger. It is hard to reconcile Doctor Berberich's opinion with a mental defense to the charged crime as Adams now argues.

trial, but that it played a significant role in determining an appropriate sentence. Appendix T.

Additional facts will be included in the sections they pertain.

C. ARGUMENT

1. ADAMS' PETITION IS TIME BARRED.

The timeliness of a personal restraint petition is governed by RCW 10.73.090. The statute provides as follows:

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

RCW 10.73.090.

Under RCW 10.73.090, a judgment becomes final on the last of the following dates:

- (a) The date it is filed with the clerk of the trial court;
- (b) The date that an appellate court issues its mandate disposing of a timely direct appeal from the conviction; or
- (c) The date that the United States Supreme Court denies a timely petition for certiorari to review a decision affirming the conviction on direct appeal. The filing of a motion to reconsider denial of certiorari does not prevent a judgment from becoming final.

RCW 10.73.090(3).

A petitioner bears the burden to proving an exception to the statute of limitations applicable to a post-conviction motion applies. State v. Schwab, 141 Wn. App. 85, 90, 167 P.3d 1225 (2007), rev. denied, 164 Wn.2d 1009 (2008), cert denied, 129 S. Ct. 1348 (2009).

A jury found Adams guilty on April 6, 2000. Appendix K. He was sentenced on September 1, 2000. At that time, the court entered judgment and the judgment was filed with the clerk of the court (see date stamp) on September 5, 2000. Appendix S.

At the time of sentencing, Adams was orally advised he had a right to appeal, and he signed and received a written Notice of Right to Appeal as well. Appendix U. On September 4, 2000, Adams signed another notice outlining his appellate rights. Appendix V. Adams did not file a direct appeal. Thus, for purposes of RCW 10.73.090, Adams' judgment became final September 5, 2000, the date the judgment was filed with the clerk of the court. Adams now contends otherwise based on the fact that nine years later, he was able to show that the trial court had made a legal error in imposing sentence.

In April of 2009, Adams filed with the trial court a motion to vacate judgment due to an incorrect calculation of his offender

score. Appendix W. Apparently, Adams committed several of his many prior felony offenses before he turned 15 years old, but the convictions were counted in his offender score contrary to the washout provisions of the SRA and case law existing at the time of his sentencing. Id.

On June 1, 2009, Adams was resentenced. Appendix X. He again received an exceptional sentence. The trial court imposed a sentence of 280 months on a corrected standard range of 336 to 440 months. Id.

"Correcting an erroneous sentence in excess of statutory authority does not affect the finality of that portion of the judgment and sentence that was correct and valid when imposed." In re Goodwin, 146 Wn.2d 861, 877, 50 P.3d 618 (2002); see also State v. Barberio, 121 Wn.2d 48, 846 P.2d 519 (1993) (Supreme Court affirms dismissal of appeal where the court of appeals had previously remanded the case to the trial court after dismissing one of two counts of rape, the trial court then imposed the same exceptional sentence with a corrected offender score, and Barberio appealed the sentence); State v. Kilgore, 167 Wn.2d 28, 37, 216 P.3d 393 (2009) (judgment is final when no appealable issue remains, implying that after a remand and resentencing, a

defendant would be able to appeal only on the limited issue the trial court exercised independent judgment when imposing a new sentence).

Adams contends that because he was able to identify two errors that occurred when he was sentenced (counting washed juvenile offenses and imposing a firearm enhancement instead of a deadly weapon enhancement), he is now completely free to challenge his conviction in the tenth year since the jury found him guilty. This the court should not allow, and it is not what is contemplated under the rules of appellate procedure.

The trial court corrected Adams' standard range. He received an exceptional sentence below the standard range, just as he originally did. Adams has no appealable issue regarding his resentencing. Yet, he argues that because he was resentenced, he (and anyone else in his situation) is free to challenge his actual conviction even ten years after his conviction. It is unlikely that the Legislature intended to allow such a result, the reopening of the ability to challenge a conviction simply because of the discovery of a sentencing error a decade later and a resentencing. This Court should not read the rule so broadly as to allow a valid conviction to be attacked any time an error can be found regarding a sentencing

issue. The judgment has remained intact for nine years. As the Supreme Court stated in Barberio, "[t]his case well illustrates the necessity of the rule which denies review at this late stage...[t]he issue presented was a clear and obvious issue which could have been [previously] decided." Barberio, 121 Wn.2d at 52.

2. ADAMS' PETITION IS BARRED BECAUSE HE PREVIOUSLY RAISED THIS EXACT SAME ISSUE IN A PRIOR RESTRAINT PETITION.

Successive petitions raising the same issue are not allowed. Adams' statement that he has not filed a prior restraint petition is not accurate. Adams previously filed--and this Court dismissed, a prior restraint petition raising the same ineffective assistance of counsel claim.

Two provisions govern the prohibition on filing successive petitions; RCW 10.73.140 and RAP 16.4(d).

The statute that applies, RCW 10.73.140 Collateral attack-- Subsequent petitions, provides as follows:

If a person has previously filed a petition for personal restraint, the court of appeals will not consider the petition unless the person certifies that he or she has not filed a previous petition on similar grounds, and shows good cause why the petitioner did not raise the new grounds in the previous petition. Upon receipt of a personal restraint petition, the court of appeals shall

review the petition and determine whether the person has previously filed a petition or petitions and if so, compare them. **If upon review, the court of appeals finds that the petitioner has previously raised the same grounds for review, or that the petitioner has failed to show good cause why the ground was not raised earlier, the court of appeals shall dismiss the petition on its own motion without requiring the state to respond to the petition.**

Upon receipt of a first or subsequent petition, the court of appeals shall, whenever possible, review the petition and determine if the petition is based on frivolous grounds. If frivolous, the court of appeals shall dismiss the petition on its own motion without first requiring the state to respond to the petition.

RCW 10.73.140 (emphasis added).

The court rule that applies, RAP 16.4(d) provides as follows:

The appellate court will only grant relief by a personal restraint petition if other remedies which 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. **No more than one petition for similar relief on behalf of the same petitioner will be entertained without good cause shown.**

RAP 16.4(d) (emphasis added).

Under both the statute and the rule, a second petition claiming similar relief to an earlier petition decided on the merits bars consideration of the second petition absent a showing of good cause; such as a change in law. In re Stoudmire, 141 Wn.2d 342, 350, 5 P.3d 1240 (2000). The principle underlying the rule barring

successive collateral attacks is the need for judicial finality regarding claims that have already been adjudicated. In re Becker, 143 Wn.2d 491, 495, 20 P.3d 409 (2001). Collateral attack by personal restraint petition of a criminal conviction and sentence cannot simply be a reiteration of issues finally resolved at trial and upon appellate review. Id.

Courts may not consider such a petition if the movant has previously brought a collateral attack on the same or substantially similar grounds. Id. Summary dismissal is appropriate under such a situation. Becker, at 497 (citing In re Bailey, 141 Wn.2d 20, 22, 1 P.3d 1120 (2000)).

Contrary to Adams' claim, he has filed a prior restraint petition challenging his conviction. In September of 2001, Adams filed a personal restraint petition with this Court under Court of Appeals number 49318-3-I. Appendix Y. Adams' current petition raises the same grounds he raised in his prior petition. The sole issue raised in his prior petition was a claim that trial counsel was ineffective--the same and only issue he raises in his current petition.

Adams' prior petition lacked sufficient supporting evidence to prevail and the petition was dismissed. Appendix Z. His current

petition is simply an attempt to relitigate the same issue with additional "evidence." But there has been no change in the law since Adams' prior attempt to attack his conviction and the facts he now relies were known to him long before his prior PRP.⁶ Accordingly, this Court must dismiss Adams' petition. See State v. Stein, 140 Wn. App. 43, 70, 165 P.3d 16 (2007) (the court "shall dismiss the petition" when the petitioner has filed a successive petition).

3. ADAMS FAILS TO SHOW TRIAL COUNSEL WAS INEFFECTIVE.

Nearly ten years after his conviction, Adams contends that his trial counsel was ineffective for failing to investigate a possible diminished capacity defense prior to trial, and for failing to convey to him an alleged plea offer to murder in the second degree. These factual claims, all known to Adams nearly ten years ago, should be rejected.

In order to prevail on an ineffective assistance of counsel claim, Adams must show that (1) trial counsel's performance was

⁶ In his prior petition, Adams claimed he learned of the alleged plea offer prior to being sentenced. In fact, he claims he learned of the offer from a friend the day after he was convicted. Appendix Y.

deficient in that it fell below an objective standard of reasonableness, and (2) counsel's deficient performance prejudiced him, in that there is a reasonable probability that, but for counsel's errors, the outcome of the proceeding would have been different. State v. Hendrickson, 129 Wn.2d 61, 77-78, 917 P.2d 563 (1996). To show deficient performance, Adams has the "heavy burden of showing that his attorneys made errors so serious that counsel was not functioning as the counsel guaranteed the defendant by the Sixth Amendment ..." State v. Howland, 66 Wn. App. 586, 594, 832 P.2d 1339 (1992) (quoting Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)). If either part of the test is not satisfied, the inquiry need go no further. Hendrickson, 129 Wn.2d at 78.

In reviewing ineffective assistance of counsel claims, a reviewing court begins with the strong presumption that counsel has rendered adequate assistance. State v. McFarland, 127 Wn.2d 322, 335, 899 P.2d 1251 (1995). Also, "[a]n attorney's action or inaction must be examined according to what was known and reasonable at the time the attorney made his choices." In re Elmore, 162 Wn.2d 236, 253, 172 P.3d 335 (2007) (citing In re Davis, 152 Wn.2d 647, 721-22, 101 P.3d 1 (2004)).

a. The Diminished Capacity Defense.

Trial counsel engaged the services of Doctor John Berberich to conduct a psychological evaluation of Adams for purposes of attempting to obtain an exceptional sentence below the standard range. While the majority of the evaluation discussed Adams' significant drug, alcohol and anger problems, in a few concluding passages, Doctor Berberich did opine that Adams suffered from PTSD and depression.

Adams does not contend, nor could he, that trial counsel was ineffective for failing to present a diminished capacity defense at trial. After all, Adams provides no evidence that prior to trial there was any evidence supporting such a defense. Rather, Adams contends that counsel was ineffective for failing to investigate prior to trial whether there was a viable diminished capacity defense to present. This assertion is without support.

A diminished capacity defense requires evidence of a mental condition which prevents the defendant from forming the requisite intent necessary to commit the crime charged. State v. Tilton, 149 Wn.2d 775, 784, 72 P.3d 735 (2003). A defendant must produce expert testimony on the issue. State v. Eakins, 127 Wn.2d 490, 502, 902 P.2d 1236 (1995).

In a capital case, when defense counsel knows, or has reason to know, of medical or mental problems that are relevant to making an informed defense theory, counsel has a duty to conduct a reasonable investigation into the defendant's medical and mental health, have such problems fully assessed and, if necessary, retain qualified experts to testify accordingly. State v. Kelley, 146 Wn. App. 370, 375, 189 P.3d 853 (2008) (citing In re Brett, 142 Wn.2d 868, 880, 16 P.3d 601 (2001)). But Adams does not point to any evidence that his counsel knew, or should have known, at the time of trial, that he suffered from mental illness (separate from his drug, alcohol and anger problems).

None of Adams' prior criminal convictions (Appendix a⁷) and none of the myriad of documents and letters submitted on Adams' behalf at his sentencing, including letters from Adams' mother and girlfriend (Appendix b⁸), suggest that anyone believed Adams

⁷ Appendix a includes portions of Adams' prior judgment and sentences submitted to the trial court. For brevity sake, some irrelevant pages have been removed. Many of the judgment and sentences required Adams to seek drug and alcohol treatment. None of them required a mental health evaluation or treatment.

⁸ Appendix b also contains a discharge summary from Lakeside-Milam, that does not indicate Adams suffered from any mental health illness, and a discharge summary from a DSHS group home, that also does not indicate Adams suffered from any mental illness. These documents were provided to the court as part of Adams' presentence memorandum.

suffered from anything other than alcohol, drug and anger problems prior to Doctor Berberich's evaluation. Where, as here, counsel did not know, and had no reason to know, that Adams had a purported mental illness that affected his capacity to premeditate murder, counsel's performance is not deficient for failing to have Adams evaluated for a diminished capacity defense.⁹ See Kelley, 146 Wn. App. at 375; Brett, 142 Wn.2d at 868.

Still, Adams contends that trial counsel performed below an objective standard of reasonableness because after Doctor Berberich opined as to Adams' mental state, his counsel proceeded to sentencing (obtaining a sentence that was a substantial benefit to Adams) instead of moving for a new trial. This assertion is without merit, and it assumes the absence of valid tactical choices.

⁹ As part of his claim, Adams asserts that trial counsel did not actually investigate Adams' mental state until after trial. There is no support for this claim. While Doctor Berberich did not meet with Adams prior to trial, there is no evidence presented that trial counsel did not otherwise investigate Adams' mental state prior to trial. Trial counsel could have reviewed past records or other evidence and made a determination through his dealings with Adams as to whether he exhibited signs of mental illness. Considering that it appears no other person ever made a determination that Adams suffered from, or exhibited signs of, mental illness, it is perfectly reasonable to assume trial counsel reached the same conclusion. See In re Gentry, 137 Wn.2d 378, 404, 972 P.2d 1250 (1999) (record does not support the claim that trial counsel neglected to consider whether Gentry suffered psychological problems; it is possible an evaluation was performed but provided no useful information).

The flaw in Adams' argument is highlighted by his assumption, that any reasonable attorney would have pursued a diminished capacity defense if they had Doctor Berberich's evaluation prior to trial. To accept Adams' claim requires a finding that no reasonable attorney would not have advanced a diminished capacity defense (even though it appears that the defense would have to rest solely on the one evaluation because there does not appear to be any evidence of prior mental health issues, treatment or concerns). However, "[i]f trial counsel's conduct can be characterized as legitimate trial strategy or tactics, it cannot serve as a basis for a claim that the defendant received ineffective assistance of counsel." State v. McNeal, 145 Wn.2d 352, 362, 37 P.3d 280 (2002) (citing State v. Adams, 91 Wn.2d 86, 90, 586 P.2d 1168 (1978)).

When a specific *mens rea* is an element of the crime charged, a defendant may present evidence showing an inability to form the particular *mens rea* at the time of the crime. State v. Greene, 92 Wn. App. 80, 106, 960 P.2d 980 (1998). Recognized as "acceptable bases for arguing a lack of capacity include voluntary intoxication, RCW 9A.16.090, and mental disorder, but not emotion (e.g., jealousy, fear, anger, hatred, etc.)." Id. (internal

citations omitted). In each case, the State bears the burden of proving beyond a reasonable doubt that the defendant had the requisite mental state pertaining to the crime charged. State v. James, 47 Wn. App. 605, 609, 736 P.2d 700 (1987).

Here, trial counsel presented an intoxication defense and obtained lesser included instructions for each diminishing level of *mens rea* related to the killing of another human being: premeditated intentional murder (first-degree murder), intentional murder (second-degree murder), recklessly causing the death of another (first-degree manslaughter), and negligently causing the death of another (second-degree manslaughter). The fact that Adams suffered from alcohol and drug abuse is without question. By presenting this defense, trial counsel was able to argue the very thing a diminished capacity defense would provide, with major benefits over raising a true diminished capacity defense.

First, it is evident that Doctor Berberich's report, Adams' mental health issues revolve substantially around Adams' alcohol and drug abuse. As such, all that would be added by pursuing a diminished capacity defense, in lieu of or in conjunction with, a voluntary intoxication defense, would be for Doctor Berberich to opine that Adams also suffered from PTSD and how this additional

fact also affected Adams' ability to form the requisite *mens rea*. However, presenting a diminished capacity defense here would come with extreme risks.

“When a party opens up a subject of inquiry on direct or cross-examination, he contemplates that the rules will permit cross-examination or redirect examination, as the case may be, within the scope of the examination in which the subject matter was first introduced.” State v. Gefeller, 76 Wn.2d 449, 455, 458 P.2d 17 (1969) (citing State v. Stevens, 69 Wn.2d 906, 421 P.2d 360 (1966)). Asserting a diminished capacity defense would have opened the door to Adams' long history of anger, assaultive and defiant behavior, a history that if known to the jury would make it much more difficult to persuade a jury that Adams was culpable of only lesser offenses.

Here, as an example, the jury would hear of Adams' many convictions, including an armed robbery. The jury also would have heard about Adams' violent history, threats to kill others, and constant belligerent attitude towards others. See Appendix c.¹⁰

¹⁰ Appendix c contains school records Adams submitted to the court as part of his presentence report. The records document Adams' severely angry behavior.

Adams would also have been subject to an evaluation by other experts, with full discovery provided to the State.

The Supreme Court has affirmed the reasonableness of not presenting mental health evidence. See In re Elmore, 162 Wn.2d 236, 258, 172 P.3d 335 (2007) (the failure to present mental health mitigation evidence was reasonable because it would "have opened the door to damaging rebuttal evidence").¹¹ A voluntary intoxication defense allowed trial counsel to argue for lesser offenses in the same way as a diminished capacity defense would, without the stigma of a defense expert positing a mental health issue never observed by others, and without the risk of the introduction of a wealth of other damaging evidence. The fact that Adams' counsel on appeal may have taken a different approach is of no moment. See e.g., State v. Thach, 126 Wn. App. 297, 318-19, 106 P.3d 782 (2005) (defendant convicted of second degree assault was not entitled to new trial based on evidence the victim suffered from bipolar disorder where defendant knew of the disorder before trial); State v. Evans, 45 Wn. App. 611, 614-15, 726 P.2d 1009 (1986)

¹¹ The Court noted that trial counsel was also concerned that if a mental health defense was raised, the State would have the opportunity to examine the defendant and that this could provide damaging evidence. Elmore, 162 Wn.2d 257-58.

(defendant who lost at trial, then hired a new attorney, who hired a new expert, who examined the same physical evidence and gave a different opinion, was not entitled to a new trial).¹² Adams fails to meet his burden of showing that his counsel's performance was deficient.

As the second component of the burden Adams must meet on appeal, he must prove that his attorney's deficient performance resulted in prejudice such that "there is a reasonable probability that, but for counsel's errors, the result of the trial would have been different." Hendrickson, 129 Wn.2d at 78. Here, Adams appears to rely on speculation. He simply states that Doctor Berberich's report supports a diminished capacity defense and the trial court relied upon the report to impose an exceptional sentence. But Adams' claim ignores the fact that the jury already rejected the assertion that he could not form the requisite intent based on his intoxication. Doctor Berberich's report, and the other evidence, shows that

¹² It also makes perfect sense to have the evaluation done. Trial counsel was seeking an exceptional sentence. In fact, he obtained a sentence that equaled the low end if he had been convicted of murder in the second degree, saving Adams eight plus years (his range for murder in the first degree with the enhancement was calculated as 471 to 608; his range for murder in the second degree with the enhancement would have been 358 to 457 months). By pursuing the diminished capacity angle, counsel obtained an exceptional sentence of 360 months. Without counsel having arranged for Doctor Berberich to conduct an evaluation, an exceptional sentence was not possible. Voluntary intoxication is not a basis for an exceptional sentence. RCW 9.94A.535(1)(3).

Adams alleged mental health issue comprises but a small component of this defense.

Adams ignores the fact that by asserting a diminished capacity defense, other damaging evidence would have been admissible (for example, Adams' violent past and criminal history). Further, while the trial court granted an exceptional sentence, the court stated that Adams' alleged diminished capacity would not have risen to a complete defense. Beyond relying on speculation, Adams cannot show that there is a reasonable probability that the results of his trial would have been different if a defense attorney had pursued a diminished capacity defense.

b. There Was No Plea Offer To A Reduced Charge--The Lack Of Admissible Evidence.

Adams contends that the State conveyed a plea offer to his trial counsel--a plea offer to murder in the second degree, but that his trial counsel did not convey the offer to him and thus his trial counsel was ineffective. This argument fails. No such offer was ever made, and the only "proof" Adams advances to support his claim an offer was made consists of inadmissible hearsay, insufficient to warrant any type of relief. Further, Adams received a

fair trial guaranteed by the Sixth Amendment. There is no authority for overturning a conviction obtained by way of a perfectly valid and fair trial, and requiring the State to extend a plea offer to a reduced charge.

As a threshold matter, to even obtain a reference hearing, a petitioner must state in his petition the facts underlying the claim of unlawful restraint and the evidence available to support the factual allegations. In re Rice, 118 Wn.2d 876, 885-86, 828 P.2d 1086 (1992); RAP 16.7(a)(2)(i). Still, as the Supreme Court has stated, "[t]his does not mean that every set of allegations which is not meritless on its face entitles a petitioner to a reference hearing." Rice, 118 Wn.2d at 886. Bald assertions and conclusory allegations will not support the holding of a hearing. Id.

As for the evidentiary prerequisite, even where a petition may allege a facially adequate reason to grant relief, if there is "no apparent basis in *provable fact*," a reference hearing will not be ordered. Rice, at 886 (emphasis added). "In other words, the purpose of a reference hearing is to resolve genuine factual disputes, not to determine whether the petitioner actually has evidence to support his allegations." Id.

If the petitioner's allegations are based on matters outside the existing record--as they do here--"the petitioner must demonstrate that he has competent, admissible evidence to establish the facts that entitle him to relief." Id. If the petitioner's evidence is based on knowledge in the possession of others, he may not simply state what he thinks those others would say, but must present their affidavits or other corroborative evidence, and the affidavits must contain matter to which the affiants may competently testify. Id. A statement that constitutes hearsay is insufficient to obtain a hearing. In re Gentry, 137 Wn.2d 378, 398, 972 P.2d 1250 (1999) (citing Rice, at 886). A reviewing court will not examine the State's response to the petition if the petitioner fails to meet this threshold burden. Rice, at 886-87.

Adams fails to meet his threshold burden. According to both the trial prosecutor and Adams' trial counsel, there was no offer to the reduced charge of second-degree murder ever made in this case. Appendix D and E. The only potential offer¹³ ever made in this case was an offer to plead guilty as charged to murder in the

¹³ It is questionable whether the content of the memo actually constitutes a formal offer as it contains no terms or sentence recommendation. The memo is probably more appropriately characterized as an offer to discuss the possibility of coming to terms on an offer to plead guilty as charged if appropriate terms can be agreed upon.

first degree, with the agreement that the State would not file vehicular assault charges arising out of another incident.

Appendix M.

The only evidence Adams claims proves that an offer to second-degree murder was conveyed by the State to trial counsel, is a newspaper article and his mother's declaration in which she writes "[w]hen I finally communicated with Mr. Danko, he told me he did not think the Murder 2 offer was 'serious,' so he did not tell Devon about it." Declaration attached to Adams' petition. There are two fatal problems with Adams' proof. First, the evidence he relies is complete hearsay, inadmissible and insufficient to rely on to obtain relief. See Gentry, 137 Wn.2d at 398; Rice, at 885-87. Second, Adams' evidence does not demonstrate that an offer by the State to second-degree murder was actually extended to him. Neither the affidavit by Adams' mother, nor the newspaper article show, state or affirm in any manner that the State actually extended an offer to plead to second-degree murder.

To obtain relief Adams must present admissible evidence supporting his claim, not hearsay that is at best impeachment evidence. Adams did not contact the prosecutor, did not contact trial counsel, and has provided no admissible tangible evidence that

a plea offer to murder in the second degree was ever extended. Without this evidence, he is not entitled to relief of any kind, including a reference hearing.

c. Adams' Requested Relief Is Not Available.

Adams seems to contend that it is "beyond well-established" that even if he were convicted pursuant to a fair trial, he is still entitled to relief under the Sixth Amendment if his trial counsel failed to convey a plea offer to him. The State has found no Washington case that so hold and Adams has cited none. The State contends that where a defendant receives a fair trial, the trial may not be overturned for ineffective assistance of counsel during plea negotiations.

The Sixth Amendment guarantees in criminal prosecutions the right to a fair trial. Powell v. Alabama, 287 U.S. 45, 53 S. Ct. 55, 77 L. Ed. 158 (1932). This right is protected by the effective-assistance component of the right to counsel. Id.

A plea agreement is a contract between a defendant and the State. State v. Talley, 134 Wn.2d 176, 182, 949 P.2d 358 (1998). There is no constitutional right to a plea bargain. State v. Wheeler, 95 Wn.2d 799, 804, 631 P.2d 376 (1981). A defendant is not

entitled to specific performance of a prosecutor's initial plea proposal. State v. Yates, 161 Wn.2d 714, 741, 168 P.3d 359 (2007) (citing Wheeler, 95 Wn.2d at 803). The State may withdraw from any plea agreement prior to the actual entry of a guilty plea. Id.

The fundamental right the Sixth Amendment is designed to protect is the right received here, the right to a fair trial. State v. Greuber, 165 P.3d 1185, 1189 (Utah, 2007). When a defendant has been convicted at a fair trial, "he has not been deprived of a substantive or procedural right to which the law entitles him." Id. Contrary to Adams' claim that it is well-settled that a defendant can still obtain relief when he obtains a fair trial where there were deficiencies in the plea negotiation process, there is no Washington case so holding and Adams has cited none.¹⁴

¹⁴ Where no authority is cited in support of a proposition, the court is not required to search out authority, but may assume that counsel, after diligent search, has found none. Courts ordinarily will not give consideration to such errors unless it is apparent without further research that the assignments of error presented are well taken. State v. Young, 89 Wn.2d 613, 625, 574 P.2d 1171 (1978) (citing DeHeer v. Seattle Post-Intelligencer, 60 Wn.2d 122, 126, 372 P.2d 193 (1962)). The only Washington cases cited by Adams for this proposition are State v. Osborne, 102 Wn.2d 87, 684 P.2d 683 (1984), a case that involved a plea, not a trial; and State v. James, 48 Wn. App. 353, 739 P.2d 1161 (1987), stating in dicta what the court would do if presented with the situation where a plea offer was not conveyed to a defendant.

In Greuber, supra, the Utah Supreme Court cited multiple jurisdictions that have ruled a conviction cannot be overturned upon a claim of ineffectiveness during plea negotiations where the defendant has otherwise received a fair trial. See Greuber, 165 P.3d at 1189 n.5 (citing Bryan v. Missouri, 134 S.W.3d 795 (Mo. Ct. App. 2004) (concluding there was no Sixth Amendment violation when defendant was not deprived of a fair trial) and Louisiana v. Monroe, 757 So.2d 895 (La. Ct. App. 2000)); see also United States v. Springs, 988 F.2d 746 (C.A. 7, 1993), but see, United States v. Day, 969 F.2d 39 (C.A. 3, 1992). Last year, after a panel of the Ninth Circuit ruled that a claim of ineffective assistance of counsel during plea negotiations survives even if a defendant has received a fair trial, the United States Supreme Court accepted review. However, after the Supreme Court accepted review, the defendant withdrew his claim of ineffective assistance of counsel. See Arave v. Hoffman, 552 U.S. 117, 128 S. Ct. 749, 169 L. Ed. 2d 580 (2008). Thus, there is a clear dispute on whether a defendant can raise an ineffective assistance of counsel claim regarding plea negotiations when the person has received a fair trial.

Additionally, and highlighting one of the problems inherent in such a claim, it is impossible to place the defendant back in the position he would have been but for the alleged violation--a pretrial position where the State is willing to exchange the expense and uncertainty of trial for a certain conviction. This is especially true where, like here, the defendant cannot even state what the terms of the alleged offer were. For example, was there an agreed sentence recommendation? Did the offer bar either party from asking for an exceptional sentence?

In conjunction therewith, a court requiring the separate executive-branch prosecuting authority to offer a plea violates constitutional principles of separation of powers. See Greuber, 165 P.3d at 1190. The ability to charge and to offer a plea deal is within the power and authority of the State, subject only to certain constitutional limitations, such as discrimination or vindictiveness. See e.g., United States v. Serverino, 316 F.3d 939, 955 (CA 9, 2003).

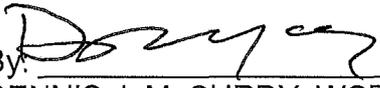
D. CONCLUSION

For the reasons cited above, this Court should dismiss
Adams' petition.

DATED this 27 day of January, 2010.

Respectfully submitted,

DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: 
DENNIS J. McCURDY, WSBA #21975
Senior Deputy Prosecuting Attorney
Attorneys for Respondent
Office WSBA #91002



APPENDIX A

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THE STATE OF WASHINGTON,)	
)	
Plaintiff,)	No. 99-1-07761-6 SEA
)	
v.)	
)	INFORMATION
DEVON PAUL ADAMS,)	
)	
)	
Defendant.)	

WARRANT ISSUED
CHARGE COUNTY \$110.00

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse DEVON PAUL ADAMS of the crime of **Murder in the First Degree**, committed as follows:

That the defendant DEVON PAUL ADAMS in King County, Washington on or about September 8, 1999, with premeditated intent to cause the death of another person did cause the death of Franklin Brown, a human being, who died on or about September 8, 1999;

Contrary to RCW 9A.32.030(1)(a), and against the peace and dignity of the State of Washington:

And I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington further do accuse the defendant DEVON PAUL ADAMS at said time of being armed with a handgun, a firearm as defined in RCW 9.41.010, under the authority of RCW 9.94A.310(3).

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse DEVON PAUL ADAMS of the crime of **Unlawful Possession of a Firearm in the Second Degree**, based on a series of acts connected together with another crime charged herein, committed as follows:

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

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That the defendant DEVON PAUL ADAMS in King County, Washington on or about September 8, 1999, previously having been convicted in King County of Taking a Motor Vehicle Without Permission, a felony, knowingly did own, have in his/her possession, or have in his/her control, a handgun, a firearm as defined in RCW 9.41.010;

Contrary to RCW 9.41.040(1)(b), (2)(b), and against the peace and dignity of the State of Washington.

NORM MALENG
Prosecuting Attorney

By: Craig Peterson
Craig A. Peterson, WSBA #15935
Senior Deputy Prosecuting Attorney

APPENDIX B

CAUSE NO. 99 1 07761 6

SEA

ORIGINAL



SEATTLE
POLICE
DEPARTMENT

**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER	99-379803
UNIT FILE NUMBER	H99-294

That Cloyd Steiger is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case Number 99-379803;

There is probable cause to believe that Devon Paul Adams committed the crime(s) of Murder.

This belief is predicated on the following facts and circumstances:

On 9/8/99 at about 9:00PM, Franklin Brown had just left a house located at 5321 46th Ave. S. in Seattle Washington. Brown was a local handyman, and had lived at that location with several other adult males up until a couple months before. As Brown left the residence, he stood on the sidewalk in front of the house. It was a clear and warm out, and had just gotten dark.

As Brown stood on that sidewalk, he was approached by a group of black males and a female. As the group passed Brown he greeted some of them, who he knew from the neighborhood. One of the subjects stopped where Brown stood and started talking to Brown. That subject, (described as a Hispanic looking male in his early 20's, around 6' tall, 160 lbs. with long black hair in a pony tail, a moustache and a small tuft of hair on his chin), asked Brown if he was a "Cluck", (which is street vernacular for a person who smokes crack cocaine). Brown said that he wasn't, then the subject started patting down Brown's pockets, stating "What have you got?". When Brown objected, he and the subject got into a verbal argument. The subject called Brown, (who is white) a "nigger" several times, stating something to the effect of, "You don't know who I am!". The subject then pulled a small semi-automatic pistol from a back pocket and held it to Brown's neck, pushing his head back. More words were exchanged, then the subject started shooting. Brown immediately fell to the ground, and the suspect stood over him, firing several more rounds into his back as he lay on the ground. Everyone fled from the area. Fire Department Medics transported Brown to Harborview Medical Center, where he was pronounced dead.

Scooter Van Lieu lives in the house directly north of the shooting scene. At the time of the incident, he was in the kitchen area of that house. He heard loud voices and looked out his window. He saw Brown, (whom he knew) arguing with a subject he didn't know. He exited his house on the north side, then crawled around the driveway. He crouched there and watched what happened. Prior to the suspect shooting Brown, Van Lieu saw a black male that he recognized from the neighborhood. This black male was imploring the suspect to "come on" and leave the area. Van Lieu didn't know this second subjects name, but knew he lived nearby.

The early afternoon of 9/9/99, detectives were reinterviewing Van Lieu. A room mate of his was standing nearby and upon hearing Van Lieu speaking to us about this second subject realized she knew who it was. She said that his name was Ronnie and that he lived around the corner. Detectives contacted Ronald Banks Jr. and brought him to the Homicide office. Banks admitted being with the shooter at the time of this incident. He said that he and the shooter, whom he has known for about a year, but only knows as "D" or Devon, were walking to a nearby store when this incident occurred. He described Devon going through Brown's pockets, and said that he

CITY OF SEATTLE
POLICE
DEPARTMENT

**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER	99-379803
UNIT FILE NUMBER	H99-294

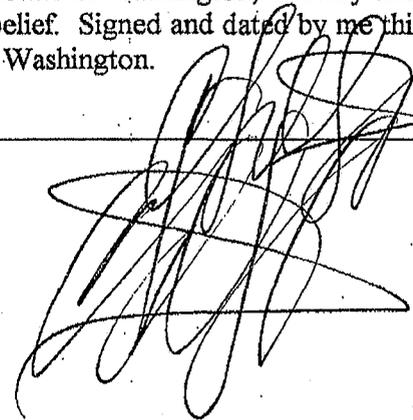
believed Devon was trying to "jack" Brown. Banks said that he knew Brown and tried to tell Devon to leave him alone, but Devon pulled out the gun and shot Brown. Banks also told us about two other subjects, Jason Whiten and Nicole Harris, who were with he and Devon at the time of the shooting.

We then had these two brought in. They both gave stories consistent with Banks. They said that Devon is a "wet smoker", (smokes formaldehyde laced cigarettes) and acts crazy all the time. They also did not know Devon's last name. They had known him for about six months and knew that he had recently been in jail for a DV charge.

Detectives then received information from a source that wished to remain anonymous, (although he did provide us with his name, address, etc) He told us he did not witness the homicide, but he is a friend of Banks, Whiten and Harris. He said that he knows Devon. He said that Devon's last name is Adams, and that he was living in Magnolia with his mother. From this subject's description of his relationship with Devon, detectives believed that his information was reliable.

We ran the name Devon Adams in the computer systems. We found that the suspect's full name is Devon Paul Adams. He is listed as a white male, but appears Hispanic. His DOB is 4/18/79. He was booked on July 29, 1999 for Domestic Violence. At that time he gave a home address of 3411 33rd Ave. W., (which is in Magnolia). Detectives obtained a booking photo of Adams and showed it to Jason Whiten, who verified that Adams was the person who he saw shoot Brown.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct to best of my knowledge and belief. Signed and dated by me this 10th day of SEPTEMBER, 1999, at Seattle, Washington.


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CAUSE NO. 99-1-07761-6 SEA

PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR
CONDITIONS OF RELEASE

The facts are set forth in the attached Certification for Determination of Probable Cause.

REQUEST FOR BAIL

Bail in the amount of \$750,000 is requested due to the brutal and unprovoked nature of this murder. Defendant has prior convictions for Taking a Motor Vehicle Without Permission (1998) and Felony Violation of a No Contact Order (1999). Defendant is currently at large and his whereabouts are unknown. Defendant should also be ordered to have no contact with Scooter Van Lieu, Ronald Banks, Jr., Jason Whiten and Nicole Harris.

Craig A. Peterson

Craig A. Peterson, WSBA #15935

APPENDIX C

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
Plaintiff,)	NO. 99-1-07761-6 SEA
)	
vs.	)	STATE'S TRIAL MEMORANDUM
)	
DEVON PAUL ADAMS,)	
)	
Defendant.)	
)	
)	
)	

I. CHARGE

The defendant is presently charged with Murder in the First Degree in Count I with the additional Deadly Weapon enhancement. In Count II, the defendant is charged with Unlawful Possession of a Firearm in the Second Degree.

II. TIME ESTIMATE

This jury trial should last approximately seven days.

III. POTENTIAL STATE WITNESSES

The State expects to call any or all of the following witnesses in its case-in-chief:

- Dr. Paul Gosink, King County Medical Examiner's Office
- Evan Thompson, Washington State Patrol Crime Laboratory
- Ronald Banks
- Michael Gray

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

1 Nicole Harris
2 Anthony Heath
3 Scooter Van Lieu
4 Jason Whiten

5 Seattle Police Department

6 Officer D.L. Bauer
7 Officer S.L. Berg
8 Officer D. Duffy
9 Officer T.C. Harris
10 Officer M. Lanz
11 Detective G. Mixsell
12 Detective C. Steiger
13 Detective S. Moore
14 Detective J. Nordlund
15 Detective R. Norton
16 Detective G. Tomlinson

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IV. FACTS

On September 8, 1999, Franklin Brown was murdered in the south end Seattle neighborhood where he had lived for years. He had spent that day, like so many others, mowing yards and doing other odd jobs for the people who lived around him. Brown had recently moved from one house in the neighborhood to another, and according to his former roommates he seemed to be moving out constantly.

Franklin Brown stopped by his former residence on 46th Avenue South about 8:30 p.m. that evening. Witnesses reported that he was carrying a "weed whacker" and an extension chord at the time. As he left the residence he was confronted by the defendant Devon Adams.

The defendant was walking to a local grocery store with three of his friends at the time. The three friends reported to Seattle

1 homicide detectives that the defendant immediately started
 2 harassing the victim. Two of the defendant's friends reported
 3 that they believed the defendant was trying to "jack" the victim.
 4 That is, he was going through the victim's pockets looking for
 5 either drugs or money. At one point, his friends reported, the
 6 defendant repeatedly asked the victim if he was a "cluck," that is
 7 if he was either buying or selling dope.

8 The three people who were walking with the defendant, Ronald
 9 Banks, Jason Whiten and Nicole Harris, were all familiar with the
 10 victim. They knew he was a drinker who did odd jobs for others in
 11 the neighborhood. They knew that he was not a man of means and
 12 when the defendant started harassing Franklin they told him to
 13 stop and urged the defendant to let Franklin be.

14 What the defendant and his three friends did not know at the
 15 time was that the entire attack was being witnessed by at least
 16 two other people. Scooter Van Lieu and his brother Anthony Heath
 17 watched the defendant murder the victim directly in front of their
 18 home.

19 Unlike the three friends of the defendant, these two
 20 witnesses approached the police that night and reported what they
 21 had observed. They told homicide detectives that it was clear to
 22 them that the defendant was harassing the victim. They heard the
 23 defendant call the victim "bitch" and "nigger." They also could
 24 hear the victim as he repeatedly told the defendant to "...leave
 25 me alone."

1 But the defendant did not leave the victim alone. Rather, he
2 pulled a semi-automatic handgun and pressed it against the
3 victim's neck. While doing so he could be heard to say "...you
4 don't know who you are messing with..." He tortured the victim in
5 this fashion for several moments. He then put the gun back in his
6 pocket and picked up the beer he had been drinking.

7 The defendant started to walk away but according to Nicole
8 Harris, the defendant "...insisted on fucking with him..." She
9 told homicide detectives that she watched the defendant put his
10 beer down a second time and again hold a gun to the victim's neck.
11 It was shortly after this second session that she heard shots.

12 According to all of the witnesses the defendant shot the
13 victim many times. Most witnesses agree that the victim fell
14 immediately and that the defendant shot him several more times
15 after he was on the ground. The victim was not armed and did
16 absolutely nothing to provoke his murder. The physical evidence
17 in this case is entirely consistent with the reports from both the
18 defendant's friends and the two impartial witnesses.

19 An autopsy was performed by Dr. Paul Gosink who is an
20 assistant medical examiner at the King County Medical Examiner's
21 Office. Dr. Gosink will testify that the victim was shot at least
22 eight times. All of the bullets that were fired into the victim
23 have a back to front trajectory. Many of them were actually fired
24 into his back.

25

1 Homicide detectives went back to the scene and excavated the
2 soil where the victim had been laying when the defendant shot him.
3 They were able to recover three bullets that were directly under
4 the area where the victim's body was recovered.

5 These three bullets along with the bullets that had been
6 recovered from the victim's body were sent to the Washington State
7 Patrol Crime Laboratory. Nine shell casings that were recovered
8 from the scene were also sent to the lab. Evan Thompson examined
9 the casings and a total of seven bullets. He will testify that
10 all nine casings and all of the seven bullets were fired from the
11 exact same gun.

12 The defendant has a remarkable criminal history for a man of
13 his age. He has TEN felony convictions in juvenile court and two
14 more as an adult. He is just twenty years old and has been in
15 custody on this matter since September of 1999.

16
17 V. EVIDENTIARY RULINGS

18 Several matters need to be addressed before jury selection
19 and/or opening statements begin.

20 a. The State will have a latent print examiner in court to
21 roll a complete set of prints from the defendant. These new
22 prints will then be compared to the prints in the defendant's two
23 previous felony convictions.

24 b. The court will be asked to rule on the manner in which
25 the jury hears about the defendant's two previous felony

1 convictions. They are Taking A Motor Vehicle under #98-1-05301-8
2 and Felony Violation of a No Contact Order under #98-1-10272-8.
3 The State must establish these felony convictions as an element of
4 the offense in Count II.

5 c. The State will move to preclude any testimony from
6 William Johnson who has been endorsed by the defense. The State
7 will argue nothing Mr. Johnson will say is admissible as
8 reputation evidence under Evidence Rule 404 and/or 405. Detective
9 Steiger went to the address provided by Mr. Danko as that of
10 Mr. Johnson. There is no address of 5143 46th Avenue South. As a
11 result, the State will ask for the court's assistance in obtaining
12 an interview with Mr. Johnson.

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14 VI. PRETRIAL RULINGS

15 To date there has only been a joint motion to exclude
16 witnesses under Evidence Rule 615.

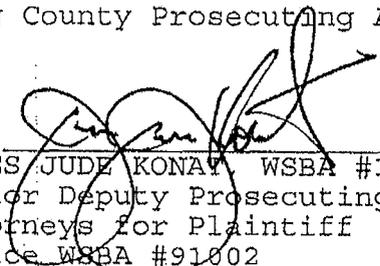
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18 VII. CONCLUSION

19 By the foregoing summaries, the State has attempted to
20 capsulize the facts and law of the case to assist the court at the
21 time of trial. Omission of relevant facts, law or argument should
22 not be construed as a waiver of those matters. This memorandum
23
24
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1 will be supplemented by additional materials if it becomes
2 necessary.

3 DATED this 28th day of March, 2000.

4 Respectfully submitted,
5 NORM MALENG
6 King County Prosecuting Attorney

7
8 By: 
9 JAMES JUDE KONAY WSBA #16082
10 Senior Deputy Prosecuting Attorney
11 Attorneys for Plaintiff
12 Office WSBA #91002

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APPENDIX D

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COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

In re Personal Restraint Petition,)	
)	
	)	No. 64265-1-I
)	
of)	
	)	DECLARATION OF
DEVON ADAMS,	)	JAMES JUDE KONAT
)	
)	
petitioner.)	
)	
)	

I, JAMES JUDE KONAT, hereby declare as follows:

1. I am over 18 years old and am competent to make this declaration.
2. I have been a practicing attorney for almost 24 years.
3. I was admitted to practice law in the State of Washington in 1986.
4. I am currently a Senior Deputy Prosecutor with the King County Prosecuting Attorney's Office and have been working as a King County Prosecutor for more than 20 years.
5. I have been on the Most Dangerous Offender Project (MDOP) unit since it began in 1995. As a member of MDOP I am involved in homicide investigations as soon as they begin. I report directly to homicide scenes and work with detectives on warrants, at autopsies, and many other legal considerations. I am responsible for charging decisions on the cases to which I respond and typically I keep the case all the way through conviction and sentencing.

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

1 6. Over the course of my career as a prosecutor, I have been involved in at least 150
2 death investigations. Some of the cases don't get filed for different reasons, and many of these
3 cases have been resolved by the defendant(s) pleading guilty. At least half of these cases have
4 gone to trial. While a defendant has a right to plead guilty as charged, any plea offer involving a
5 reduction of charges is made at the discretion of the prosecutor's office.

6 7. Upon the shooting death of Franklin Brown in September of 1999, I was the MDOP
7 prosecutor assigned to the case. I went to the scene of the crime and was fully involved in the
8 case from the day of Brown's murder. I decided what charges should be filed against Devon
9 Adams after he shot Mr. Brown. I handled the case at trial and sentencing. I have a clear
10 memory of the case. No other prosecutor worked on this case through sentencing and any plea
11 offer in the case made by the State would have come through me.

12 8. At no time did I contemplate nor offer to reduce the charges against Devon Adams.

13 9. What became known to the State as a result of this investigation was that Franklin
14 Brown was a middle aged man with significant developmental issues. He was widely known in
15 his community to be peaceful and harmless. Mr. Brown, who also had alcohol issues, was
16 known to go door to door in search of yard work or handyman type work. He regularly was seen
17 walking through the neighborhood with his "weed-whacker" in hand and an extension cord
18 draped over his shoulder.

19 10. According to witnesses in this case, Brown was in his south Seattle neighborhood on
20 the evening he was murdered. He was seen walking around looking for odd jobs he could
21 perform to make some money. As usual, he appeared to be intoxicated, and had his weed-
22 whacker in hand and his extension cord over his shoulder.

23 11. Devon Adams, with three younger companions, happened upon Brown. Witnesses
24 would later inform the police that Adams had been drinking and smoking "sherm" prior to the
25 encounter.

26 12. In a show of apparent bravado, Adams confronted Franklin Brown and then started
27 rifling through Brown's pockets. When Brown protested, Adams pulled a gun and put it to
28 Brown's neck. Franklin Brown was not armed.

29 13. Adams made a statement along the lines of "...you don't know who you're dealing
30 with."

31 14. Adams kept referring to Brown as a "nigger," with Brown responding that he wasn't,
32 Adams was.

33 15. After putting the gun down once, Adams raised the gun to Brown's head a second
34 time. He did so without provocation while his younger companions urged him to leave Brown
35 alone. Devon Adams shot the victim eight times. The first bullet was fired into Franklin
36 Brown's head while the remainder of the bullets were fired into his back as he lay helpless and
37

1 prone on the ground. The detectives recovered multiple bullets from the soil under Franklin
2 Brown's body.

3 16. Unbeknownst to Devon Adams, two local residents had heard the commotion he had
4 created and witnessed the shooting.

5 17. Given the facts as I understood them at the time, there was never cause nor
6 consideration of a reduction in the charges I filed against Devon Adams.

7 18. Although defense counsel, Michael Danko certainly sought a reduction in charges,
8 only one potential plea offer was ever extended by the State to Adams. The State, in a written
9 memo I drafted on November 15, 1999, did propose that Adams could plea guilty as charged to
10 murder in the first degree with a firearm enhancement in count I, and unlawful possession of a
11 firearm in count II. In exchange for his pleas of guilty on my case, I communicated to Mr.
12 Danko that the State would agree not to file charges out of a vehicular assault case that was being
13 investigated by the police and my office.

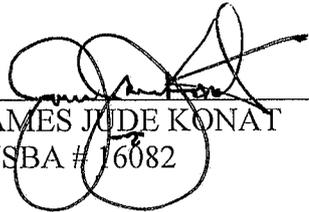
14 19. This potential offer was rejected, with counsel informing the State that Adams
15 insisted he did not shoot Franklin Brown nor was he the driver of the car in the vehicular assault
16 case. Subsequent forensic and DNA testing provided sufficient evidence to prove that Adams
17 was indeed the driver of the suspect vehicle in the vehicular assault case. The forensic evidence,
18 however, was obtained after Adams had been convicted by a jury of first-degree murder with a
19 firearm enhancement and unlawful possession of a firearm.

20 20. At no time during the pendency of this case did I ever observe anything that led me
21 to believe Adams suffered from any mental health issues. To the contrary, Adams was
22 consistently adamant about his innocence in the murder of Franklin Brown. He seemed alert,
23 attentive, and appeared to communicate well with his trial counsel. It is also my recollection that
24 Adams seemed to get along quite well with his lawyer through the course of trial and sentencing.

21 21. None of the witnesses in the case described Adams, at the time of the murder, as
22 appearing to suffer from any mental illness.

23 Under penalty of perjury under the laws of the State of Washington, I certify that the
24 foregoing is true and correct to the best of my knowledge and belief.

Signed and dated by me this 26th day of January, 2010, at Seattle, Washington.



JAMES JUDE KONAT
WSBA # 16082

APPENDIX E

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COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

)	
)	
In re Personal Restraint Petition of,)	No. 64265-1-I
)	
DEVON ADAMS, petitioner)	
	)	DECLARATION OF MICHAEL
	)	DANKO SLOTE
)	
)	
)	
)	

I, MICHAEL DANKO SLOTE, hereby declare as follows:

1. I am over 18 years old and am competent to make this declaration.
2. I have been a practicing attorney since 1984.
3. For most of my professional career, I have been a private practice criminal defense attorney. I just recently retired.
4. Over the course of my career, I have represented hundreds of defendants, including many who have been charged with murder. I have negotiated pleas on many of these cases. I have also taken many cases to trial where no plea resolution could be achieved.
5. I know and remember well the petitioner in this case, Devon P. Adams.
6. Devon retained my services on at least three felony cases, the murder case that is the subject of his petition (99-1-07761-6 SEA), a domestic violence assault, felony violation of a no-contact order case (98-1--10272-8 SEA), and a vehicular assault case (02-1-00637-6 SEA). In each of these cases I believe I represented Devon well.

1 7. In all three cases I attempted to obtain the best possible result for Devon through plea
2 negotiations and always informed Devon of any plea offers. Devon never expressed any
3 concerns to me about my representation of him. In fact, I have kept in contact with Devon and
4 his mother since his convictions (see attached letter from Ann DeKoster).

5 8. In the domestic violence assault, felony violation of a no-contact order case, I obtained
6 a plea offer whereby the assault charge would be dropped for a plea to the no-contact order
7 violation charge. I conveyed this offer to Devon and he accepted the plea offer.

8 9. After the domestic violence case was concluded, Devon contacted me in regards to the
9 shooting of Franklin Brown. I was able to arrange for the peaceful surrender of Devon to
10 authorities, preserving Devon's right to remain silent. This occurred a few days after Mr. Brown
11 was shot and killed on September 8, 1999.

12 10. Devon retained my services to represent him in this case.

13 11. During the course of my representing Devon on the first-degree murder charge, I
14 became aware that Devon was under investigation for two counts of felony vehicular assault.
15 Although charges had not yet been filed, I was able to negotiate with the prosecutor's office to
16 review the discovery in that case.

17 12. With a pending first-degree murder charge, and the possibility of two additional
18 vehicular assault charges, my hope was to obtain the best resolution possible for Devon.

19 13. While I attempted to negotiate with the prosecutor's office, no offer to a plea of
20 murder in the second degree was ever made.

21 14. The only offer ever received from the prosecutor's office was an offer to plead guilty
22 as charged to the first-degree murder charge and unlawful possess of a firearm charge, with an
23 agreement that the potential vehicle assault charges would not be filed.

24 15. This offer was conveyed to Devon. Devon rejected the offer. Part of the rejection of
the offer stemmed from the fact that Devon denied being the driver of the vehicle in the
vehicular assault case, and the State, at that time, arguably did not have sufficient evidence to
prove Devon was the driver of the vehicle involved. Thus, the potential plea offer went no
further.

16. Had there been any other plea offers, the offers would have been conveyed to Devon.
I had a good working relationship with Devon.

17. The murder case proceeded to trial because we were unable to obtain a plea offer to a
reduced charge and thus Devon decided he wanted to proceed to trial.

18. There were questions about the reliability of certain witnesses for the State.
Specifically, the persons who were allegedly with Devon at the time of the shooting were

1 indicating that their statements implicating Devon as the shooter were not accurate, that their
2 statements were coerced.

3 19. Prior to trial it also appeared questionable whether the State could secure the
4 presence of, and testimony of, the other civilians who may have witnessed the murder.

5 20. With questions about the witnesses' testimony and availability, there existed the
6 possibility that the State would not be able to prove its case. Devon was informed of the risks of
7 going to trial.

8 21. Prior to trial, at no time did I have reason to believe that Devon suffered from any
9 mental health problems, outside of his alcohol, drug and anger problems. I had many discussions
10 with Devon and his mother, Ann DeKoster, and neither indicted to me that Devon had ever been
11 diagnosed with mental health problems or that any mental health problems existed at the time of
12 trial.

13 22. At trial, I obtained lesser included instructions from manslaughter in the second
14 degree up to murder in the second degree.

15 23. At trial, I obtained voluntary intoxication instructions.

16 24. After Devon was convicted, I sought to have an evaluation of Devon by Doctor John
17 Berberich, in the hopes of obtaining a report that would be persuasive in obtaining either a lower
18 sentence within the standard range, or an exceptional sentence. I did obtain a sentence
19 substantially below the standard sentence range. A diminished capacity defense did not fit
20 within the trial tactics employed in this case, and raising a dim cap defense would have presented
21 substantial risks.

22 25. After Devon was convicted and sentenced, he again retained my services to represent
23 him on the vehicular assault charge that was ultimately filed against him. I negotiated a plea
24 whereby Devon received no additional time in prison. Devon accepted the plea offer.

25 26. Since these cases were resolved, I have occasionally had contact with Devon and his
26 mother. At no time did I ever inform either one of them that a plea offer had been made to
27 second-degree murder. At no time did they express to me any dissatisfaction with the way any
28 of his cases were handled.

29 Under penalty of perjury under the laws of the State of Washington, I certify that the
30 foregoing is true and correct to the best of my knowledge and belief.

31 Signed and dated by me this 20th day of January, 2010, at Seattle, Washington.

32 
33 MICHAEL DANKO SLOTE
34 WSBA #14312

1724 S. 6th Street
Mt. Vernon, WA 98273

VIA FACSIMILE AND REGULAR MAIL

November 7, 2007

Michael Danko
Attorney at Law
600 First Avenue
Suite 205
Seattle, WA 98104

Re: Devon Adams

Dear Mike:

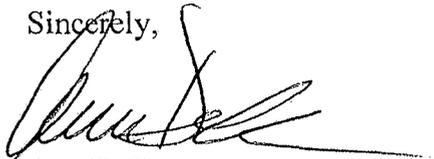
I thought I best get a letter off to you before you take down the sign and close up shop. We were wondering if you still have Devon's file, should we get it from you? If so, I can arrange to come and pick it up. If you keep the files yourself, if we ever needed anything from the file, would it be possible to get in contact with you?

Also, do you have an attorney you could refer us to in case we need to talk to someone down the road regarding any kind of early release or clemency, things like that?

I wish you the best in your next phase, Mike. It is too bad we couldn't have gotten to know each other under different circumstances but I am glad I got to know you nonetheless. If you need any input regarding juveniles and the system, I would be happy to provide it. I still have lots of notes and thoughts about what happened to Devon in the system, what mistakes were made and the consequences of those mistakes, both by the system and me.

I look forward to hearing from you. My work phone remains 206 728 3122, home is 360 335 6196 and cell is 360 540 2518.

Sincerely,



Ann DeKoster

APPENDIX F

File

FILED
KING COUNTY, WASHINGTON

SEP 01 2000
SUPERIOR COURT CLERK
BY JOSEPH MASON
DEPUTY

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Hon. C. Schapira
Hearing Date 9-1-00
9:30 A.M.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,	)	NO. 99-1-07761-6 SEA
)	
Plaintiff,)	
	)	DEFENDANT'S PRE-SENTENCE
v.	)	STATEMENT
)	
DEVON ADAMS,)	
)	
Defendant.)	

Devon Adams, by and through his attorney, Michael Danko, submits the following statement for the court's consideration when sentencing him on September 1, 2000 at 9:30 A.M..

Mr. Adams was found guilty on April 6, 2000 to Murder in the First Degree (Count I) with a weapon enhancement, and Unlawful Possession of a Firearm in the Second Degree (Count II).

Mr. Adams is sincerely and profoundly sorry for killing Mr. Brown. Nothing he does or says will adequately show Mr. Brown's family and friends, and this court, how truly and sincerely sorry he is. Apparently, his death happened randomly and senselessly. Two strangers happen upon each other, words are exchanged, shots are fired, and a man is killed. However, Mr. Adams' reaction is

DEFT.'S PRE-SENT. STMT. - 1

MICHAEL DANKO
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600 FIRST AVENUE
SEATTLE, WASHINGTON 98104
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1 not entirely senseless. While he was not justified in having a gun
2 in his possession, or using it, his reaction to Mr. Brown suddenly
3 appearing before him is consistent with his psychological make up.
4 His exposure to violence and its impact upon him causes him to
5 react swiftly and angrily. Albeit an overreaction, those who
6 suffer from PTSD are quick to react to even slight provocations.
7 He acknowledges how senseless his actions were. He knows it
8 shouldn't have happened. He is prepared to accept this courts
9 sentence.

10 The first step Mr. Adams took toward accepting responsibility
11 and atoning for his actions was turning himself in. Mr. Adams, as
12 the court will recall, ran from the scene. He contacted counsel
13 two days later and counsel arranged his surrender. Although Mr.
14 Adams recalls seeing Mr. Brown, and has a vague recollection of the
15 altercation, as well as the shooting, he does not remember anything
16 else. He also remembers drinking and smoking "sherm", but also
17 does not remember for how long or how much.

18 The law permits a sentence to be mitigated when there is
19 compelling evidence to show that the perpetrator's capacity to
20 conform to the requirements of the law was significantly impaired.

21 (e) The defendant's capacity to appreciate the
22 wrongfulness of his or her conduct or to conform his or
23 her conduct to the requirements of the law, was
significantly impaired (voluntary use of drugs or alcohol
is excluded).

24 RCW 9.94A.390(1)(e). While the voluntary use of alcohol and drugs
25 is excluded by the statute as a basis for mitigation, compelling

26 DEFT.'S PRE-SENT. STMT. - 2

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1 evidence of a disorder or other psychological condition independent
2 from alcohol or drug abuse does constitute a basis for mitigation.
3 State v. Allert, 117 Wn.2d 156 (1991). In the instant case, Dr.
4 Berberich has established the presence of a significant personality
5 disorder, i.e., Post Traumatic Stress Disorder. Berberich at 7.
6 Furthermore, he finds Mr. Adams to show characteristics of both
7 Depressive and Antisocial Personality Disorder. Berberich at 7.
8 Finally, he describes Mr. Adams alcohol and drug abuse as a
9 response to the violence and psychological distress to which he was
10 exposed at a very young age. Berberich at 7.

11 Mr. Adams respectfully submits that a mitigated sentence is
12 appropriate in this case. Because of the mandatory statutory
13 minimum 20 year sentence, he will be incarcerated for 25 years (20
14 year minimum plus 5 year enhancement). He requests that the court
15 mitigate his sentence by imposing only the mandated minimum. This
16 in no way excuses the conduct or the severity of the crime. It
17 does, however, give him something to strive for, and the
18 opportunity to receive the treatment and support he failed to get
19 earlier. Because of his age, Mr. Adams can serve his sentence and
20 still have sufficient time to return to society and become a
21 productive citizen. Dr. Berberich highlights the need for
22 treatment and for giving him some sense that he can overcome his
23 past. Berberich at 8.

24 The evaluation performed was based on all of the records
25 available, including medical records, DSHS records, school records
26 DEFT.'S PRE-SENT. STMT. - 3

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1 and counseling and treatment records. Dr. Berberich interviewed
2 Mr. Adams, performed the testing delineated in his evaluation and
3 interviewed Mr. Adams' mother, Ann DeKoster. Dr. Berberich was
4 also provided all relevant materials regarding this case and the
5 evidence. The defense respectfully submits that the evaluation and
6 the conclusions of Dr. Berberich are competent and reliable.

7 As Dr. Berberich observes, and Ms. DeKoster will tell the
8 court, Mr. Adams was inadequately treated in juvenile system. At
9 best, the counseling and treatment addressed the symptoms; i.e.,
10 drug and alcohol abuse. At worst, Mr. Adams made contacts with
11 older juveniles who continued to supply him with drugs and alcohol,
12 inside and outside various institutions. Ms. DeKoster will tell
13 the court that she often searched out her son, and in the process,
14 ran into the same people with whom he had been confined. Ms.
15 DeKoster, in retrospect, recognizes that she could have handled
16 matters differently, but, at the time, she believed the juvenile
17 courts and the court's resources were addressing her son's needs.
18 What is most disturbing is that Mr. Adams was seen by school
19 psychologists and other psychologists later when under the
20 supervision of the juvenile court, but was never appropriately
21 diagnosed. She truly believes that had he been properly diagnosed,
22 he would not be before this court today.

23 Mr. Adams was able to enter into classes and treatment. He
24 satisfactorily completed an alcohol abuse program at Milan. He was
25 following through with DV classes. He was ready to go to school.

26 DEFT.'S PRE-SENT. STMT. - 4

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1 However, he could not control his feelings or direct his energies
2 productively. Dr. Berberich accurately portrays the cycle Mr.
3 Adams was compelled to endure. Able to manage for some time, he
4 would become overwhelmed and lapse back into drugs and alcohol,
5 essentially self-medicating himself in a very destructive way.

6 Mr. Brown became the unwitting and unfortunate victim of Mr.
7 Adams' internal rage and fear. Again, Dr. Berberich describes the
8 components of his personality. Dr. Berberich will be present at
9 the sentencing hearing, and will more fully describe Mr. Adams'
10 mental state and the dynamics of the disorder.

11 Based on Mr. Adams' mental state, and the psychological
12 disorder identified by Dr. Berberich, which was exacerbated by
13 drugs and alcohol, Mr. Adams respectfully requests that the court
14 deviate from the presumptive sentence in this case. Recognizing
15 that the court must impose 20 years because of the mandatory
16 statutory minimum, and must impose the 5 year sentence enhancement,
17 he asks that the court impose no further time. Mr. Adams
18 acknowledges 9 prior juvenile felonies. (1994: 4 TMVWOP , 2 Res.
19 Burg., 1 Robbery First Degree; 1996: 1 Escape, 1 UPFA 2nd Degree).
20 Furthermore, he acknowledges the two adult felonies, TMVWOP and
21 Felony Violation of a No Contact Order (DV) which were acknowledged
22 at trial.

23 By requesting a mitigated sentence, Mr. Adams is not asking
24 that the court excuse his conduct, either in this case or in his
25 criminal history. Rather he asks for a fair and just sentence in
26 DEPT.'S PRE-SENT. STMT. - 5

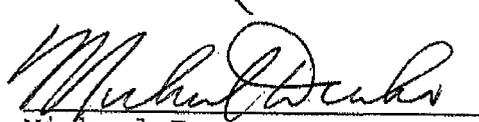
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light of all of the factors presented. Mr. Adams has had the support and respect of many people. While no one suggests they respect his crimes, they do want the court to know that Mr. Adams can behave in a loving, responsible way. They do believe that Mr. Adams will make the best of his incarceration. Attached hereto are letters from his mother, his spouse, Muel Saeturn, his step-sister, Nancy Santos, friends Juan and Jeanine Echevarria, Vanessa Engle, Patricia and Stanly Stewart, Nai Saeturn, Paige Myers and KCJ Chaplain, Patricia Hoban.

DATED 8-30-00

Respectfully submitted,



Michael Danko
WSB #14312
Attorney for Defendant



APPENDIX G

FILED
SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

Accelerated
 Non Accelerated
DPA Defense

STATE OF WASHINGTON)

Plaintiff,)

v.)

Devon Adams)

Defendant.)

No. 98-1-10272-8 SEA

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY
(Felony)

CERTIFIED
COPY

1. My true name is Devon P. Adams

2. My age is 20. Date of birth 4-18-79

3. I went through the 12 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. My lawyer's name is Michael Danko

(b) I am charged with the crime(s) of Felony Violation of NCO - DV

The elements of this crime(s) are In King County Wa intentionally assaulting a person while under a court order prohibiting contact with that person

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT 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;

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY 1 OF 9

SC FORM REV 10/98

44
FILED

- (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 have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a determination of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA(S), I UNDERSTAND THAT:

- (a) The crime(s) with which I am charged carries a maximum sentence(s) of 5 years imprisonment and a \$ 10,000.00 fine.

RCW 9.94A.030(23),(27), provide that for a third conviction for a "most serious offense" as defined in that statute or for a second conviction for a "most serious offense" which is also a "sex offense" as defined in that statute I may be found a Persistent Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.120(4). The law does not allow any reduction of this sentence.

(b) The standard sentence range is from zero (~~days~~) months to 12 (~~days~~) months confinement, based on the prosecuting attorney's understanding of my criminal history. The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. If my current offense was prior to 7/1/97: criminal history always includes juvenile convictions for sex offenses and also for Class A felonies that were committed when I was 15 years of age or older; may include convictions in Juvenile Court for felonies or serious traffic offenses that were committed when I was 15 years of age or older; and juvenile convictions, except those for sex offenses and Class A felonies, count only if I was less than 23 years old when I committed the crime to which I am now pleading guilty. If my current

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY 2 OF 9

SC FORM REV 10/97

offense was after 6/30/97: criminal history includes all prior adult and juvenile convictions or adjudications.

(c) The prosecuting attorney's statement of my criminal history is 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.

(d) If I am convicted of any new crimes before sentencing, or if I was on community placement at the time of the offense to which I am now pleading guilty, 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.

If the current offense to which I am pleading guilty is a most serious offense as defined by RCW 9.94A.030, (23), (27), and additional criminal history is discovered, not only do the conditions of the prior paragraph apply, but also if my discovered criminal history contains additional prior convictions, whether in this state, in federal court, or elsewhere, of most serious offense crimes, I may be found to be a **Persistent Offender**. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.120(4).

Even so, my plea of guilty to this charge is binding on me. I cannot change my plea if additional criminal history is discovered, even though it will result in the mandatory sentence that the law does not allow to be reduced.

(e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay \$500.00, or \$100.00 if my crime date is prior to 6/7/96, as a victim's compensation fund assessment. If this crime resulted in injury to any person or damages to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, incarceration, lab and attorney fees. Furthermore, the judge may place me on community supervision,

impose restrictions on my activities, and order me to perform community service.

(f) The prosecuting attorney will make the following recommendation to the judge: _____

45 days KCJ; one year community supervision; Costs, VPA, and Restitution, if any.

No contact with Muel Saeturn. State will dismiss Count II upon dispo. of Count I.

(g) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(h) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence.

[If not applicable, this paragraph should be stricken and initialed by the defendant and the judge DA LC.]

The crime of _____ is a most serious offense as defined by RCW 9.94A.030(23), and if the judge determines that I have at least two prior convictions on separate occasions whether in this state, in federal court, or elsewhere, of most serious crimes, I may be found to be a Persistent Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody.

RCW 9.94A.120(4). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge DA LC.]

The crime of _____ is also a "most serious offense" and a "sex offense" as defined in RCW 9.94A.030(23) and (27), and if the judge determines that I have one prior conviction whether in this state, in federal court or elsewhere of a most serious sex offense as defined in that statute, I may also be found to be a persistent offender in which case the judge must impose a mandatory sentence of life without the

possibility of parole. RCW 9.94A.120(4). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge DA LC.]

(i) The crime charged in Count _____ includes a firearm/deadly weapon sentence enhancement of _____ months.

This additional confinement time is mandatory and must be served consecutively to any other sentence I have already received or will receive in this or any other cause. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge DA LC.]

(j) The sentences imposed on counts _____, except for any weapons enhancement, will run concurrently unless the judge finds substantial and compelling reason to do otherwise or unless there is a special weapons finding. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge DA LC.]

(k) In addition to confinement, the judge will sentence me to community placement for at least one year. During the period of community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge DA LC.]

(l) If this offense is a sex offense committed after 6/5/96 and I am either sentenced to the custody of the Department of Corrections or if I am sentenced under the special sexual offender sentence alternative, the court will, in addition to the confinement, impose not less than 3 years of community custody which will commence upon my release from jail or prison. Failure to comply with community custody may result in my return to confinement. In addition the court may extend the period of community custody in the interest of public safety for a period up to the maximum term which is _____.

[If not applicable this paragraph should be stricken and initialed by the defendant and judge DA LC.]

(m) The judge may sentence me as a first time offender instead of giving a sentence within the standard range

qualify under RCW 9.94A.6()). This sentence could include as much as 90 days' confinement 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. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge _____.]

(n) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge DA KA.]

(o) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge DA KA.]

(p) 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.

(q) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge DA KA.]

(r) Because this crime involves a sex offense, I will be required to register with the sheriff of the county of the state of Washington where I reside. I must register immediately upon being sentenced unless I am in custody, in which case I must register within 24 hours of my release.

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

If I change my residence within a county, I must send written notice of my change of residence to the sheriff

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY 6 OF 9

SC FORM REV 10/97

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

[If not applicable, these three paragraphs should be stricken and initialed by the defendant and the judge DA
lc..]

(s) This plea of guilty will result in the revocation of my right to possess any firearm. Possession of any firearm after this plea is prohibited by law until my right to possess a firearm is restored by a court of record.

7. I plead guilty to the crime(s) of Domestic Violence Felony Violation of Post-Sentence Court
Order - Count I.

as charged in the _____ Information. I have received a copy of that information.

8. I make this plea freely and voluntarily.

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

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

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this (these) crime(s).

This is my statement:

In King Couny Wa on or about Dec. 13, 1998 I acknowledge that I was under a court order prohibiting me from having any contact with Muel Saeturn. On that day I did have contact with her. While at her house, we got into an argument. I became angry and I admit I shoved her and threw a video cassette tape at her. I acted intentionally and acknowledge my actions constituted an assault.

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY 7 OF 9

SC FORM REV 10/97

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. 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.

Devon Adams DA
 DEFENDANT

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

[Signature]
 PROSECUTING ATTORNEY

[Signature] 11312
 DEFENDANT'S LAWYER

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

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 this 11th day of May, 1999.

Kenneth Constock
JUDGE

Ro Tem

I am fluent in the _____ language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this _____ day of _____, 19__.

TRANSLATOR

INTERPRETER

PLEA AGREEMENT

Defendant: Devon Adams Cause No: _____ SEA/KNT

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is as follows:

On Plea To: As charged in count(s) I of the (original) (_____ Amended) Information

With Special Finding(s): deadly weapon - firearm, RCW 9.94A.310(3); deadly weapon other than firearm, RCW 9.94A.310(4); sexual motivation, RCW 9.94A.127; protected zone, RCW 69.50.435 for count(s) _____

1. DISMISS: Upon disposition of Count(s) I the State moves to dismiss Count(s): II

2. REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.370, the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows:
 as set forth in the certification(s) of probable cause filed herein.
 as set forth in the attached Appendix C.

3. RESTITUTION: Pursuant to RCW 9.94A.142, the defendant agrees to pay restitution as follows:
 in full to the victim(s) on charged counts.
 as set forth in the attached Appendix C.

4. OTHER: _____

SENTENCE RECOMMENDATION:

- a. The defendant agrees to the foregoing Plea Agreement and that the attached sentencing guidelines scoring form(s) (Appendix A) and the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). The State makes the sentencing recommendation set forth in the State's sentence recommendation.
- b. The defendant disputes the Prosecutor's Statement of the Defendant's Criminal History, and the State makes no agreement with regard to a sentencing recommendation and may make a sentencing recommendation for the full penalty allowed by law.

Maximum on Count _____ is not more than _____ years and/or \$ 10,000 fine.

Maximum on Count _____ is not more than _____ years and/or \$ _____ fine.

Mandatory Minimum Term(s) pursuant to RCW 9.94A.120(4) only: _____

Mandatory weapon sentence enhancement for Count(s) _____ is _____ months each. This/these additional term(s) must be served consecutively to any other term and without any earned early release.

Mandatory drivers license revocation RCW 46.20.285

Mandatory revocation of right to possess a firearm for any felony conviction.

The State's recommendation will increase in severity if additional criminal convictions are found or if the defendant commits any new crimes, fails to appear for sentencing or violates the conditions of his release.

Devon Adams
Defendant

[Signature]
Deputy Prosecuting Attorney

[Signature] 14312
Attorney for Defendant

[Signature]
Judge, King County Superior Court

STATE'S SENTENCE RECOMMENDATION
(USE FOR SENTENCE OF ONE YEAR OR LESS ONLY) Date: 2.3.99

Defendant: Devon Adams Cause No: 98-1-102728 SEA/KNT

1. OFFENDER STATUS: FIRST TIME OFFENDER - NO WAIVER VIOLENT OFFENSE - RCW 9.94A.030(38)
 NON-VIOLENT OFFENSE

2. ALTERNATIVE SENTENCE DECISION - RCW 9.94A.380
 ALTERNATIVE SENTENCE - TOTAL CONFINEMENT TO BE CONVERTED:
This sentence of partial confinement and/or community service is a conversion of _____ months/days of total confinement on Count(s) _____
 REASONS FOR NOT RECOMMENDING ALTERNATIVE SENTENCE: The reasons for not recommending an alternative sentence are as follows: criminal history, failure to appear history, violent offense - not eligible
 Other: _____

SENTENCE RECOMMENDATIONS

CONFINEMENT: Defendant serve 45 days months/days of total/partial confinement on Count I

with credit for time served as provided under RCW 9.94A.120(16) work release is recommended if eligible. Terms to be served concurrently/consecutively with each other. Terms to be served concurrently/consecutively with: _____

Terms to be consecutive to any other term(s) not specifically referred to in this form.

COMMUNITY SERVICE: Defendant perform _____ days of community service (maximum of 30 days conversion from confinement, violent offenses not eligible, RCW 9.94A.380).

EXCEPTIONAL SENTENCE: This is an exceptional sentence, and the substantial and compelling reasons for departing from the presumptive sentence range are set forth on the attached form.

COMMUNITY SUPERVISION: The defendant complete 12 months of community supervision as defined in RCW 9.94A.383, RCW 9.94A.030(7) and RCW 9.94A.120(14). The State recommends the following additional "crime related prohibition" as defined by RCW 9.94A.030(11) as follows:

per CEO

OFF-LIMITS ORDER RCW 10.66: The defendant is a "known drug trafficker" and the state recommends defendant shall neither enter nor remain in the protected against drug trafficking area (described in the attachment) during the term of community supervision. RCW 10.66.010(3), 10.66.020(5).

NO CONTACT: For the maximum term, defendant shall have no contact with Meiri & family

MONETARY PAYMENTS: Defendant make the following monetary payments under the supervision of the Department of Corrections for up to 10 years pursuant to RCW 9.94A.120(12) and RCW 9.94A.145.

- Restitution as set forth in the "Plea Agreement" page and Appendix C.
- Court costs; mandatory \$500 Victim Penalty Assessment, recoupment of cost for appointed counsel.
- King County Local Drug Fund \$ _____; \$100 lab fee RCW 43.43.690.
- Fine of \$ _____; \$1000, fine for VUCSA; \$2000, fine for subsequent VUCSA.
- Costs of incarceration in K.C. Jail at \$50 per day. RCW 9.94A.145(2).
- Emergency response costs, \$ _____ RCW 38.52.430
- Extradition costs of \$ _____
- Other _____

BLOOD TESTING: HIV blood testing is mandatory under RCW 70.24.340 for any sex offense, prostitution related offense, or drug offense associated with needle use. DNA testing is mandatory under 43.43.754 for any sex offense or violent offense as those terms are defined in RCW 9.94A.030.

REGISTRATION: ALL Persons convicted of sex offenses are required to register pursuant to RCW 9A.44.130.

Robin E. Fox 18904
Deputy Prosecuting Attorney

KING COUNTY PROSECUTING ATTORNEY
Revised 10/97

WHITE COPY: COURT
CANARY COPY: DEFENSE
PINK COPY: PROSECUTOR

APPENDIX H

FILED
1999 SEP 13 PM 2:04
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	NO. 99-1-07761-6 SEA
)	
Plaintiff,	)	NOTICE OF APPEARANCE
	)	REQUEST FOR DISCOVERY
v.)	
)	
DEVON ADAMS,)	
)	
Defendant.)	

TO: THE CLERK OF THE COURT, and
TO: THE PROSECUTING ATTORNEY

PLEASE TAKE NOTICE that the undersigned attorney is appearing as counsel for the above-named defendant in this cause.

YOU ARE HEREBY REQUESTED to provide all discovery in or reasonably within your possession or the authorities investigating the case related to the prosecution of the above-named defendant.

Counsel specifically requests disclosure of:

1. All oral, written or recorded statements allegedly made by the defendant (or co-defendant) to investigating officers or third parties in the government's possession together with the names and addresses of all such persons present when such statements were made;
2. The names and addresses of the government's witnesses together with their statements and all notes respecting their statements taken by investigating officers;
3. The prior convictions including juvenile offenses or delinquency adjudications of any witnesses whom the government intends to call as a witness at trial;

MICHAEL DANKO
 ATTORNEY AT LAW
 PIONEER BUILDING • SUITE 205
 800 FIRST AVENUE
 SEATTLE, WASHINGTON 98104
 (206) 623-4644



- 1 4. The existence and/or identity and addresses of any
- 2 informant or to claim and defend the privilege of non-
- 3 disclosure;
- 4 5. Whether the government will rely at trial on proof of any
- 5 prior acts or convictions of a similar nature of the
- 6 defendant or co-defendant of proof of matters governed by
- 7 ER 404(b) and 609;
- 8 6. The identity and address of any expert witness the
- 9 government consulted during the investigation of the case
- 10 and whether they intend to call them as a witness at trial
- 11 including a copy of any report by such expert regarding the
- 12 investigation;
- 13 7. All investigative reports by agents of the government
- 14 including follow-up reports;
- 15 8. All evidence in the government's possession favorable to
- 16 the defendant on the issue of guilt;
- 17 9. All information regarding pretrial identification
- 18 procedures including the time, date, type of identification
- 19 procedure employed, the names and addresses of all persons
- 20 present at the identification procedure, whether an
- 21 identification was made of any statements made by any
- 22 witnesses and/or investigating officers;
- 23 10. Whether any search or seizure was involved, and if so,
- 24 disclosure of the time, date, location, name of the
- 25 individual or place searched and material sought or seized
- 26 together with the names and addresses of persons present or
- who have information regarding the search or seizure and
- any statement they have made;
- 11. Any information in the possession of the government
- indicating entrapment of the defendant;
- 12. The time, date and location of the defendant's arrest
- together with the names and addresses of persons who were
- present and/or who arrested the defendant and any and all
- statements or reports made respecting the arrest;

Further, if there were a "Special Inquiry Judge" proceeding,
 counsel requests the following:

- 13. Photocopy of the memorandum or petition filed by the
 Prosecutor's Office to initiate the Special Inquiry Judge

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proceeding;

- 14. Transcripts of the testimony of all witnesses who appeared and gave testimony;
- 15. If the witness appeared but participated in an interview in lieu of testimony, any and all notes and written summaries of the interview(s), copies of documents used in interviews, and the names and addresses and phone numbers of all the participants in the interview(s);
- 16. Copies of all documents obtained through the process of the Special Inquiry Judge, if voluminous, the opportunity to examine them;
- 17. The names, addresses and phone numbers of all individuals who received a subpoena or subpoena duces tecum.

In addition, counsel specifically requests that he or his agent be permitted to inspect and copy any books, photographs, documents or tangible objects which the government obtained from the defendant or belong to the defendant or which will be used at trial.

Counsel requests that the discovery requested be continuing.

Dated: 7-17-89



Michael Danko, #14312
Attorney for Defendant

APPENDIX I

INSTRUCTION NO. _____

The defendant has entered a plea of not guilty, which puts in issue every element of the crime charged. The State, as plaintiff, has the burden of proving each element of the crime beyond a reasonable doubt. The defendant has no burden of proving that a reasonable doubt exists.

A defendant is presumed innocent. This presumption continues throughout the entire trial unless you find during your deliberations that it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason can be given and may arise from the evidence or lack of evidence. A reasonable doubt is a doubt that would exist in the mind of a reasonable person after fully, fairly, and carefully considering all the evidence or lack of evidence.

Authority: WPIC 4.01A

INSTRUCTION NO. _____

A person commits the crime of murder in the second degree when with intent to cause the death of another person but without premeditation, he or she causes the death of such person or of a third person unless the killing is excusable or justifiable.

Authority: WPIC 27.01

INSTRUCTION NO. _____

To convict the defendant of the crime of manslaughter in the second degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about the 8th day of September, 1999, the defendant caused the death of Franklin Brown.

(2) That the defendant's conduct was criminal negligence;

(3) That Franklin Brown died as a result of the defendant's acts; and

(4) That the acts occurred in King County, Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty. The State must prove the absence of self defense beyond a reasonable doubt.

Authority: WPIC 28.06 (Revised)

INSTRUCTION NO. _____

A person commits the crime of manslaughter in the second degree when, with criminal negligence, he or she causes the death of another person unless the killing is excusable or justifiable.

Authority: WPIC 28.05

INSTRUCTION NO. _____

To convict the defendant of the crime of manslaughter in the first degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the 8th day of September, 1999, the defendant caused the death of Franklin Brown.
- (2) That the defendant's conduct was reckless;
- (3) That Franklin Brown died as a result of the defendant's acts; and
- (4) That the acts occurred in King County, Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty. The State must prove the absence of self defense beyond a reasonable doubt.

Authority: WPIC 28.02

INSTRUCTION NO. _____

A person commits the crime of manslaughter in the first degree when he or she recklessly causes the death of another person unless the killing is excusable or justifiable.

Authority: WPIC 28.01

NO.

To convict the defendant Devon Adams of the crime of Murder in the Second Degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about the 8th day of September, 1999, the defendant killed Franklin Brown;

(2) That the defendant acted with intent to cause the death of Franklin Brown;

(3) That Franklin Brown died as a result of the defendant's acts; and

(4) That the acts occurred in King County, Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty. The State must prove the absence of self-defense beyond a reasonable doubt.

Authority: RCW 9A.32.050(10)(a)

WPIC 27.02

INSTRUCTION NO. _____

Upon retiring to the jury room for your deliberation of this case, your first duty is to select a foreperson. It is his or her duty to see that discussion is carried on in a sensible and orderly fashion, that the issues submitted for your decision are fully and fairly discussed, and that every juror has an opportunity to be heard and to participate in the deliberations upon each question before the jury.

You will be furnished with all of the exhibits admitted in evidence, these instructions, and verdict forms, A - E.

When completing the verdict forms, you will first consider the crime of Murder in the First Degree as charged. If you unanimously agree on a verdict, you must fill in the blank provided in verdict form A the words "not guilty" or the word "guilty," according to the decision you reach. If you cannot agree on a verdict, do not fill in the blank provided in verdict form A.

If you find the defendant guilty on verdict form A do not use verdict forms C - E. If you find the defendant not guilty of the crime of Murder in the First Degree, or if after full and careful consideration of the evidence you cannot agree on that crime, you will consider the lesser crime of Murder in the Second Degree. If you unanimously agree on a verdict, you must fill in the blank provided in verdict form C the words "not guilty" or the word "guilty," according to the decision you reach. If you cannot agree on a verdict, do not fill in the blank provided on verdict form C.

If you find the defendant guilty on verdict form C, do not use verdict forms D and E. If you find the defendant not guilty of the

crime of Murder in the Second Degree, or if after full and careful consideration of the evidence you cannot agree on that crime, you will consider the lesser crime of Manslaughter in the First Degree. If you unanimously agree on a verdict, you must fill in the blank provided in verdict form D the words "not guilty" or the word "guilty," according to the decision you reach. If you cannot agree on a verdict, do not fill in the blank provided on verdict form D.

If you find the defendant guilty on verdict form D, do not use verdict form E. If you find the defendant not guilty of the crime of Manslaughter in the First Degree, or if after full and careful consideration of the evidence you cannot agree on that crime, you will consider the lesser crime of Manslaughter in the Second Degree. If you unanimously agree on a verdict, you must fill in the blank provided in verdict form E the words "not guilty" or the word "guilty," according to the decision you reach. If you cannot agree on a verdict do not fill in the blank provided on verdict form E.

Since this is a criminal case, each of you must agree for you to return a verdict. When all of you have so agreed, fill in the proper form of verdict or verdicts to express your decision. The foreperson will sign it and notify the bailiff, who will conduct you into court to declare your verdict.

Authority: WPIC 155.00

INSTRUCTION NO. _____

A person is reckless or acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur and the disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.

Recklessness also is established if a person acts intentionally or knowingly.

Authority: WPIC 10.03

INSTRUCTION NO. _____

A person is criminally negligent or acts with criminal negligence when he or she fails to be aware of a substantial risk that a wrongful act may occur and the failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation.

Criminal negligence is also established if a person acts intentionally or knowingly or recklessly.

Authority: WPIC 10.04

INSTRUCTION NO. _____

No act committed by a person while in a state of voluntary intoxication is less criminal by reason of that condition. However, evidence of intoxication may be considered in determining whether the defendant acted with intent or recklessness.

Authority: WPIC 18.10 (modified)

INSTRUCTION NO. _____

No act committed by a person while in a state of voluntary intoxication is less criminal by reason of that condition. However, evidence of intoxication may be considered in determining whether the defendant acted with intent.

Authority: WPIC 18.10

APPENDIX J

FILED
KING COUNTY, WASHINGTON

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

APR 06 2000
SUPERIOR COURT CLERK
BY JOSEPH MASON
DEPUTY

STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 v.)
)
 DEVON ADAMS,)
)
 Defendant.)

NO. 99-1-07761-6 SEA

COURT'S INSTRUCTIONS OF LAW

DATED this 6 day of April, 2000.



Carol A. Schapira, Judge

18A

No. 1

It is your duty to determine which facts have been proved in this case from the evidence produced in court. It also is your duty to accept the law from the court, regardless of what you personally believe the law is or ought to be. You are to apply the law to the facts and in this way decide the case.

The order in which these instructions are given has no significance as to their relative importance. The attorneys may properly discuss any specific instructions they think are particularly significant. You should consider the instructions as a whole and should not place undue emphasis on any particular instruction or part thereof.

A charge has been made by the prosecuting attorney by filing a document, called an information, informing the defendant of the charge. You are not to consider the filing of the information or its contents as proof of the matters charged.

The only evidence you are to consider consists of the testimony of witnesses and the exhibits admitted into evidence. It has been my duty to rule on the admissibility of evidence. You must not concern yourselves with the reasons for these rulings. You will disregard any evidence that either was not admitted or that was stricken by the court. You will not be provided with a written copy of testimony during your deliberations. Any exhibits admitted into evidence will go to the jury room with you during your deliberations.

In determining whether any proposition has been proved, you should consider all of the evidence introduced by all parties

bearing on the question. Every party is entitled to the benefit of the evidence whether produced by that party or by another party.

You are the sole judges of the credibility of the witnesses and of what weight is to be given to the testimony of each. In considering the testimony of any witness, you may take into account the opportunity and ability of the witness to observe, the witness's memory and manner while testifying, any interest, bias or prejudice the witness may have, the reasonableness of the testimony of the witness considered in light of all the evidence, and any other factors that bear on believability and weight.

The attorneys' remarks, statements and arguments are intended to help you understand the evidence and apply the law. They are not evidence. Disregard any remark, statement or argument that is not supported by the evidence or the law as stated by the court.

The attorneys have the right and the duty to make any objections that they deem appropriate. These objections should not influence you, and you should make no assumptions because of objections by the attorneys.

The law does not permit a judge to comment on the evidence in any way. A judge comments on the evidence if the judge indicates, by words or conduct, a personal opinion as to the weight or believability of the testimony of a witness or of other evidence.

Although I have not intentionally done so, if it appears to you that I have made a comment during the trial or in giving these instructions, you must disregard the apparent comment entirely.

You have nothing whatever to do with any punishment that may be imposed in case of a violation of the law. The fact that punishment may follow conviction cannot be considered by you except insofar as it may tend to make you careful.

You are officers of the court and must act impartially and with an earnest desire to determine and declare the proper verdict. Throughout your deliberations you will permit neither sympathy nor prejudice to influence your verdict.

INSTRUCTION NO. 2

The defendant has entered a plea of not guilty, which puts in issue every element of the crime charged. The State, as plaintiff, has the burden of proving each element of the crime beyond a reasonable doubt. The defendant has no burden of proving that a reasonable doubt exists.

A defendant is presumed innocent. This presumption continues throughout the entire trial unless you find during your deliberations that it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason can be given and may arise from the evidence or lack of evidence. A reasonable doubt is a doubt that would exist in the mind of a reasonable person after fully, fairly, and carefully considering all the evidence or lack of evidence.

INSTRUCTION NO. 3

The defendant is not compelled to testify, and the fact that the defendant has not testified cannot be used to infer guilt or prejudice him in any way.

You have heard a stipulation that the defendant was convicted of two felonies, Taking a Motor Vehicle Without the Owner's Permission and Felony Violation of a No Contact Order, neither of which is classified by the law as a serious offense. You may consider this stipulation as to the elements of Count II. Any evidence of prior convictions may not be considered as evidence of the defendant's guilt as to Count I, or for any other purpose.

No. 4

Evidence may be either direct or circumstantial. Direct evidence is that given by a witness who testifies concerning facts that he or she has directly observed or perceived through the senses. Circumstantial evidence is evidence of facts or circumstances from which the existence or nonexistence of other facts may be reasonably inferred from common experience. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. One is not necessarily more or less valuable than the other.

No. 5

A witness who has special training, education or experience in a particular science, profession or calling, may be allowed to express an opinion in addition to giving testimony as to facts. You are not bound, however, by such an opinion. In determining the credibility and weight to be given such opinion evidence, you may consider, among other things, the education, training, experience, knowledge and ability of that witness, the reasons given for the opinion, the sources of the witness' information, together with the factors already given you for evaluating the testimony of any other witness.

No. 6

A person commits the crime of murder in the first degree when, with a premeditated intent to cause the death of another person, he or she causes the death of such person.

No. 7

Premeditated means thought over beforehand. When a person, after any deliberation, forms an intent to take human life, the killing may follow immediately after the formation of the settled purpose and it will still be premeditated. Premeditation must involve more than a moment in point of time. The law requires some time, however long or short, in which a design to kill is deliberately formed.

No. 8

To convict the defendant of the crime of murder in the first degree, as charged in count I, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about September 8, 1999, the defendant shot Franklin Brown;

(2) That the defendant acted with intent to cause the death of Franklin Brown;

(3) That the intent to cause the death was premeditated;

(4) That Franklin Brown died as a result of the defendant's acts; and

(5) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty as to count I.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty as to count I.

INSTRUCTION NO. 9

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the crime charged, the defendant may be found guilty of any lesser crime, the commission of which is necessarily included in the crime charged, if the evidence is sufficient to establish the defendant's guilt of such lesser crime beyond a reasonable doubt.

The crime of Murder in the First Degree necessarily includes the lesser crimes of Murder in the Second Degree, Manslaughter in the First Degree, and Manslaughter in the Second Degree.

When a crime has been proven against a person and there exists a reasonable doubt as to which of the two or more crimes that person is guilty, he or she shall be convicted only of the lowest crime.

INSTRUCTION NO. 10

A person commits the crime of murder in the second degree when with intent to cause the death of another person but without premeditation, he or she causes the death of such person or of a third person unless the killing is excusable or justifiable.

NO. 11

To convict the defendant Devon Adams of the crime of Murder in the Second Degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about the 8th day of September, 1999, the defendant killed Franklin Brown;

(2) That the defendant acted with intent to cause the death of Franklin Brown;

(3) That Franklin Brown died as a result of the defendant's acts; and

(4) That the acts occurred in King County, Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty. The

~~_____~~
CMA

INSTRUCTION NO. 12

A person commits the crime of manslaughter in the first degree when he or she recklessly causes the death of another person unless the killing is excusable or justifiable.

INSTRUCTION NO. 13

To convict the defendant of the crime of manslaughter in the first degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the 8th day of September, 1999, the defendant caused the death of Franklin Brown.
- (2) That the defendant's conduct was reckless;
- (3) That Franklin Brown died as a result of the defendant's acts; and
- (4) That the acts occurred in King County, Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty. ~~_____~~

~~_____~~

CAS

INSTRUCTION NO. 14

A person is reckless or acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur and the disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.

Recklessness also is established if a person acts intentionally or knowingly.

INSTRUCTION NO.

15

A person commits the crime of manslaughter in the second degree when, with criminal negligence, he or she causes the death of another person unless the killing is excusable or justifiable.

INSTRUCTION NO. 17

A person is criminally negligent or acts with criminal negligence when he or she fails to be aware of a substantial risk that a wrongful act may occur and the failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation.

Criminal negligence is also established if a person acts intentionally or knowingly or recklessly.

No. 18

A person knows or acts knowingly or with knowledge when he or she is aware of a fact, circumstance or result which is described by law as being a crime, whether or not the person is aware that the fact, circumstance or result is a crime.

If a person has information which would lead a reasonable person in the same situation to believe that facts exist which are described by law as being a crime, the jury is permitted but not required to find that he or she acted with knowledge.

Acting knowingly or with knowledge also is established if a person acts intentionally.

No. 19

A person acts with intent or intentionally when acting with the objective or purpose to accomplish a result which constitutes a crime.

INSTRUCTION NO. 20

No act committed by a person while in a state of voluntary intoxication is less criminal by reason of that condition. However, evidence of intoxication may be considered in determining whether the defendant acted with intent.

No. 21

For purposes of a special verdict the State must prove beyond a reasonable doubt that the defendant was armed with a deadly weapon at the time of the commission of the crime in Count I.

A pistol, revolver, or any other firearm is a deadly weapon whether loaded or unloaded.

INSTRUCTION NO. 22

A person commits the crime of Unlawful Possession of a Firearm in the Second Degree when he owns a firearm or has a firearm in his possession or control, and

- (1) he has previously been convicted of a felony which is not a serious offense, or
- (2) he has, on or after July 1, 1993, and before the occasion of possession, been convicted of the crime of Felony Violation of a No Contact Order.

No. 23

To convict the defendant of the crime of unlawful possession of a firearm in the second degree in count II, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about September 8, 1999, the defendant had a firearm in his possession or control;

(2) That the defendant had previously been convicted of Taking a Motor Vehicle Without the Owner's Permission or Felony Violation of a No Contact Order; and

(3) That the possession or control of the firearm occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty as to count II.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty as to count II.

No. 24

As jurors, you have a duty to discuss the case with one another and to deliberate in an effort to reach a unanimous verdict. Each of you must decide the case for yourself, but only after you consider the evidence impartially with your fellow jurors. During your deliberations, you should not hesitate to reexamine your own views and change your opinion if you become convinced that it is wrong. However, you should not change your honest belief as to the weight or effect of the evidence solely because of the opinions of your fellow jurors, or for the mere purpose of returning a verdict.

INSTRUCTION NO. 25

Upon retiring to the jury room for your deliberation of this case, your first duty is to select a presiding juror. It is his or her duty to see that discussion is carried on in a sensible and orderly fashion, that the issues submitted for your decision are fully and fairly discussed, and that every juror has an opportunity to be heard and to participate in the deliberations upon each question before the jury.

You will be furnished with all of the exhibits admitted in evidence, these instructions, and verdict forms A - E.

When completing the verdict forms, you will first consider the crime of Murder in the First Degree as charged. If you unanimously agree on a verdict, you must fill in the blank provided in Verdict Form A the words "not guilty" or the word "guilty," according to the decision you reach. If you cannot agree on a verdict, do not fill in the blank provided in Verdict Form A.

If you find the defendant guilty on Verdict Form A, do not use Verdict Form C - E. If you find the defendant not guilty of the crime of Murder in the First Degree, or if after full and careful consideration of the evidence you cannot agree on that crime, you will consider the lesser crime of Murder in the Second Degree. If you unanimously agree on a verdict, you must fill in the blank provided in Verdict Form C the words "not guilty" or the word "guilty," according to the decision you reach. If you cannot agree on a verdict do not fill in the blank provided in Verdict Form C.

If you find the defendant guilty on Verdict Form C, do not use Verdict Form D and E. If you find the defendant not guilty of the crime of Murder in the Second Degree, or if after full and careful consideration of the evidence you cannot agree on that crime, you will consider the lesser crime of Manslaughter in the First Degree. If you unanimously agree on a verdict, you must fill in

the blank provided in Verdict Form ^D the words "not guilty" or the word "guilty," according to the decision you reach. If you cannot agree on a verdict do not fill in the blank provided in Verdict Form ^D.

If you find the defendant guilty on Verdict Form D, do not use Verdict Form E. If you find the defendant not guilty of the crime of Manslaughter in the First Degree, or if after full and careful consideration of the evidence you cannot agree on that crime, you will consider the lesser crime of Manslaughter in the Second Degree. If you unanimously agree on a verdict, you must fill in the blank provided in Verdict Form E the words "not guilty" or the word "guilty," according to the decision you reach. If you cannot agree on a verdict do not fill in the blank provided in Verdict Form E.

You should then consider the Special Verdict Form related to Count I. Next consider the crime of Violation of the Uniform Firearms Act in the Second Degree as charged in Count II. See Verdict Form B.

Since this is a criminal case, each of you must agree for you to return a verdict. When all of you have so agreed, fill in the proper form of verdict or verdicts to express your decision. The presiding juror will sign it and notify the bailiff, who will conduct you into court to declare your verdicts.

APPENDIX K

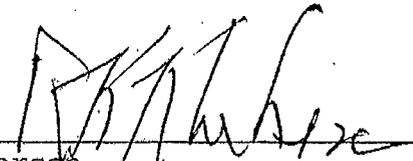
FILED
KING COUNTY, WASHINGTON

APR 06 2000
SUPERIOR COURT CLERK
BY JOSEPH MASON
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON)	
	)	No. 99-1-07761-6 SEA
Plaintiff,)	
	)	VERDICT FORM A
vs.)	
)	
DEVON PAUL ADAMS,)	
)	
Defendant.)	

We, the jury, find the defendant DEVON PAUL ADAMS,
Guilty (write in not guilty or guilty) of the crime
of Murder in the First Degree as charged in Count I.



Foreperson

FILED
KING COUNTY, WASHINGTON

APR 06 2000

SUPERIOR COURT CLERK
BY JOSEPH MASON
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON)
)
 Plaintiff,)
)
 vs.)
)
 DEVON PAUL ADAMS,)
)
 Defendant.)

No. 99-1-07761-6 SEA
VERDICT FORM B

We, the jury, find the defendant DEVON PAUL ADAMS,
Guilty (write in not guilty or guilty) of the crime
of Unlawful Possession of a Firearm in the Second Degree as
charged in Count II.

[Signature]
Foreperson

180

FILED
KING COUNTY, WASHINGTON

APR 06 2000
SUPERIOR COURT CLERK
BY JOSEPH MASON
DEPUTY

STATE OF WASHINGTON)
)
 Plaintiff,)
)
 vs.)
)
 DEVON PAUL ADAMS)
)
 Defendant.)

No. 99-1-07761-6 SEA
SPECIAL VERDICT FORM

We, the jury, return a special verdict by answering as follows:

Was the defendant DEVON PAUL ADAMS armed with a deadly weapon at the time of the commission of the crime in Count I?

ANSWER: yes (Yes or No)

Joseph Mason
Foreperson

18E

APPENDIX L

MICHAEL DANKO

Attorney

206 623-4644

TO: HON. C. SCHAPIRA

FROM: MICHAEL DANKO

RE: ADAMS' SENTENCING IN #99-1-07761-6 SEA PRESENTLY SET FOR
JUNE 2, 2000

DATE: MAY 30, 2000

Your Honor:

Mr. Adams requests a continuance of the sentencing presently scheduled for June 2, 2000. The State is pursuing Vehicular Assault charges against Mr. Adams, charges which the defense raised concerns over prior to the beginning of the homicide trial. The State does not object to a continuance, and the parties agree that sentencing should be continued to July 28, if time is available on that day, or to the next available Friday.

cc: Pros. Konat and Freedheim

APPENDIX M

NORM MALENG

KING COUNTY PROSECUTING ATTORNEY

W-554, KING COUNTY COURTHOUSE - 516 3rd AVE.
SEATTLE, WA 98104 (206) 296-9000

MEMO

URGENT - REPLY IMMEDIATELY
 NO REPLY REQUIRED

MICHAEL DANKO

DATE: NOVEMBER 15, 1999



600 First Ave # 205

SUBJECT: DEVON ADAMS

Seattle 98104

99-1-07761-6 SEA

MESSAGE

FOLD

MICHAEL,

PLEASE GET BACK TO ME ABOUT your POSITION ON MR ADAMS. If he PLEADS GUILTY IN THIS CASE (AS CHARGED) I will AGREE NOT TO file THE VEHICULAR ASSAULTS (2 cts) UNDER S.P.D. INCIDENT #99-141943. If I DO NOT hear from you before, THANKS I will file THE NEW CHARGES.

REPLY

FOLD

TAKE CARE

part of the plea agreement MUST BE his AGREEMENT TO pay RESTITUTION TO BOTH VICTIMS of the VEHICULAR ASSAULT.

JAMES KOVAT

276 7526

SIGNED

DATE

RECIPIENT - RETAIN WHITE COPY - RETURN PINK COPY - TO MAIL IN WINDOW ENVELOPE - USE FOLD MARKS

ORIGINATOR - DETACH THIS PART ONLY - SEND REMAINDER INTACT

APPENDIX N

FILED

02 FEB -8 PM 3:04

KING COUNTY
SUPERIOR COURT ISSUED
WARRANT
CHARGE COUNTY \$110.00

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

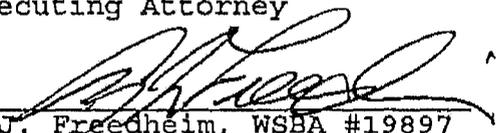
8	THE STATE OF WASHINGTON,)	
)	
9	Plaintiff,	)	No. 02-1-00637-6 SEA
)	
10	v.)	
11	DEVON PAUL ADAMS	)	INFORMATION
)	
12)	
)	
13	Defendant.)	

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse DEVON PAUL ADAMS of the crime of **Vehicular Assault**, committed as follows:

That the defendant DEVON PAUL ADAMS in King County, Washington on or about April 11, 1999, did drive or operate a vehicle while under the influence of intoxicating liquor or any drugs, as defined in RCW 46.61.502, which conduct was the proximate cause of serious bodily injury to Stephanie Simms;

Contrary to RCW 46.61.522(1)(b), and against the peace and dignity of the State of Washington.

NORM MALENG
Prosecuting Attorney

By: 
Amy J. Freedheim, WSBA #19897
Senior Deputy Prosecuting Attorney

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000



SEATTLE
POLICE
DEPARTMENT

**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER
99-141943
UNIT FILE NUMBER
99-066

ORIGINAL

That Ron Sanders is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case Number 99-141943,

There is probable cause to believe that Devon Paul ADAMS B/M/04-18-79 committed the crime of:

VEHICULAR ASSAULT - RCW 46.61.522

This belief is predicated on the following facts and circumstances:

On April 11, 1999 at approximately 8:44 PM, Devon Paul ADAMS was the driver, registered owner and sole occupant of a brown 1978 Cadillac DeVille bearing WA # 874BPP. ADAMS' vehicle was northbound on Rainier Avenue South approaching South Hudson Street, a location within the City of Seattle, County of King, State of Washington. For unknown reasons, ADAMS' vehicle crossed into the southbound lanes of Rainier Avenue South at South Hudson Street and struck an oncoming vehicle. After the initial collision, ADAMS' vehicle continued northbound in the southbound lanes of Rainier Avenue South for approximately 90 feet with at least two wheels locked before glancing off the west curb, striking one parked car and forcing that vehicle into a second parked car along the west curb of Rainier Avenue South. The posted speed limit for this portion of Rainier Avenue South is 30 MPH.

The vehicle struck by ADAMS' car was occupied by Stephanie SIMMS (driver) and Melody WILLIAMS (passenger). SIMMS was trapped in her vehicle and had to be extricated by SFD personnel. SIMMS sustained a fractured pelvis (both sides) in addition to other injuries as a result of this collision. SIMMS was hospitalized for several days and required constant care in a nursing home for several weeks as a result of injuries sustained in this incident.

Citizen witnesses observed ADAMS exit his vehicle after the collision. ADAMS collapsed in an alley a short distance from his vehicle. SFD personnel located ADAMS in the alley and provided the appropriate first aid. SFD personnel observed an odor of intoxicants on the breath of ADAMS. While enroute to Harborview Medical Center for treatment, ADAMS told SFD personnel that he had consumed "a lot of beer" and smoked "a lot of weed".

ADAMS was contacted by Officer CARPENTER at Harborview Medical Center and advised that he was under arrest for Vehicular Assault. Officer CARPENTER advised ADAMS of his Miranda Rights and Implied Consent Warnings. A sample of ADAMS' blood was drawn by a registered nurse at Harborview Medical Center within two hours of the collision. This blood draw was witnessed by Officer CARPENTER. ADAMS did not consume any alcohol from the time of the collision until the time the blood sample was taken.



SEATTLE
POLICE
DEPARTMENT

**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER
99-141943
UNIT FILE NUMBER
99-066

The blood sample taken from ADAMS was analyzed at the Washington State Toxicology Laboratory by Gene SCHWILKE on May 6, 1999. The test was performed in accordance with the provisions of RCW 46.61.506. The test was performed in a manner approved by the Washington State Toxicologist. SCHWILKE possessed a valid permit to perform such tests. SCHWILKE completed a Toxicology Report which documented his findings of the analysis conducted on ADAMS' blood sample. The Toxicology Report was countersigned by Barry LOGAN Ph.D. DABFT, the Washington State Toxicologist. The Toxicology Report indicated that ADAMS' blood sample had a blood alcohol concentration of 0.17 g/100mL. This is more than twice the presumptive level of intoxication in the State of Washington.

This incident took place within the City of Seattle, County of King, State of Washington.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct to the best of my knowledge and belief. Signed and dated by me this twenty-seventh day of September, 1999, at Seattle, Washington.

Signature

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7 CAUSE NO. 02-1-00637-6 SEA

8 PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR
9 CONDITIONS OF RELEASE

10 The State incorporates the Certification for Determination of
11 Probable Cause signed by Seattle Police Detective Ron Sanders.

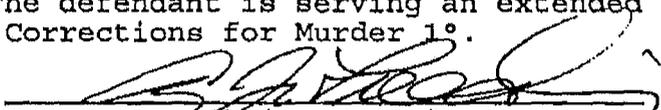
12 On April 11, 1999, at approximately 8:44 p.m., the defendant,
13 Devon Paul Adams, was driving his Cadillac on Rainier Avenue South.
14 He lost control of the car and crossed the centerline near the
15 intersection at South Hudson Street. His car collided head-on with
16 a car driven by Stephanie Simms.

17 Ms. Simms suffered serious fractures to both sides of her
18 pelvis and was in a nursing home for several weeks as a result of
19 multiple injuries. Her passenger, Melody Williams was less
20 severely injured.

21 The defendant jumped out of the car and attempted to leave the
22 scene. He collapsed in a nearby alley. He was transported to the
23 hospital for injuries to the left side of his face and head. A
24 legal blood alcohol test was done after signs of intoxication were
25 observed. His blood alcohol content (BAC) was .17 g/100mL.

26 The defendant's car had clear damage to the driver's side
27 windshield consistent with the left side of the driver's head
striking it during the collision. The steering wheel and the
driver's seat had blood consistent with falling from the driver's
head after striking the windshield. The blood from the car was
compared to a sample of the defendant's blood. DNA testing showed
that the blood from the car is consistent with the defendant's DNA
(Caucasian: 1 in 150,000; African-American: 1 in 7,600).

Bail is not requested. The defendant is serving an extended
sentence in the Department of Corrections for Murder 1°.


Amy J. Fressenheim, WSBA #19897

Prosecuting Attorney Case
Summary and Request for Bail
and/or Conditions of Release - 1

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

APPENDIX O

FILED
KING COUNTY, WASHINGTON

FEB 22 2002

SUPERIOR COURT CLERK
CRIMINAL PRESIDING

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)
)
Plaintiff,) NO. 02-1-00637-6 SEA
)
v.) NOTICE OF APPEARANCE
) REQUEST FOR DISCOVERY
)
DEVON ADAMS,)
)
Defendant.)

TO: THE CLERK OF THE COURT, and
TO: THE PROSECUTING ATTORNEY

PLEASE TAKE NOTICE that the undersigned attorney is appearing as counsel for the above-named defendant in this cause.

YOU ARE HEREBY REQUESTED to provide all discovery in or reasonably within your possession or the authorities investigating the case related to the prosecution of the above-named defendant. Counsel specifically requests disclosure of:

1. All oral, written or recorded statements allegedly made by the defendant (or co-defendant) to investigating officers or third parties in the government's possession together with the names and addresses of all such persons present when such statements were made;
2. The names and addresses of the government's witnesses together with their statements and all notes respecting their statements taken by investigating officers;

NOTICE OF APPEARANCE
REQUEST FOR DISCOVERY - 1

MICHAEL DANKO
ATTORNEY AT LAW
PIONEER BUILDING • SUITE 205
600 FIRST AVENUE
SEATTLE, WASHINGTON 98104
206 623-4644 • FAX 206 623-6340

- 1 3. The prior convictions including juvenile offenses or
2 delinquency adjudications of any witnesses whom the
government intends to call as a witness at trial;
- 3 4. The existence and/or identity and addresses of any
4 informant or to claim and defend the privilege of non-
disclosure;
- 5 5. Whether the government will rely at trial on proof of
6 any prior acts or convictions of a similar nature of
the defendant or co-defendant of proof of matters
governed by ER 404(b) and 609;
- 7 6. The identity and address of any expert witness the
8 government consulted during the investigation of the
9 case and whether they intend to call them as a witness
regarding the investigation;
- 10 7. All investigative reports by agents of the government
11 including follow-up reports;
- 12 8. All evidence in the government's possession favorable
to the defendant on the issue of guilt;
- 13 9. All information regarding pretrial identification
14 procedures including the time, date, type of
15 identification procedure employed, the names and
16 addresses of all persons present at the identification
procedure, whether an identification was made of any
statements made by any witnesses and/or investigating
officers;
- 17 10. Whether any search or seizure was involved, and if so,
18 disclosure of the time, date, location, name of the
19 individual or place searched and material sought or
20 seized together with the names and addresses of persons
present or who have information regarding the search or
seizure and any statement they have made;
- 21 11. Any information in the possession of the government
indicating entrapment of the defendant;
- 22 12. The time, date and location of the defendant's arrest
23 together with the names and addresses of persons who
24 were present and/or who arrested the defendant and any
and all statements or reports made respecting the
25 arrest;

26 NOTICE OF APPEARANCE
REQUEST FOR DISCOVERY - 2

MICHAEL DANKO
ATTORNEY AT LAW
PIONEER BUILDING • SUITE 205
600 FIRST AVENUE
SEATTLE, WASHINGTON 98104
206 623-4644 • FAX 206 623-6340

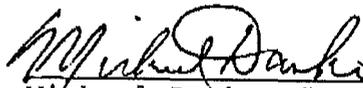
1 Further, if there were a "Special Inquiry Judge" proceeding,
2 counsel requests the following:

- 3 13. Photocopy of the memorandum or petition filed by the
4 Prosecutor's Office to initiate the Special Inquiry
5 Judge proceeding;
- 6 14. Transcripts of the testimony of all witnesses who
7 appeared and gave testimony;
- 8 15. If the witness appeared but participated in an
9 interview in lieu of testimony, any and all notes and
10 written summaries of the interview(s), copies of
11 documents used in interviews, and the names and
12 addresses and phone numbers of all the participants in
13 the interview(s);
- 14 16. Copies of all documents obtained through the process of
15 the Special Inquiry Judge, if voluminous, the
16 opportunity to examine them;
- 17 17. The names, addresses and phone numbers of all
18 individuals who received a subpoena or subpoena duces
19 tecum.

20 In addition, counsel specifically requests that he or his
21 agent be permitted to inspect and copy any books, photographs,
22 documents or tangible objects which the government obtained from
23 the defendant or belong to the defendant or which will be used at
24 trial.

25 Counsel requests that the discovery requested be continuing.

26 Dated: 2-18-02


Michael Danko, #14312
Attorney for Defendant

NOTICE OF APPEARANCE
REQUEST FOR DISCOVERY - 3

MICHAEL DANKO
ATTORNEY AT LAW
PIONEER BUILDING • SUITE 205
600 FIRST AVENUE
SEATTLE, WASHINGTON 98104
206 623-4644 • FAX 206 623-6340

FEB 27 2002

CERTIFIED COPY TO COUNTY JAIL

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FILED
KING COUNTY, WASHINGTON

FEB 22 2002

SUPERIOR COURT CLERK
CRIMINAL PRESIDING

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)

Plaintiff,)

vs.)

Devon Adams

Defendant,)

No. *021006376-SEA*

ORDER REMANDING DEFENDANT
TO THE DEPARTMENT OF ADULT
DETENTION (JAIL)

THIS MATTER having come on before the undersigned judge of the above-entitled court upon the motion of the State of Washington, plaintiff, for the above-entitled order and the Court having either revoked or amended the defendant's conditions of release in the above-entitled cause, and the court being fully advises in the premises; now, therefore,

IT IS HEREBY ORDERED that the defendant be remanded immediately to the custody of the King County Department of Adult Detention (King County Jail), and

IT IS FURTHER ORDERED that:

the defendant is not to be released pending further order of the court;
 the defendant's bail on this cause is reset at \$ 5,000, cash or surety, in addition to any prior non-monetary conditions which remain in effect;

DONE IN OPEN COURT this 22 day of February, 2002

JUDGE

Presented by:

[Signature]
Deputy Prosecuting Attorney

Approved for entry:

[Signature]
Attorney for Defendant *14772*

Distribution:

- White - Clerk's Office
- Yellow - Jail
- Pink - Prosecuting Attorney
- Goldenrod - Defendant

ORDER REMANDING DEFENDANT TO DEPARTMENT OF ADULT DETENTION (JAIL)

(This form is intended for use *only* when the defendant is present in court. It is not to be used as a substitute form of bench warrant)
Revised 4/01

Norm Maleng, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000
FAX (206) 296-0955

APPENDIX P

1
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CLERK
SEATTLE, WA.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 02-1-00637-6 SEA

Vs.

Devon Adams

Defendant,

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY (Felony)

1. My true name is Devon Adams.
2. My age is 23. Date of Birth 4-18-79.
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. My lawyer's name is Michael Dawke.

(b) I am charged with the crime(s) of vehicular Assault (dui)

The elements of this crime(s) are in King County WA driving an automobile while under the influence of alcohol or/and drugs, and the influence of alcohol and drugs was the proximate cause of an accident in which another person received serious bodily injury and as set forth in the attached information.

STATEMENT OF DEFENDANT ON PLEA OF GUILTY
(Felony) - 1

1 5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE
 2 FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY
 3 PLEADING GUILTY:

4 (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;

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

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

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

10 (e) The right to be presumed innocent until the charge is proven beyond a reasonable doubt
 11 or I enter a plea of guilty;

12 (f) The right to appeal a determination of guilt after a trial.

13 6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA(S), I
 14 UNDERSTAND THAT:

15 (a) The crime(s) with which I am charged carries a sentence(s) of:

Count No.	Standard Range	Enhancement That Will Be Added to Standard Range	Maximum Term and Fine
I	63-87 months.	N/A	10 years \$25,000 ⁰⁰
			_____ years \$ _____
			_____ years \$ _____

20 * Defense reserves right to review criminal history.

21 RCW 9.94A.030(23), (27), provide that for a third conviction for a "most serious offense" as
 22 defined in that statute or for a second conviction for a "most serious offense" which is also a "sex

FORM REV 7/12/00

STATEMENT OF DEFENDANT ON PLEA OF GUILTY
 (Felony) - 2

1 offense" as defined in that statute, I may be found a Persistent Offender. If I am found to be a
2 Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without
3 the possibility of early release of any kind, such as parole or community custody. RCW
4 9.94A.120(4). The law does not allow any reduction of this sentence.

5 (b) The standard sentence range is based on the crime charged and my criminal history.
6 Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. If
7 my current offense was prior to 7/1/97: criminal history always includes juvenile convictions for
8 sex offenses and also for Class A felonies that were committed when I was 15 years of age or older;
9 may include convictions in Juvenile Court for felonies or serious traffic offenses that were
10 committed when I was 15 years of age or older; and juvenile convictions, except those for sex
11 offenses and Class A felonies, count only if I was less than 23 years old when I committed the crime
12 to which I am now pleading guilty. If my current offense was a after 6/30/97: criminal history
13 includes all prior adult and juvenile convictions or adjudications.

14 (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. ^{JOS}
part of #99-1-07761-6587
15 Unless I have attached a different statement, I agree that the prosecuting attorney's statement is
16 correct and complete. If I have attached my own statement, I assert that it is correct and complete.
17 If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated
18 to tell the sentencing judge about those convictions.

19 (d) If I am convicted of any new crimes before sentencing, or if I was on community
20 placement at the time of the offense to which I am now pleading guilty, or if any additional criminal
21 history is discovered, both the standard sentence range and the prosecuting attorney's
22 recommendations may increase. Even so, my plea of guilty to this charge is binding on me. I

FORM REV 7/12/00

STATEMENT OF DEFENDANT ON PLEA OF GUILTY
(Felony) - 3

1 cannot change my mind if additional criminal history is discovered even though the standard
2 sentencing range and the prosecuting attorney's recommendation increase.

3 If the current offense to which I am pleading guilty is a most serious offense as defined by
4 RCW 9.94A.030(23),(27), and additional criminal history is discovered, not only do the conditions
5 of the prior paragraph apply, but also if my discovered criminal history contains two prior
6 convictions, whether in this state, in federal court, or elsewhere, of most serious offense crimes, I
7 may be found to be a Persistent Offender. If I am found to be a Persistent Offender, the Court must
8 impose the mandatory sentence of life imprisonment without the possibility of early release of any
9 kind, such as parole or community custody. RCW 9.94A.120(4).

10 Even so, my plea of guilty to this charge may be binding on me. I cannot change my plea if
11 additional criminal history is discovered, even though it will result in the mandatory sentence that
12 the law does not allow to be reduced.

13 (e) In addition to sentencing me to confinement for the standard range, the judge will order
14 me to pay \$500 as a victim's compensation fund assessment. If this crime resulted in injury to any
15 person or damages to or loss of property, the judge will order me to make restitution, unless
16 extraordinary circumstances exist which make restitution inappropriate. The judge may also order
17 that I pay a fine, court costs, incarceration, lab and attorney fees. Furthermore, the judge may place
18 me on community supervision, community placement or community custody, impose restrictions on
19 my activities, rehabilitative programs, treatment requirements, or other conditions, and order me to
20 perform community service.

21 (f) The prosecuting attorney will make the following recommendation to the judge: _____

22 84 mos. DOC, time to run concurrent with the fine imposed in

FORM REV 7/12/00

STATEMENT OF DEFENDANT ON PLEA OF GUILTY
(Felony) - 4

1 King County #99-1-07761-6 SEA; Community ^{Placement} ~~Restoration~~; VPA;
2 ~~Restoration~~; no contact w/ Stephanie Simms - Melody Williams

3 See attached Plea Agreement and State's Sentence Recommendation.

4 (g) The judge does not have to follow anyone's recommendation as to sentence. The judge
5 must impose a sentence within the standard range unless the judge finds substantial and compelling
6 reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal
7 that sentence. If the sentence is within the standard range, no one can appeal the sentence.

8 (h) The crime of _____ has a mandatory minimum sentence
9 of at least _____ years of total confinement. The law does not allow any reduction of this
10 sentence. [If not applicable, this paragraph should be stricken and initialed by the defendant and the
11 judge ~~_____~~]

12 The crime of Vehicular Assault (dui) is a most serious offense as defined by
13 RCW 9.94A.030(23), and if the judge determines that I have at least two prior convictions on
14 separate occasions whether in this state, in federal court, or elsewhere, of most serious crimes, I may
15 be found to be a Persistent Offender. If I am found to be a Persistent Offender, the Court must
16 impose the mandatory sentence of life imprisonment without the possibility of early release of any
17 kind, such as parole or community custody. RCW 9.94A.120(4). [If not applicable, this paragraph
18 should be stricken and initialed by the defendant and the judge ~~_____~~]

*then next
officer*
DA
YAD

19 The crime of _____ is also a "most serious offense" and a
20 "sex offense" as defined in RCW 9.94A.030(23) and (27), and if the judge determines that I have
21 one prior conviction whether in this state, in federal court or elsewhere of a most serious sex offense
22 as defined in that statute, I may also be found to be a Persistent Offender in which case the judge

FORM REV 7/12/00

1 must impose a mandatory sentence of life without the possibility of parole. RCW 9.94A.120(4). [If
2 not applicable, this paragraph should be stricken and initialed by the defendant and the judge DA
3 ke.]

4 (i) The crime charged in Count ___ includes a ~~firearm/deadly weapon~~ sentence
5 enhancement of _____ months.

6 This additional confinement time is mandatory and must be served consecutively to any
7 other sentence I have already received or will receive in this or any other cause. [If not applicable,
8 this paragraph should be stricken and initialed by the defendant and the judge DA ke.]

9 (j) The sentences imposed on counts _____, ~~except for any weapons enhancement,~~
10 will run concurrently unless the judge finds substantial and compelling reason to do otherwise or
11 unless there is a special weapons finding. [If not applicable, this paragraph should be stricken and
12 initialed by the defendant and the judge DA ke.]

13 (k) In addition to confinement, the judge will sentence me to a period of community
14 supervision, community placement or community custody.

15 For crimes committed prior to July 1, 2000, the judge will sentence me to: (A) community
16 supervision for a period of up to one year; or (B) to community placement or community custody for
17 a period up to three years or up to the period of earned release awarded pursuant RCW 9.94A.150(1)
18 and (2), whichever is longer. [If not applicable, this paragraph should be stricken and initialed by
19 the defendant and the judge _____.]

20 For crimes committed on or after July 1, 2000, the judge will sentence me to the community
21 custody range which is from _____ months to _____ months or up to the period of earned
22 release awarded pursuant to RCW 9.94A.150(1) and (2), whichever is longer, unless the judge finds

FORM REV 7/12/00

1 substantial and compelling reasons to do otherwise. During the period of community custody I will
2 be under the supervision of the Department of Corrections, and I will have restrictions and
3 requirements placed upon me. My failure to comply with these conditions will result in the
4 Department of Corrections transferring me to a more restrictive confinement status or imposing
5 other sanctions. [If not applicable, this paragraph should be stricken and initialed by the defendant
6 and the judge DA K.]

7 (l) If this offense is a sex offense committed after 6/5/96 and I am either sentenced to the
8 custody of the Department of Corrections or if I am sentenced under the special sexual offender
9 sentence alternative, the court will, in addition to the confinement, impose not less than 3 years of
10 community custody which will commence upon my release from jail or prison. Failure to comply
11 with community custody may result in my return to confinement. In addition, the court may extend
12 the period of community custody in the interest of public safety for a period up to the maximum
13 term which is _____ . [If not applicable,
14 this paragraph should be stricken and initialed by the defendant and the judge DA K.]

15 (m) The judge may sentence me as a first-time offender instead of imposing a sentence
16 within the standard range if I qualify under RCW 9.94A.030. This sentence may include as much as
17 90 days of confinement plus all of the conditions described in paragraph (e). In addition, I may be
18 sentenced up to two years of community supervision if the crime was committed prior to July 1,
19 2000, or two years of community custody if the crime was committed on or after July 1, 2000. The
20 judge also may require me to undergo treatment, to devote time to a specific occupation, and to
21 pursue a prescribed course of study or occupational training. [If not applicable, this paragraph
22 should be stricken and initialed by the defendant and the judge DA K.]

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STATEMENT OF DEFENDANT ON PLEA OF GUILTY
(Felony) - 7

1 (n) This plea of guilty will result in revocation of my privilege to drive under RCW
2 46.20.285 (1)-(3), (5)-(7). If I have a driver's license, I must now surrender it to the judge. [If not
3 applicable, this paragraph should be stricken and initialed by the defendant and the judge _____.]

4 (o) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the
5 judge finds I used a motor vehicle in the commission of this felony.

6 (p) If this crime involves a sexual offense, prostitution, or a drug offense associated with
7 hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS)
8 virus. [If not applicable, this paragraph should be stricken and initialed by the defendant and the
9 judge DA LC:]

10 (q) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a
11 crime under state law is grounds for deportation, exclusion from admission to the United States, or
12 denial of naturalization pursuant to the laws of the United States.

13 (r) If this crime involves a sex offense or a violent offense, I will be required to provide a DA
14 sample of my blood for purposes of DNA identification analysis. [If not applicable, this paragraph
15 should be stricken and initialed by the defendant and the judge DA _____.] *document
written*

16 (s) Because this crime involves a sex offense, I will be required to register with the sheriff
17 of the county of the state of Washington where I reside. I must register immediately upon being
18 sentenced unless I am in custody, in which case I must register within 24 hours of my release.

19 If I leave this state following my sentencing or release from custody but later move back to
20 Washington, I must register within 30 days after moving to this state or within 24 hours after doing
21 so if I am under the jurisdiction of this state's Department of Corrections.

22

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STATEMENT OF DEFENDANT ON PLEA OF GUILTY
(Felony) - 8

1 If I change my residence within a county, I must send written notice of my change of
2 residence to the sheriff at least 14 days before moving and must register again with the sheriff
3 within 24 hours of moving. If I change my residence to a new county within this state, I must send
4 written notice of my change of residence to the sheriff of my new county at least 14 days before
5 moving and I must give written notice of my change of address to the sheriff of the county where I
6 last registered within 10 days of moving. If I move out of Washington state, I must also send
7 written notice within 10 days of moving to the county sheriff with whom I last registered in
8 Washington state. [If not applicable, this paragraph should be stricken and initialed by the
9 defendant and the judge DA KC.]

10 (t) This plea of guilty will result in the revocation of my right to possess any firearm.
11 Possession of any firearm after this plea is prohibited by law until my right to possess a firearm is
12 restored by a court of record.

13 7. I plead guilty to the crime(s) of Vehicular Assault
14 _____
15 _____

16 as charged in the _____ information. I have received a copy of that information.

17 8. I make this plea freely and voluntarily.

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

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

22

FORM REV 7/12/00

STATEMENT OF DEFENDANT ON PLEA OF GUILTY
(Felony) - 9

1 11. The judge has asked me to state briefly in my own words what I did that makes me
2 guilty of this (these) crime(s). This is my statement:

3 I enter my plea by way of an Alford Plea, understanding that
4 an Alford plea has the same legal effect as a direct guilty
5 plea. I do so because I have no recollection of the
6 accident, ^{which occurred on April 11, 1977} having consumed alcohol and drugs prior to
7 the accident. I have reviewed the case report with my
8 attorney, and agree that there is a substantial likelihood
9 that a reasonable trier of fact would find me guilty. I
10 want to avail myself of the State's plea offer. I give
11 my permission to the court to read the Cert. for Del.
12 of P.C. ^{and DPA Case summary} in order to make the necessary factual
13 determination ^{for plea} and for sentencing.

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

17 Devin Adams
18 DEFENDANT

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

20 [Signature] 1977
21 PROSECUTING ATTORNEY

21 [Signature]
22 DEFENDANT'S LAWYER 14712

FORM REV 7/12/00

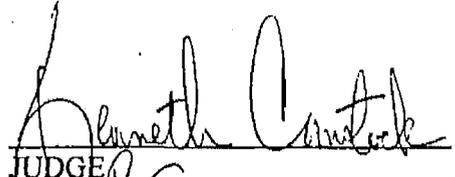
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The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

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

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. The 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 this 23rd day of April, 2022.


JUDGE

I am fluent in the _____ language and I have translated this entire document for

the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____, 20__.

TRANSLATOR

INTERPRETER

PLEA AGREEMENT

Date of Crime: 4-11-99

Date: 4-23-02

Defendant: Adams, Devon

Cause No: 02-1-00637-6 **SPA**KNT

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is as follows:

On Plea To: As charged in Count(s) I of the original amended information.

With Special Finding(s): deadly weapon - firearm, RCW 9.94A.310(3); deadly weapon other than firearm, RCW 9.94A.310(4); sexual motivation, RCW 9.94A.127; protected zone, RCW 69.50.435; domestic violence, other _____; for count(s): _____

1. DISMISS: Upon disposition of Count(s) _____ the State moves to dismiss Count(s): _____

2. REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.370, the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows:
 as set forth in the certification(s) of probable cause and prosecutor's summary.
 as set forth in _____

3. RESTITUTION: Pursuant to RCW 9.94A.142, the defendant agrees to pay restitution as follows:
 in full to the victim(s) on charged counts.
 as set forth in _____

4. OTHER: st will recommend sentence concurrent w/ #99-1-07761-624

SENTENCE RECOMMENDATION:

a. The defendant agrees to the foregoing Plea Agreement and that the attached sentencing guidelines scoring form(s) (Appendix A) and the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). The State makes the sentencing recommendation set forth in the State's sentence recommendation.

b. The defendant disputes the Prosecutor's Statement of the Defendant's Criminal History, and the State makes no agreement with regard to a sentencing recommendation and may make a sentencing recommendation for the full penalty allowed by law.

Maximum on Count I is not more than 10 years and/or \$ 10,000 fine.

Maximum on Count _____ is not more than _____ years and/or \$ _____ fine.

Mandatory Minimum Term(s) pursuant to RCW 9.94A.120(4) only: _____

Mandatory weapon sentence enhancement for Count(s) _____ is _____ months each. This/these additional term(s) must be served consecutively to any other term and without any earned early release.

Mandatory driver's license revocation RCW 46.20.285; 69.50.420

Mandatory revocation of right to possess a firearm and/or ammunition for any felony conviction. RCW 9.41.047.

The State's recommendation will increase in severity if additional criminal convictions are found or if the defendant commits any new charged or uncharged crimes, fails to appear for sentencing or violates the conditions of his release.

Devon Adams
Defendant

Mark D. ...
Attorney for Defendant 14312

[Signature]
Deputy Prosecuting Attorney 1997

Genneth ...
Judge, King County Superior Court

[Signature]

DUI DRIVE

FILED

02 MAY 13 AM 9:41

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

PRESENTING STATEMENT & INFORMATION ATTACHED
MAY 13 2012
COMMITMENT ISSUED

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
	)	Plaintiff,
	)	No. 02-1-00637-6 SEA
)	
Vs.	)	JUDGMENT AND SENTENCE
	)	FELONY
DEVON PAUL ADAMS)	
)	
	)	Defendant,

I. HEARING

1.1 The defendant, the defendant's lawyer, MICHAEL DANKO, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were Ms DeKoster, M Dylak
Ms Sims and Ms Williams, victims

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 4-23-2002 by plea of:

Count No.: <u>1</u>	Crime: <u>VEHICULAR ASSAULT</u>	
RCW <u>46.61.522 (1)(b)</u>		Crime Code: <u>07616</u>
Date of Crime: <u>4-11-1999</u>		Incident No. _____
Count No.: _____	Crime: _____	
RCW _____		Crime Code: _____
Date of Crime: _____		Incident No. _____
Count No.: _____	Crime: _____	
RCW _____		Crime Code: _____
Date of Crime: _____		Incident No. _____
Count No.: _____	Crime: _____	
RCW _____		Crime Code: _____
Date of Crime: _____		Incident No. _____

[] Additional current offenses are attached in Appendix A

SPECIAL VERDICT or FINDING(S):

- (a) While armed with a **firearm** in count(s) _____ RCW 9.94A.310(3).
- (b) While armed with a **deadly weapon** other than a firearm in count(s) _____ RCW 9.94A.310(4).
- (c) With a **sexual motivation** in count(s) _____ RCW 9.94A.127.
- (d) A **V.U.C.S.A** offense committed in a **protected zone** in count(s) _____ RCW 69.50.435.
- (e) **Vehicular homicide** Violent traffic offense DUI Reckless Disregard.
- (f) **Vehicular homicide** by DUI with _____ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.310(7).
- (g) **Non-parental kidnapping** or unlawful imprisonment with a minor victim. RCW 9A.44.130.
- (h) **Domestic violence** offense as defined in RCW 10.99.020 for count(s) _____.
- (i) Current offenses **encompassing the same criminal conduct** in this cause are count(s) _____ RCW 9.94A.400(1)(a).

2.2 OTHER CURRENT CONVICTION(S): Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____

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

- Criminal history is attached in **Appendix B**.
- Prior convictions counted as one offense in determining the offender score (RCW 9.94A.360(5) are: _____
- One point added for offense(s) committed while under community placement for count(s) _____

2.4 SENTENCING DATA:

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count 1	9	IV	63 TO 84		63 TO 84 MONTHS	10 YRS AND/OR \$20,000
Count						
Count						
Count						

Additional current offense sentencing data is attached in **Appendix C**.

2.5 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 D**. The State did did not recommend a similar sentence.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and **Appendix A**.

The Court **DISMISSES** Count(s) _____.

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
 - Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.142(2), sets forth those circumstances in attached Appendix E.
 - Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
 - Date to be set.
 - Defendant waives presence at future restitution hearing(s).
 - Restitution is not ordered.
- Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500.

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a) \$ _____, Court costs; Court costs are waived; (RCW 9.94A.030, 10.01.160)
- (b) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs; Recoupment is waived (RCW 9.94A.030);
- (c) \$ _____, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA; VUCSA fine waived (RCW 69.50.430);
- (d) \$ _____, King County Interlocal Drug Fund; Drug Fund payment is waived; (RCW 9.94A.030)
- (e) \$ _____, State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);
- (f) \$ _____, Incarceration costs; Incarceration costs waived (RCW 9.94A.145(2));
- (g) \$ _____, Other costs for: _____

All non-mandatory fees & trust fees waived - interest only

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 500 ^{from Restitution}. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month; On a schedule established by the defendant's Community Corrections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. The Defendant shall remain under the Court's jurisdiction and the supervision of the Department of Corrections for up to ten years from the date of sentence or release from confinement to assure payment of financial obligations.

4.4 **CONFINEMENT OVER ONE YEAR:** Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: immediately; [] (Date): _____ by _____ m.

80 months' days on count I; _____ months' days on count _____; _____ months/day on count _____
_____ months' days on count _____; _____ months' days on count _____; _____ months/day on count _____

The above terms for counts _____ are concurrent/consecutive.

The above terms shall run concurrent consecutive with cause No.(s) 99-1-07761-6 SEA

The above terms shall run consecutive to any previously imposed sentence not referred to in this order.

[] In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special WEAPON finding(s) in section 2.1: _____

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (Use this section only for crimes committed after 6-10-98)

[] The enhancement term(s) for any special WEAPON findings in section 2.1 is/are included within the term(s) imposed above. (Use this section when appropriate, but for crimes before 6-11-98 only, per In Re Charles)

The TOTAL of all terms imposed in this cause is _____ months.

Credit is given for 81 days served [] days as determined by the King County Jail, solely for conviction under this cause number pursuant to RCW 9.94A.120(17).

4.5 **NO CONTACT:** For the maximum term of 10 years, defendant shall have no contact with _____
Stephanie Sims and Melody Williams

4.6 **Blood Testing :** (sex offense, violent offense, prostitution offense, drug offense associated with the use of hypodermic needles) **Appendix G** is a blood testing and counseling order that is part of and incorporated by reference into this Judgment and Sentence.

4.7 (a) **COMMUNITY PLACEMENT** pursuant to RCW 9.94A.120(9), for **qualifying crimes committed before 7-1-2000**, is ordered for 24 months or for the period of earned early release awarded pursuant to RCW 9.94A.150 whichever is longer. [24 months for any serious violent offense, vehicular homicide, vehicular assault, or sex offense prior to 7-6-96; 12 months for any assault 2°, assault of a child 2°, felony violation of RCW 69.50/52, any crime against person defined in RCW 9.94A.440 not otherwise described above.] **APPENDIX H** for Community Placement conditions is attached and incorporated herein.

(b) [] **COMMUNITY CUSTODY** pursuant to RCW 9.94.120(10) for any **SEX OFFENSE committed after 6-6-96 but before 7-1-2000**, is ordered for a period of 36 months or for the period of earned early release awarded under RCW 9.94A.150 whichever is longer. **Appendix H** for Community Custody Conditions and **Appendix J** for sex offender registration is attached and incorporated herein.

(c) **COMMUNITY CUSTODY** - pursuant to RCW 9.94A.120(11) for qualifying crimes committed after 6-30-2000 is ordered for the following established range:

- Sex Offense, RCW 9.94A.030(36) - 36 to 48 months
- Serious Violent Offense, RCW 9.94A.030(34) - 24 to 48 months
- Violent Offense, RCW 9.94A.030(41) - 18 to 36 months
- Crime Against Person, RCW 9.94A.440 - 9 to 18 months
- Felony Violation of RCW 69.50/52 - 9 to 12 months

or for the entire period of earned early release awarded under RCW 9.94A.150, whichever is longer. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.205.

APPENDIX II for Community Custody conditions is attached and incorporated herein.

APPENDIX J for sex offender registration is attached and incorporated herein.

4.8 **WORK ETHIC CAMP:** The court finds that the defendant is eligible for work ethic camp, is likely to qualify under RCW 9.94A.137 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the defendant shall be released to community custody for any remaining time of total confinement. The defendant shall comply with all mandatory statutory requirements of community custody set forth in RCW 9.94A.120(9)(b). Appendix II for Community Custody Conditions is attached and incorporated herein.

4.9 **ARMED CRIME COMPLIANCE, RCW 9.94A.103,105.** The State's plea/sentencing agreement is attached as follows:

Date: MAY 10, 2002

Carl Sil

JUDGE _____
Print Name: 5/10/02

Presented by:

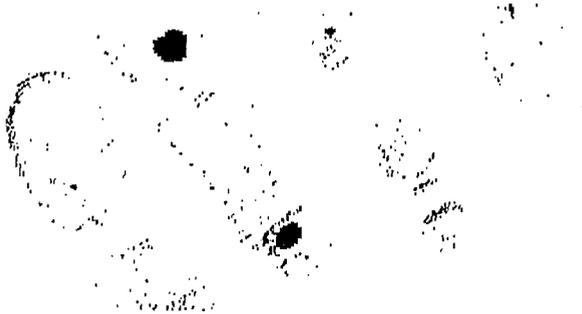
Bianca Tee
Deputy Prosecuting Attorney, WSBA# _____
Print Name: BIANCA TEE

Approved as to form:

Michael Ranko
Attorney for Defendant, WSBA # _____
Print Name: Michael Ranko 14314

FINGERPRINTS

BEST IMAGE POSSIBLE/POOR ORIGINAL



RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE: Devon Adams
DEFENDANT'S ADDRESS: DOC

DEVON PAUL ADAMS

DATED: 5/10/02

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK

[Signature]
JUDGE, KING COUNTY SUPERIOR COURT

BY: [Signature]
DEPUTY CLERK

CERTIFICATE

OFFENDER IDENTIFICATION

I, _____,
CLERK OF THIS COURT, CERTIFY THAT
THE ABOVE IS A TRUE COPY OF THE
JUDGEMENT AND SENTENCE IN THIS
ACTION ON RECORD IN MY OFFICE.
DATED: _____

S.I.D. NO.
DOB: APRIL 18, 1979
SEX: M
RACE: W

CLERK

BY: _____
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

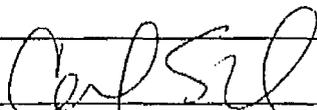
STATE OF WASHINGTON,)	
)	
	)	Plaintiff,
	)	No. 02-1-00637-6 SEA
vs.)	
	)	JUDGMENT AND SENTENCE,
	)	(FELONY) - APPENDIX B,
DEVON PAUL ADAMS	)	CRIMINAL HISTORY
)	
	)	Defendant,
)	

2.2 The defendant has the following criminal history used in calculating the offender score (RCW 9.94A.360):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
MURDER 1 & POSSESSION OF FIREARM FELON	9-1-2000	ADULT	991077616	KING CO
FELONY VIOLATION NO CONTACT ORDER - DOMESTIC VIOLENCE	5-11-1999	ADULT	981102728	KING CO
TAKING MOTOR VEHICLE WITHOUT PERMISSION	7-7-1998	ADULT	981053018	KING CO
ESCAPE 1	11-22-1995	JUVENILE	968010393	KING CO
UNLAWFUL POSSESSION	12-20-1996	JUVENILE	968085377	KING CO

[] The following prior convictions were counted as one offense in determining the offender score (RCW 9.94A.360(11)):

Date: May 10, 2002



 JUDGE, KING COUNTY SUPERIOR COURT

MA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
	)	Plaintiff,
	)	No. 02-1-00637-6 SEA
vs.)	
	)	APPENDIX G
DEVON PAUL ADAMS	)	ORDER FOR BLOOD TESTING
	)	AND COUNSELING
)	
	)	Defendant,
)	

(1) **HIV TESTING AND COUNSELING:**

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense committed after March 23, 1988. RCW 70.24.340):

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 296-4848 to make arrangements for the test to be conducted within 30 days.

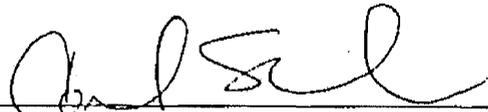
(2) **DNA IDENTIFICATION:**

(Required for defendant convicted of sexual offense or violent offense. RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention and/or the State Department of Corrections in providing a blood sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

If both (1) and (2) are checked, two independent blood samples shall be taken.

Date: MAY 10, 2002



 JUDGE, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
Plaintiff,	)	No. 02-1-00637-6 SEA
)	
vs.	)	JUDGMENT AND SENTENCE
	)	APPENDIX II
DEVON PAUL ADAMS	)	COMMUNITY PLACEMENT / COMMUNITY
	)	CUSTODY
Defendant,)	

The Defendant shall comply with the following conditions of community placement or community custody pursuant to RCW 9.94A.120(9)(b); RCW 9.94A.120(10); RCW 9.94A.120(11); or RCW 9.94A.137 for Work Ethic Camp approved offenders:

- Report to and be available for contact with the assigned community corrections officer as directed;
- 2) Work at Department of Corrections-approved education, employment, and/or community service;
- 3) Not possess or consume controlled substances except pursuant to lawfully issued prescriptions;
- 4) Pay supervision fees as determined by the Department of Corrections;
- 5) Receive prior approval for living arrangements and residence location; and
- 6) Not own, use, or possess a firearm or ammunition. (RCW 9.94A.120(16))
- 7) Notify community corrections officer of any change in address or employment;
- 8) Remain within geographic boundary, as set forth in writing by the Department of Corrections Officer or as set forth with SODA order.

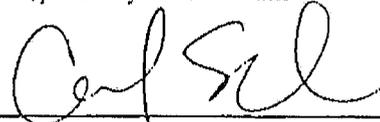
OTHER SPECIAL CONDITIONS:

- The defendant shall not consume any alcohol.
- Defendant shall have no contact with: _____
- Defendant shall remain within outside of a specified geographical boundary, to wit: _____
- The defendant shall participate in the following crime-related treatment or counseling services: _____
- The defendant shall comply with the following crime-related prohibitions: _____
- _____
- _____
- _____

Other conditions may be imposed by the court or Department during community custody.

Community Placement or Community Custody shall begin upon completion of the term(s) of confinement imposed herein or when the defendant is transferred to Community Custody in lieu of earned early release. The defendant shall remain under the supervision of the Department of Corrections and follow explicitly the instructions and conditions established by that agency. The Department may require the defendant to perform affirmative acts deemed appropriate to monitor compliance with the conditions [RCW 9.94A.120(15)] and may issue warrants and/or detain defendants who violate a condition [RCW 9.94A.207].

Date: May 10, 2002



JUDGE

APPENDIX Q



SUPERIOR COURT WASHINGTON
COUNTY OF KING

FILED

STATE OF WASHINGTON

vs.

DEVON ADAMS

80 JUN 16 PM 2:00
Plaintiff.

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

No. 99-1-07761-6 SEA

ORDER ON CRIMINAL MOTION

Defendant.

000291N00
JUN 16 2000

The above-entitled Court, having heard a motion on behalf of the defendant, by and through his attorney, Michael Danko, to permit Dr. John Berberich face to face conferences with the defendant in KCJ for the purpose of conducting a psychological evaluation of the defendant. Dr. Berberich will need to visit with Mr. Adams at least two times and for at least 3 hours in order to complete the evaluation.

IT IS HEREBY ORDERED that Dr. John Berberich shall be permitted to have face to face contact visits with Devon Adams in the King County Jail for the purpose of conducting a psychological evaluation. The times for the necessary visits shall be arranged by the jail staff in keeping with its normal procedures:

DATED: 6/16 2000

JUDGE

Deputy Prosecuting Attorney

Attorney for Defendant 14312

Order on Criminal Motion (ORCM)

SC Form CLD-102

9/83

APPENDIX R

JOHN P. BERBERICH, Ph.D., P.S.
1007 Spring Street
Seattle, WA. 98104
(206) 624-6129 FAX
(206) 682-3979

August 24, 2000

Mike Danko
Attorney At Law
600 First Ave., Suite 205
Seattle, WA. 98104

Re: Devon Paul Adams

Dear Mr. Danko:

Thank you for referring your client, Devon Paul Adams, for psychological evaluation. I met with him at the King County Jail on 6/29/00 and 7/26/00. My impressions of Mr. Adams are based on data from interview, psychological testing, a telephone interview with his mother, Mrs. DeKoster, and perusal of the extensive file materials with which you supplied me.

REASON FOR REFERRAL

You referred Mr. Adams for psychological evaluation in relation to the First Degree Murder charges he faces. You asked that I give you my impressions of his current psychological functioning as well as his functioning at the time of the shooting in which he was involved and to which he was found guilty. You also asked that I provide recommendations. My report would be part of what you would present to the court at the time of his sentencing.

MENTAL STATUS

Mr. Adams is a single, 21 year-old man of taller than average height and average build. He appeared to be well nourished. He was oriented in all spheres and was aware of the charges brought against him and the sentencing range that applies to those charges.

I found Mr. Adams open and cooperative. His interpersonal presentation was that of an anxious and depressed individual on both occasions we met. When I met him in July for our second interview Mr. Adams seemed more subdued and

depressed. He told me that the situation in which he found himself was, "... sinking in." At that time, he told me that despite the fact that he was getting eight hours of sleep it was not enough. Mr. Adams said he was having frequent and disturbing dreams. He had a hopeless quality about him but remained open and cooperative. His responses to my questions were direct and to the point. Often, he spontaneously offered additional information.

Mr. Adams memory was very spotty, particularly for remote events. He said that he frequently experienced blackouts after drinking alcohol and/or snorted sherm. He said that after he had overdosed on sherm in 1997 and was hospitalized, he had only vague recall about what had occurred. After an auto accident in 1999, Mr. Adams suffered both retrograde and anterograde amnesia. He told me that he had only vague recall for the period 1996 to 1999, the time when he was heavily involved in both alcohol and drug (sherm) abuse.

In his dreams, he would see the same people over and over again including his daughter and would see himself getting into fights with these people but there were no dreams that were directly related to the shooting.

I found no obvious evidence of psychosis. Mr. Adams was in contact with reality. He had no delusions or hallucinations.

Mr. Adams told me that he had been in solitary confinement at the jail for thirteen days after becoming angry at a guard who he said threw some of his family pictures on the floor while doing a cell search. Mr. Adams said he asked the guard why he had done that and the guard, "... told me to shut up and go to my room." Mr. Adams went on to say that the guard was already angry before he started dealing with Mr. Adams because he had hurt his hand while closing a cell door with great emphasis. Mr. Adams said he grieved the discipline and was told that he was disciplined because he had flooded his cell and, "... everybody knew I didn't do that."

At the time I met with him Mr. Adams was taking asthma medication. He was not taking any psychiatric medication.

As I have noted above, Mr. Adams was aware of the charges brought against him and understood the sentencing range. He told me that he likes you and felt that he could take your advice and assist you in whatever ways you needed in his own defense. Therefore, it is my impression that he is competent for sentencing.

PERTINENT HISTORY

Mr. Adams is the only child born to the union of his parents. He has both a half-sister and half-brother who live in Minneapolis. They are children of his father.

Mr. Adams said that his father was an abusive alcoholic. He was both physically and verbally abusive at home. His mother told me the same. His parents divorced when Mr. Adams was about three years old because his father was seeing other women and frequently coming home intoxicated and beating his mother. Mr. Adams recalls that when he was three his father held a knife to his mother's throat and that memory haunts him. After the divorce, Mr. Adams said that his father never paid child support. He terrorized the family. He would break his mother's car windows and throw rocks through the house windows.

When Mr. Adams was about eight years old his father would call, while intoxicated, and threaten to kill him and his mother. Mr. Adams found this terrifying and it occurred several times. Mr. Adams' father is currently hospitalized at a Veterans Administration Hospital in Minnesota (Tomah). Apparently, his war experiences in Vietnam resulted in severe symptoms of Post Traumatic Stress Disorder.

Mr. Adams mother, Mrs. DeKoster, told me that Devon's problems started when he was in the fifth grade. He felt abandoned by his father after the divorce. Even though his father had promised to come to see Devon, he would often not do so. Devon, left without a father, sought fathering from coaches and teachers at school. However, by the time he was in the fifth grade Mrs. DeKoster said, Devon was uncontrollable. Mrs. DeKoster attempted to get a Big Brother relationship going for Devon when he was about thirteen. Though Devon did well in school until the fifth grade, he began getting into serious trouble at that time. He was arrested at approximately thirteen years of age for "obstruction of justice" when trying to protect a friend from a police officer in a situation where Mr. Adams did not know that the friend had stolen something. He was sent to a counseling group and placed on probation. He could not recall exactly but thought he met with the counseling group about once a month. He did not find it helpful.

Mr. Adams told me that around the age of "thirteen or fourteen, I started stealing cars. I would be released the same day about six hours after being taken to the Youth Center. I thought it was a joke. I didn't take it seriously. I would get the court papers six months later and I thought there weren't any consequences for stealing cars." He said he received two days at the Youth Center for

one "joy riding" arrest. Mr. Adams told me that he received no time at the Youth Center for the other two car thefts in which he had been involved.

By the age of fourteen Mr. Adams was doing burglaries with his friends. He was not always caught but when he was he would get only minimal time in the Youth Center (perhaps three days). Later, Mr. Adams was arrested again and admitted to having stolen three cars and a burglary. He was sentenced to twenty-two days at the Youth Center and said that, "... before I served the time I got drunk with a friend and we robbed a 7-11 and then I got two years at Maple Lane". While there, he received his first drug treatment but did not finish that because there were some paperwork problems due to the fact that his counselor had sent his papers to the wrong county. He was sent back to Maple Lane and then again sent back to the drug treatment program. Again, Mr. Adams did not complete the program. He said that he had gotten into an argument with the director because he felt that they were treating him poorly due to his race. Mr. Adams told me that, "The director kicks people out all the time for the dumbest things." While I expect that there is a great deal more to why the director removes people from the program, Mr. Adams obviously believed that he was being removed due to racial reasons and again felt abandoned and angry.

As you know, your client has an extensive drug history. He told me he began using drugs at about twelve. At that time he began drinking. By thirteen he was smoking marijuana and tried cocaine when he was about fifteen. He only used that drug a few times then but when he was released from Maple Lane, Mr. Adams began using cocaine more frequently. He said, "It would wake me up." By then, Mr. Adams was using alcohol to intoxication on a daily basis.

While at Maple Lane as a fifteen year-old, Mr. Adams had a twenty year-old roommate. That individual introduced him to two "sherm" (embalming fluid). When one soaks a cigarette or marijuana with sherm and smokes it, the effect is to cause a pleasant kind of intoxication for many people who try it. Mr. Adams liked the effect. From that point on, in addition to alcohol, which he continued to drink copiously, Mr. Adams became "hooked on" sherm. Eventually, when he was smoking sherm, whether alone or with alcohol, Mr. Adams became well known for being belligerent and very difficult to deal with.

Mrs. DeKoster told me that Mr. Adams went to three alcohol/drug treatment programs and was awarded certificates of completion. One summary report indicates expectation from the alcohol counselors that Mr. Adams would have

difficulty maintaining his sobriety. Indeed, he returned to drinking and drug use after two of those programs immediately and for the third one, after only two weeks. Attempts were made to get Mr. Adams involved in school. These were unsuccessful for a variety of reasons involved in his drug and alcohol use and the hopelessness of his life situation. Thus, he was well known within the juvenile system for his alcohol and drug problems. The system was unable, for whatever reasons, to provide treatment and care that would be long lasting.

Another important factor in Mr. Adams' history has been his anger problems. By the fifth grade Mr. Adams was sent to anger management programs. He was also seen briefly by a private psychiatrist. Unfortunately, those programs did not work and, despite his good intelligence, Devon had severe school problems. By the age of fourteen he had moved away from home because his mother could not tolerate his use of alcohol and drugs. Mrs. DeKoster has been a strong positive advocate for her son. When I spoke with her on the telephone she admitted that she was not a "perfect mom" and that she drank alcohol also and may not have been available for Devon as much as he needed her to be, but did the best she could. She told me about one incident in which she found Devon with some friends in an alley when Devon was approximately fourteen years old. They were all smoking marijuana. She told Devon she wanted him to come home and one of the boys threatened her with a deadly weapon. She said she did not back away but demanded that Devon come home with her and he did. However, by the time he was nearly fifteen, Mrs. DeKoster realized he was out of her control.

Mr. Adams overdosed on sherm in 1997. He was at Harborview for seven days. He nearly died. He has been hospitalized for a variety of other things. When under the influence of alcohol and drugs he has injured himself a few times.

Mr. Adams told me his version of the homicide incident in which he was involved. He said that the victim of the shooting accosted him, an argument ensued in which the victim called Mr. Adams a "nigger" and Mr. Adams admitted that he called the victim a "nigger" also. However, the victim kept repeating, "I'm not the nigger, you are!" Mr. Adams said his father had told him never to allow anyone to call him a "nigger" and, as he was walking away from the man before the shooting, the man said the same thing to him again. This enraged Mr. Adams and he shot him. From my reading of the autopsy report and the witness statements, it appears that the first shot was to the left back of the victim's neck and the remaining eight shots were all in the back. Mr. Adams said that he had lost control of himself and was enraged because the man called him that word again

and again. He told me that he knew that was not an excuse for what he had done but told me about all of this because I asked him and told him I needed to know about the facts from his point of view.

On the day of the homicide, Mr. Adams had gone to a notoriously drug infested area of Seattle to visit a friend who's brother had let it be known that he intended to kill Mr. Adams. It is not clear to me why Mr. Adams would have gone there. However, he said he drank quite a bit of alcohol and smoked sherm. He was intoxicated and, I expect, his "belligerence" (which had been noted many times before under the effects of sherm) came to the fore. Indeed, Mr. Adams was acting in a belligerent manner just as his father modeled for him for many years. Of course, a combination of what your client experienced and the reasonable assumption that his alcohol problems come as a result of life experience and a predisposition toward alcoholism are key to understanding what has been happening to Mr. Adams over the years. This man's life experience has been so traumatic that it seems to me that his use of alcohol and drugs, from an early age, took him away from his terrifying dreams, thoughts about his violent father, constant anxiety, and depression.

PSYCHOLOGICAL TESTING DATA

Mr. Adams' psychological testing data show compelling evidence that he has a severe psychological disorder. The combination of his history and the testing data indicate that he suffers from Post Traumatic Stress Disorder. Mr. Adams shows the classical hallmarks of Post Traumatic Stress Disorder including exposure to a life threatening event (knife being held at his mother's throat by his father and the death threats and beatings he experienced at the hands of his father) helplessness (that is, he could do nothing about it), heightened arousal (anxiety, hypervigilance, etc.), attempts to keep the distressing events out of his mind (the use of alcohol and drugs applies to this hallmark characteristic. Indeed, Mr. Adams was very obviously self-medicating with those drugs), intrusive thoughts and dreams about these incidents (Mr. Adams told me he cannot ever get out of his mind the time he saw his father holding a knife to his mother's neck nor can he get out of his mind the death threats his father visited on him and his mother while he spoke to his drunken father on the telephone) and symptom duration of more than six months. His symptoms of anxiety and depression as well as his history of acting out aggressively as a student in elementary school, are classical responses to the kinds of abuse and abandonment he suffered. His drug and alcohol abuse/addiction is also a

classical response to the terrifying intrapersonal effects of the horrible abuse he suffered.

SUMMARY AND DIAGNOSIS

Mr. Adams is a 21 year-old man awaiting sentencing for First Degree Murder in a homicide for which he was found guilty. Interview and psychological testing data strongly indicate that Mr. Adams suffers from Post Traumatic Stress Disorder (a DSM-IV AXIS I diagnosis) as well as Alcohol Abuse and Drug Abuse. Mr. Adams has demonstrated the characteristics of both Depressive and Antisocial Personality Disorder.

His history is compelling with regard to his having been exposed to the most vicious kind of abuse. He demonstrated problems in managing his own anger from the time he was in elementary school. He received anger management training when he was in the fifth grade. He has been placed in youth detention facilities for crimes in which he has been involved. He has completed alcohol treatment programs but has always gone back quickly to alcohol and drugs. It is my strongest impression that Mr. Adams exposure to violence at such an early age traumatized him to the degree that he was constantly anxious, fearful, and filled with the same kind of rage that he had seen his father display toward his mother and himself. His constant psychological distress which occurred even when he slept led him to become easily addicted to alcohol so that he would not have to deal with the painful and extremely frightening images that were in his mind. His problems in school dating back to elementary school including his anger management issues obviously flow from his experiences of violence in his own home.

Mr. Adams' use of alcohol and drugs, beginning at so early an age was the only way Mr. Adams found to reduce the significant psychological distress he experienced. In the strongest sense, Mr. Adams was predisposed from that history toward a compelling vulnerability to use any substance that would make life bearable for him. Alcohol was easily available and its relaxing effects were striking to him because they provided relief. From the time he first drank alcohol at age twelve Mr. Adams was easily brought into an addictive relationship with that substance and any other substance that would quiet his anxiety and global psychological distress. Of course, the end result of an alcohol addiction is seen in its effects on judgment and, for some people who are genetically predisposed, toward violent acting out.

I have seen many defendants who have been charged with murder. Mr. Adams' history is unique in my experience. While many people who have committed homicide have had

abusive early lives, I have not seen anyone who was exposed to one parent holding a knife at the throat of the other when he was only three years old. Further, I have not seen many cases in which a parent threatened to murder the other parent and the child. Nor have I seen any parental situation in which the violent parent continued for years to harass, destroy property, and threaten his former wife and child in the way that Mr. Adams' father did. Mr. Adams' psychiatric condition was very severe and because it was marked by his alcohol and drug abuse, the juvenile system could not deal with him effectively. Mr. Adams' treatment within the system was well intentioned and focused itself on the alcohol and drug problems. However, it is very clear that without treating the psychological effects of the horrors your client experienced early in his life, the chance of his giving up alcohol and drugs, the only medication he knew, could never be effective. In that sense, the options available within the juvenile system failed Mr. Adams.

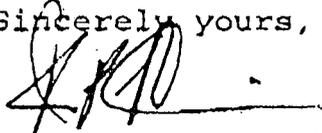
At this point in his life, your client is in desperate need of psychotherapy. He will also need treatment and post treatment support in giving up the alcohol and drugs that he uses which, under their effects, predispose him toward violent acting out. Without the psychiatric treatment for his Post Traumatic Stress Disorder Mr. Adams will continue to use alcohol and drugs and, therefore would represent a significant risk toward violent acting out within the community again. Frankly, I see his situation over the past seven years or so as having become compounded and moving towards hopelessness. As a young boy who was having anger problems in school, without treatment relating to the family horrors, Mr. Adams had no chance of getting better. Now, as an adult and in a situation where he has been involved in several crimes and has been so psychologically crippled from the addictive relationship he developed with alcohol and drugs so as to keep himself from having to think about the horrors of his early life, Mr. Adams condition is now very complicated. Indeed, in thinking about him, I am concerned that many people in the criminal justice system will not recognize that the course that Mr. Adams' life has taken was predictable as based upon his early experiences and his father's alcoholism. I am hopeful that a structured treatment approach in an inpatient setting will be one of the responses of the court to him at this time. If not, this already terribly alienated and anxiety ridden angry young man will only get worse and more dangerous.

Further, in my opinion the combination of his Depressive Personality Disorder and his alcohol and drug abuse significantly impaired his ability, at the time of the homicide, to appreciate the wrongfulness of his behavior.

Because of his history, it is reasonable to assume that Mr. Adams would be likely to experience great fear at times when he was involved in an argument with a man. His intoxication at the time of the homicide, in combination with his Personality Disorder and Post Traumatic Stress Disorder symptoms would indeed have impaired his ability to fully appreciate the wrongfulness of his behavior.

I trust this gives you the information you require. If not please contact me.

Sincerely yours,


John P. Berberich, Ph.D.
Clinical Psychologist

APPENDIX S

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

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
(a) TMVWOP	07-17-98	ADULT	981053018	KING CO
(b) PVNCO	06-25-99	ADULT	981102728	KING CO
(c) TMVWOP	04-04-94	JUV	948004427	KING CO
(d) TMVWOP	07-22-94	JUV	948013868	KING CO

Additional criminal history is attached in Appendix B.

Prior convictions (offenses committed before July 1, 1986) served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(6)(c)):

One point added for offense(s) committed while under community placement for count(s)

2.4 SENTENCING DATA:

SENTENCING DATA	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE	ENHANCEMENT	TOTAL STANDARD RANGE	MAXIMUM TERM
Count I	9	XV	411 TO 548	+ 60 MONTHS	471-608 MONTHS	LIFE AND/OR \$50,000
Count II	8	III			43 TO 57 MONTHS	5 YRS AND/OR \$10,000
Count						

Additional current offense sentencing data is attached in Appendix C.

2.5 EXCEPTIONAL SENTENCE:

Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) I. Findings of Fact and Conclusions of Law are attached in Appendix D. The State did not recommend a similar sentence. AND OBJECTED TO THE EXCEPTIONAL SENTENCE

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

The Court DISMISSES Count(s)

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.

Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.142(2), sets forth those circumstances in attached Appendix E.

Restitution to be determined at future hearing on (Date) at .m. Date to be set.

Defendant waives presence at future restitution hearing(s).

Defendant shall pay Victim Penalty Assessments pursuant to RCW 7.68.035 in the amount of \$100 if all crime(s) date prior to 6-6-96 and \$500 if any crime date in the Judgment is after 6-5-96.

Restitution is not ordered.

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

(a) Court costs; Court costs are waived;

(b) Recoupment for attorney's fees to King County Public Defense Programs, 2015 Smith Tower, Seattle, WA 98104; Recoupment is waived (RCW 10.01.160);

(c) Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA; VUCSA fine waived (RCW 69.50.430);

(d) King County Interlocal Drug Fund; Drug Fund payment is waived;

(e) State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);

(f) Incarceration costs; Incarceration costs waived (9.94A.145(2));

(g) Other cost for: waive interest + trust fees

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ SDO + RESTITUTION. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:

Not less than \$ per month; On a schedule established by the defendant's Community Corrections Officer.

The Defendant shall remain under the Court's jurisdiction and the supervision of the Department of Corrections for up to ten years from date of sentence or release from confinement to assure payment of financial obligations.

4.4 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: Immediately; (Date): _____ by _____ m.

360 months on Count I _____ months on Count _____ months on Count _____
50 months on Count II _____ months on Count _____ months on Count _____

ENHANCEMENT time due to special deadly weapon/firearm finding of 60 months is included for Counts I

The terms in Count(s) I:II are concurrent/~~consecutive~~.
The sentence herein shall run ~~concurrently/consecutively~~ with the ~~sentences in case number _____~~ any other cause not referred to in this Judgment.

Credit is given for 345 days served days as determined by the King County Jail solely for conviction under this cause number pursuant to RCW 9.94A.120(15).

4.5 NO CONTACT: For the maximum term of Life years, defendant shall have no contact with Member of the Brown Family. Violation of this no contact order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.

4.6 BLOOD TESTING: (sex offense, violent offense, prostitution offense, drug offense associated with the use of hypodermic needles) Appendix G is a blood testing and counseling order that is part of and incorporated by reference into this Judgment and Sentence.

4.7 COMMUNITY PLACEMENT, RCW 9.94A.120(9): Community Placement is ordered for any of the following eligible offenses: any "sex offense", any "serious violent offense", second degree assault, any offense with a deadly weapon finding, any CH. 69.50 or 69.52 RCW offense, for the maximum period of time authorized by law. All standard and mandatory statutory conditions of community placement are ordered. Appendix H (for additional nonmandatory conditions) is attached and incorporated herein.

4.8 WORK ETHIC CAMP: The court finds that the defendant is eligible for work ethic camp and is likely to qualify under RCW 9.94A.137 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the Department shall convert the period of work ethic camp confinement at a rate of one day of work ethic camp to three days of total standard confinement and the defendant shall be released to community custody for any remaining time of total confinement. The defendant shall comply with all mandatory statutory requirements of community custody set forth in RCW 9.94A.120(9)(b). Appendix K for additional special conditions, RCW 9.94A.120(9)(c), is attached and incorporated herein.

4.9 SEX OFFENDER REGISTRATION (sex offender crime conviction): Appendix J is attached and incorporated by reference into this Judgment and Sentence.

4.10 ARMED CRIME COMPLIANCE, RCW 9.94A.103,105. The state's plea/sentencing agreement is attached as follows:

The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

Date: September 1, 2000

Judge: [Signature]

Print Name: Carol Scarpita

Presented by: [Signature] #16082
Deputy Prosecuting Attorney, Office WSBA ID #91002
Print Name: James Nune Kovatt

Approved as to form: [Signature]
Attorney for Defendant, WSBA # 14312
Print Name: Michael Parko

FINGERPRINTS



RIGHT HAND
FINGERPRINTS OF:

DEVON PAUL ADAMS

DATED:

9/1/00
JUDGE, KING COUNTY SUPERIOR COURT

DEFENDANT'S SIGNATURE: Devon Adams
DEFENDANT'S ADDRESS: POC

ATTESTED BY: Barb Miner ACTING
~~PAUL L. SHERREY~~, SUPERIOR COURT CLERK
BY: Joseph M. Mason
DEPUTY CLERK

CAROL A. SCHAPIRA

CERTIFICATE

OFFENDER IDENTIFICATION

I, _____,
CLERK OF THIS COURT, CERTIFY THAT
THE ABOVE IS A TRUE COPY OF THE
JUDGEMENT AND SENTENCE IN THIS
ACTION ON RECORD IN MY OFFICE.
DATED: _____

S.I.D. NO.
DATE OF BIRTH: APRIL 18, 1979
SEX: M
RACE: W

CLERK

BY: _____
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON	)	No. 99-1-07761-6 SEA
)	
Plaintiff,	)	APPENDIX B
	)	JUDGMENT AND SENTENCE -
v.	)	(FELONY) - ADDITIONAL CRIMINAL HISTORY
)	
DEVON P ADAMS)	
)	
Defendant.)	

2.3 The defendant has the following additional criminal history used in calculating the offender score (RCW 9.94A.360):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
TMVWOP	11-10-94	JUV	948024908	KING CO
RES BURG	11-10-94	JUV	948041641	KING CO
TMVWOP	11-10-94	JUV	948044119	KING CO
RES BURG	12-28-94	JUV	948045719	KING CO
ROBB 1	11-09-94	JUV	948057466	KING CO
ESCAPE 1	02-28-96	JUV	968010393	KING CO
VUFA	05-05-97	JUV	968085377	KING CO

The following prior convictions were counted as one offense in determining the offender score (RCW 9.94A.360(11)):

Date: September 1, 2000


 JUDGE, King County Superior Court

DNA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON)
)
 Plaintiff,)
)
 v.)
)
 DEVON P ADAMS)
)
 Defendant.)

No. 99-1-07761-6 SEA
 APPENDIX G
 ORDER FOR BLOOD TESTING
 AND COUNSELING

(1) HIV TESTING AND COUNSELING:

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense committed after March 23, 1988. RCW 70.24.340):

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 296-4848 to make arrangements for the test to be conducted within 30 days.

(2) DNA IDENTIFICATION:

(Required for defendant convicted of sexual offense or violent offense. RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention and/or the State Department of Corrections in providing a blood sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangement for the test to be conducted within 15 days.

If both (1) and (2) are checked, two independent blood samples shall be taken.

Date: September 1, 2000



 JUDGE, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

PAGE 1 of 2

STATE OF WASHINGTON

Plaintiff)

No. 99-1-07761-6 SEA
(Count I)

v.

ADAMS, Devon Paul

Defendant)

**JUDGMENT AND SENTENCE
(FELONY) – APPENDIX H
COMMUNITY PLACEMENT/CUSTODY**

The court having found the defendant guilty of offense(s) qualifying for community placement/custody, it is further ordered as set forth below.

COMMUNITY PLACEMENT/CUSTODY: Defendant additionally is sentenced on convictions herein, for each sex offense and serious violent offense committed on or after June 6, 1996, to community placement/custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150(1) and (2) whichever is longer; and on conviction herein for an offense categorized as a sex offense or a serious violent offense committed on or after July 1, 1990, but before June 6, 1996, to community placement for two years or up to the period of earned release awarded pursuant to RCW 9.94A.150(1) and (2) whichever is longer; and on conviction herein for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, to a one-year term of community placement.

Community placement/custody is to begin either upon completion of the term of confinement or at such time as the defendant is transferred to community custody in lieu of early release.

(a) **MANDATORY CONDITIONS:** Defendant shall comply with the following conditions during the term of community placement/custody:

- (1) Report to and be available for contact with the assigned Community Corrections Officer as directed;
- (2) Work at Department of Corrections-approved education, employment, and/or community service;
- (3) Not consume controlled substances except pursuant to lawfully issued prescriptions;
- (4) While in community custody not unlawfully possess controlled substances;
- (5) Pay supervision fees as determined by the Department of Corrections;
- (6) Receive prior approval for living arrangements and residence location;
- (7) Defendant shall not own, use or possess a firearm or ammunition when sentenced to community service, community supervision or both (RCW 9.94A.120(13));
- (8) Notify Community Corrections Officer of any change in address or employment; and
- (9) Remain within geographic boundary, as set forth in writing by the Community Corrections Officer.

WAIVER: The following above-listed mandatory conditions are waived by the court: _____

(b) **OTHER CONDITIONS:** Defendant shall comply with the following other conditions during the term of community placement/custody:

10. Do not purchase, possess or use any illegal drug or drug paraphernalia and submit to urinalysis testing and searches based upon reasonable suspicion of your person, residence, property and vehicle by the Community Corrections Officer to monitor compliance.

11. Do not associate with known users or sellers of illegal drugs.

12. Do not frequent areas known for drug activity, as defined in writing by the Community Corrections Officer.

13. Do not purchase, possess or use alcohol (beverage or medicinal) and submit to testing and searches based upon reasonable suspicion of your person, residence, property and vehicle by the Community Corrections Officer to monitor compliance.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff)

v.

No. 99-1-07761-6 SEA
(Count I)

ADAMS, Devon Paul

Defendant)

JUDGMENT AND SENTENCE
(FELONY) – APPENDIX H
COMMUNITY PLACEMENT/CUSTODY

- 14. Do not enter any business where alcohol is the primary commodity for sale.
- 15. Do not purchase, possess, control or use any deadly weapon and submit to searches based upon reasonable suspicion of your person, residence, property and vehicle by the Community Corrections Officer to monitor compliance.
- 16. Obtain a written substance abuse evaluation from a qualified provider and complete all treatment recommendations, as approved and directed by the Community Corrections Officer.
- 17. Engage in and make reasonable progress in the Department of Corrections Moral Reconciliation Therapy (MRT) program.
- 18. Report to the Department of Corrections and successfully complete the Victim Awareness Education Program (VAEP); as directed by the Community Corrections Officer.

continue therapy

Date:

9/1/00

[Signature]

JUDGE, KING COUNTY SUPERIOR COURT

APPENDIX H – COMMUNITY PLACEMENT/CUSTODY

APPENDIX T

CC Sent Guide JAN 5 2001

RECEIVED CRIMINAL DESK JAN 5 2001

FILED
KING COUNTY, WASHINGTON
OCT 05 2000
SUPERIOR COURT CLERK
BY JOSEPH MASON
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,	)	NO. 99-1-07761-6 SEA
)	
Plaintiff.	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW RE:
v.	)	EXCEPTIONAL SENTENCE
)	
DEVON ADAMS,)	
)	
Defendant.)	

The court having presided over this cause at trial, and having held a sentencing hearing on September 1, 2000, James J. Konat, Sr. DPA, representing the State, Michael Danko representing the defendant, and having reviewed the parties' pre-sentence statements, taking testimony from John Berberich, Ph.D., and hearing argument from counsel, hereby enters the following findings of fact and conclusions of law regarding the exceptional sentence entered by the court on September 1, 2000.

FINDINGS OF FACT

- The court, based on the evidence adduced at ^{sentencing} ~~trial~~, finds that a substantial question regarding the defendant's intent and mental state ^{at the time of the offense} ~~was presented at trial~~ considering the facts and circumstances of the offense, ^{as presented at trial.} ~~as presented at trial.~~
- The court finds that the issue of diminished capacity raised in this case constitutes a "failed defense."
- The court, based on the evidence presented by John Berberich,

F/F & Concl. Law - Except. Sent. - 1

ORIGINAL

MICHAEL DANKO
ATTORNEY AT LAW
PIONEER BUILDING • SUITE 205
600 FIRST AVENUE
SEATTLE, WASHINGTON 98104
206 623-4644 • FAX 206 623-6340

1 Ph.D., who testified on behalf of the defense, credibly
 2 established that the defendant suffers from a psychological
 3 disorder, Post Traumatic Stress Disorder, (as well as other
 4 disorders) which ^{more likely than not} ~~substantially~~ affected his conduct at the time
 5 of the homicide.

6 3. The court finds that the psychological disorders affecting the
 7 defendant at the time of the offense are distinguishable from
 8 ^{the effects of} any drugs or alcohol which may have been consumed by the
 9 defendant.

10 4. The court finds that the defendant's mental state at the time of
 11 the offense substantially affected and diminished his capacity
 12 to appreciate the wrongfulness of his conduct or to conform his
 13 conduct to the requirements of law. Albeit a "failed defense"
 14 at trial, the court may consider this factor and the evidence in
 15 determining an appropriate sentence.

16 5. The court finds that the defendant's conduct at the time of the
 17 offense can ^{reasonably} ~~only~~ be explained by his diminished capacity which
 18 does not ~~rise~~ rise to a complete defense but definitely affected the
 19 course of his conduct, and plays a significant role in
 20 determining an appropriate sentence.

21 CONCLUSIONS OF LAW

22 1. The court concludes from the evidence before it that there are
 23 compelling and substantial reasons for imposing an exceptional
 24 sentence downward, ^{namely,} ~~the~~ the psychological disorders affecting the
 25 defendant at the time of the offense justifying a mitigated

26 F/F & Concl. Law - Except. Sent. - 2

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sentence pursuant to RCW 9.94A.390(1)(e).

- 2. The court concludes that the compelling and substantial reasons found by the court warrant this court to deviate from the presumptive sentence in this case because the defendant's mental state and capacity make him less blameworthy than one who committed a similar offense without being affected by substantive psychological disorders like the ones affecting the defendant.
- 3. The court, concluding that a mitigated sentence is warranted and justified, enters an exceptional sentence downward, and incorporates its Judgment and Sentence into these conclusions.

Dated 10/4/00

Carl Sel
Hon. C. Schapira

Presented by:
Michael Danko
Michael Danko #14312

Approved as to form:
State's objections
James Konat #16082
noted and attached
CMB



APPENDIX U

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

PLAINTIFF,

VS.

ADAMS, DEVON

DEFENDANT.

NO. EGG-1-07761-6 SEA

NO. 1 SER - 2 AM 1:01
SUPERIOR COURT CLERK
SEATTLE, WA.

NOTICE OF RIGHTS ON APPEAL AND
CERTIFICATE OF COMPLIANCE WITH
SUPERIOR COURT RULES

The undersigned hereby certifies that at the time of sentencing the above-named defendant was orally advised by the court of the following:

1. You have a right to appeal your conviction.
2. You have the right to appeal a sentence outside the standard sentence range. The sentence that has been imposed (is) ~~is not~~ outside the standard sentence range.
3. You are advised that unless a written notice of appeal is filed within 30 days after the entry of the judgment herein (which is today), the right of appeal is irrevocably waived. The original and one (1) copy of the notice of appeal must be filed with, and the filing fee paid to, the Clerk of the Superior Court within 30 days after the entry of the judgment herein. If you are authorized to proceed in forma pauperis, that order must be filed with the notice of appeal in lieu of the filing fee.
4. The Superior Court Clerk will, if requested by you if you do not have an attorney, supply you with a notice of appeal form and file it upon completion by you.
5. You have the right, if you are unable to pay the cost thereof, to have counsel appointed and portions of the trial record necessary for review of assigned errors transcribed at public expense for an appeal.
6. You are advised that pursuant to RCW 10.73.090 you have one (1) year from this date to file a petition or motion for collateral attack on the judgment herein. However, you are also advised that pursuant to RCW 10.73.100 that the one (1) year time limit does not apply to certain grounds as are more particularly set forth therein. (Said statutes are set forth on the backside hereof.)

A copy of this certificate was delivered to the defendant on this date.

Dated: SEPTEMBER 1, ²⁰⁰⁰199.

JUDGE

Copy Received:

Devon Adams
Defendant

I am fluent in the _____ language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____, 199_____.

Interpreter

RCW 10.73.090. Collateral attack - One year time limit

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

(2) For the purposes of this section, "collateral attack" means any form of post-conviction relief other than a direct appeal. "Collateral attack" includes, but is not limited to, a personal restraint petition, a habeas corpus petition, a motion to vacate judgment, a motion to withdraw guilty plea, a motion for a new trial, and a motion to arrest judgment.

(3) For the purposes of this section, a judgment becomes final on the last of the following dates:

(a) The date it is filed with the clerk of the trial court;

(b) The date that an appellate court issues its mandate disposing of a timely direct appeal from the conviction; or

(c) The date that the United States Supreme Court denies a timely petition for certiorari to review a decision affirming the conviction on direct appeal. The filing of a motion to reconsider denial of certiorari does not prevent a judgment from becoming final.

RCW 10.73.100 Collateral attack - When one year limit not applicable

The time limit specified in RCW 10.73.090 does not apply to a petition or motion that is based solely on one or more of the following grounds:

(1) Newly discovered evidence, if the defendant acted with reasonable diligence in discovering the evidence and filing the petition or motion;

(2) The statute that the defendant was convicted of violating was unconstitutional on its face or as applied to the defendant's conduct;

(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

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

APPENDIX V

Trial



SUPERIOR COURT OF WASHINGTON
COUNTY OF KING

FILED

00 SEP 5 AM 11:32

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

STATE OF WASHINGTON

No. 99-1-07761-6 SEA

vs.

DEFENDANT'S WAIVER OF THIRTY
DAY DELAY PRIOR TO TRANSFER
TO DEPARTMENT OF CORRECTIONS
(RCW 36.63.255)

DEVON ADAMS

Defendant

SEP 5 2000
ISSUED
WARRANT OF TRANSFER

I am the defendant in the above-entitled case and I understand that I have been sentenced to the custody of the Department of Corrections following a trial. I understand that I have the right to appeal from the court's sentence. I further understand that I have 30 days from the date of sentencing to post appeal bond or satisfy any other conditions of release on appeal and to file notice of appeal. Without waiving my right to appeal within 30 days, I hereby voluntarily waive my right to be held in the King County Jail for thirty days (30) prior to being transported to the Department of Corrections.

DATED: 9-4, 192000

Devon Adams
Defendant DEVON ADAMS

Michael Danko 14312
Attorney for Defendant
Michael DANKO #14312



Handwritten initials/signature

APPENDIX W

FILED

The Hon. Carol Schapira

2009 APR -6 PM 1:55

-6 APR 2009 13 51

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

DEPARTMENT OF
JUDICIAL ADMINISTRATION
KING COUNTY, WASHINGTON

TRACTIVANT

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR
FOR KING COUNTY**

STATE OF WASHINGTON,

NO. 99-1-07761- 6 SEA

Plaintiff,

MOTION TO VACATE JUDGMENT
DUE TO INCORRECT OFFENDER
SCORE

v.

DEVON P. ADAMS,

Defendant.

MOTION

On September 5, 2000, Devon Adams was sentenced to a total of 360 months in prison for the crimes of murder and unlawful possession of a gun after this Court found an offender score of '9;" a resulting "standard range" of 461-608 months; and then imposed an exceptionally low sentence. *See Judgment and Sentence* attached as Appendix A. Because several of Mr. Adams' prior convictions were committed before he was 15 years old, those convictions should not have counted in his offender score. *See Juvenile Court Documents* attached as Appendix B.

Mr. Adams now moves this Court to vacate his current sentence and resentence him. If this Court grants Adams' motion, he will prepare and file a presentence report.

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ARGUMENT

Devon Adams' date of birth is April 18, 1979. Thus, he turned 15 years old on April 18, 1994. This Court counted the following juvenile convictions, committed when Adams was 14, in his offender score:

<u>Conviction</u>	<u>Case No.</u>	<u>Date of Crime</u>
TMVWOP	94-8-00442-7	October 30, 1993
TMVWOP	94-8-01386-8	November 25, 1993
Resid. Burg.	94-8-04164-1	March 24, 1994
TMVOP	94-8-04411-9	March 30, 1994
TMVWOP	94-8-02490-8	April 17, 1994

Prior to 1997, under former RCW 9.94A.030(12)(b) (1996), the criminal history used to calculate an offender score under RCW 9.94A.360(4) did not include juvenile adjudications other than sex offenses and serious violent offenses unless the defendant was 15 or older when they were committed. Those offenses committed prior to age 15 were said to have washed out. *State v. Smith*, 144 Wn.2d 665, 670-71, 30 P.3d 1245, 39 P.3d 294 (2001).

In 1997, the legislature amended RCW 9.94A.030(12) to include prior juvenile adjudications in the offender score. Laws of 1997 ch. 38, sec. 2. A question thus loomed as to whether elimination of the juvenile wash out provisions applied to juvenile adjudications occurring prior to the 1997 amendment in sentencings for offenses committed after the amendment.

1 Albeit in the different context of whether washed out sex offenses could be
2 revived by a 1990 amendment eliminating those offenses from wash out provisions, the
3 court in Cruz held that such amendments to the Sentencing Reform Act were not
4 retroactive. *State v. Cruz*, 139 Wn.2d 186, 190, 985 P.2d 384 (1999). Thus, a washed out
5 1975 sex offense was not includable in the offender score calculation in Cruz's 1994
6 sentencing. *Cruz*, 139 Wn.2d at 193.

7
8
9 In 2000, the legislature responded to Cruz by enacting RCW 9.94A.345. The
10 statute states: "Any sentence imposed under this chapter shall be determined in
11 accordance with the law in effect when the current offense was committed." Laws of
12 2000, ch. 26, sec. 2. The legislature included in the statutory note a statement that its
13 intent was to cure any ambiguity that might have led to the Cruz decision. RCW
14 9.94A.345 Intent-2000 c 26.

15
16
17 But in *State v. Smith*, 144 Wn.2d 665, the court relied on the Cruz rationale and
18 held that neither the 1997 nor 2000 amendment is retroactive so as to revive previously
19 washed out juvenile adjudications for purposes of calculating a defendant's current
20 offender score. *Smith*, 144 Wn.2d at 672-75. Smith explained that the 2000 amendment
21 and its comment evinced no clear legislative intent for the 1997 amendment to apply
22 retroactively. *Smith*, 144 Wn.2d at 672. Thus, the court held that the defendants' prior
23 juvenile adjudications for pre-1997 offenses remained washed out. *Smith*, 144 Wn.2d at
24 674-75.

25
26
27 Here, the five cases cited previously should not have been counted in Adams'
28 offender score.

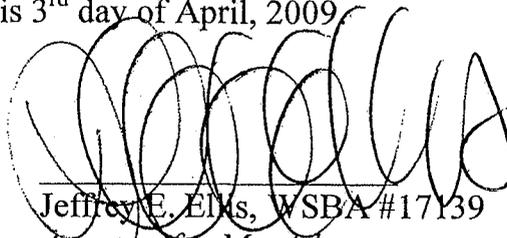
1 Although Adams' judgment has been final for more than a year, because it is
2 based on a clearly erroneous offender score it is invalid on its face. A judgment and
3 sentence is invalid on its face when it evidences the invalidity without further
4 elaboration. *In re Pers. Restraint of Hemenway*, 147 Wn.2d 529, 532, 55 P.3d 615
5 (2002). The phrase "on its face" includes documents signed as part of a plea agreement.
6
7 *In re Pers. Restraint of Thompson*, 141 Wn.2d 712, 718, 10 P.3d 380 (2000). The
8 erroneous inclusion of juvenile offenses counted towards an offender score that actually
9 "washed out" and could not be legally considered constitutes a facial invalidity. *In re*
10 *Personal Restraint of Goodwin*, 146 Wn.2d 861, 866-67, 50 P.3d 618 (2002).
11
12

13
14 Thus, Adams can seek correction of this error, now.

15 **CONCLUSION**

16
17 Based on the above, this Court should direct the State to respond, schedule a
18 hearing on the motion if the State objects, and grant Mr. Adams motion to vacate his
19 judgment. This Court should then schedule this case for a new sentencing hearing.
20

21 DATED this 3rd day of April, 2009

22
23
24 
25 Jeffrey E. Ellis, WSBA #17139
26 Attorney for Mr. Adams

27 Law Offices of Ellis, Holmes
28 & Witchley, PLLC
29 705 Second Avenue, Suite 401
30 Seattle, WA 98104
(206) 262-0300
(206) 262-0335 (fax)
ellis_jeff@hotmail.com

APPENDIX X

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
Plaintiff,	)	No. 99-1-07761-6 SEA
)	
Vs.	)	JUDGMENT AND SENTENCE
	)	FELONY (FJS)
DEVON P. ADAMS	)	ON RESENTENCING
)	
Defendant,)	

I. HEARING

I.1 The defendant, the defendant's lawyer, JEFF ELLIS, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: _____

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 04/06/2000 by jury verdict of:

Count No.: I Crime: MURDER IN THE FIRST DEGREE
RCW 9A.32.030 (1) (a) Crime Code: 00124
Date of Crime: 09/08/1999 Incident No. _____

Count No.: II Crime: UNLAWFUL POSSESSION OF A FIREARM IN THE SECOND DEGREE
RCW 9A.1.040 Crime Code: 00524
Date of Crime: 09/09/1999 Incident No. _____

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

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

[] Additional current offenses are attached in **Appendix A**

SPECIAL VERDICT or FINDING(S):

- (a) While armed with a **firearm** in count(s) I RCW 9.94A.510(3).
- (b) While armed with a **deadly weapon** other than a firearm in count(s) I RCW 9.94A.510(4).
- (c) With a **sexual motivation** in count(s) _____ RCW 9.94A.835.
- (d) A V.U.C.S.A. offense committed in a **protected zone** in count(s) _____ RCW 69.50.435.
- (e) **Vehicular homicide** Violent traffic offense DUI Reckless Disregard.
- (f) **Vehicular homicide** by DUI with _____ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.510(7).
- (g) **Non-parental kidnapping** or unlawful imprisonment with a minor victim. RCW 9A.44.130.
- (h) **Domestic violence** offense as defined in RCW 10.99.020 for count(s) _____.
- (i) Current offenses **encompassing the same criminal conduct** in this cause are count(s) _____ RCW 9.94A.589(1)(a).

2.2 **OTHER CURRENT CONVICTION(S):** Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

Criminal history is attached in **Appendix B**.

One point added for offense(s) committed while under community placement for count(s) _____

2.4 SENTENCING DATA:

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count I	6	XV	312 TO 416	+60 MONTHS 24	336 TO 476 440 MONTHS	LIFE AND/OR \$50,000
Count II	5	III	17 TO 22		17 TO 22 MONTHS	5 YRS AND/OR \$10,000
Count						
Count						

Additional current offense sentencing data is attached in **Appendix C**.

2.5 EXCEPTIONAL SENTENCE (RCW 9.94A.535):

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 D**. The State did did not recommend a similar sentence.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and **Appendix A**.

The Court **DISMISSES** Count(s) _____

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
- Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(2), sets forth those circumstances in attached Appendix E.
- Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
 - Date to be set.
 - Defendant waives presence at future restitution hearing(s).
 - Restitution is not ordered.

ON DECEMBER 26, 2000 THE COURT SIGNED AN ORDER OF RESTITUTION IN THE AMOUNT OF \$2,850.00 IN ADDITION TO THE \$500 V.P.A.

→ Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a) \$ _____, Court costs; Court costs are waived; (RCW 9.94A.030, 10.01.160)
- (b) \$100 DNA collection fee (RCW 43.43.754)(mandatory for crimes committed after 7/1/02);
- (c) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs; Recoupment is waived (RCW 9.94A.030);
- (d) \$ _____, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA; VUCSA fine waived (RCW 69.50.430);
- (e) \$ _____, King County Interlocal Drug Fund; Drug Fund payment is waived; (RCW 9.94A.030)
- (f) \$ _____, State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);
- (g) \$ _____, Incarceration costs; Incarceration costs waived (RCW 9.94A.760(2));
- (h) \$ _____, Other costs for: _____

AKS

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 3,350. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month; On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. **The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied.** Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

AKS

- Court Clerk's trust fees are waived.
- Interest is waived except with respect to restitution.

4.4 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: [] immediately; [] (Date): _____ by _____ .m.

280 months/days on count I; _____ months/days on count _____; _____ months/day on count _____

17 months/days on count II; _____ months/days on count _____; _____ months/day on count _____

The above terms for counts _____ are consecutive / concurrent.

The above terms shall run [] CONSECUTIVE [] CONCURRENT to cause No.(s) 02-1-00637-6 SEA

The above terms shall run [] CONSECUTIVE [] CONCURRENT to any previously imposed sentence not referred to in this order.

[] In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special WEAPON finding(s) in section 2.1: 24 MONTHS

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (Use this section only for crimes committed after 6-10-98)

[] The enhancement term(s) for any special WEAPON findings in section 2.1 is/are included within the term(s) imposed above. (Use this section when appropriate, but for crimes before 6-11-98 only, per In Re Charles)

The TOTAL of all terms imposed in this cause is 304 months.

Credit is given for [] All days served [] days as determined by the King County Jail, solely for confinement under this cause number pursuant to RCW 9.94A.505(6).

4.5 NO CONTACT: For the maximum term of Life years, defendant shall have no contact with any member of the victim's family.

4.6 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, as ordered in APPENDIX G.

[] HIV TESTING: For sex offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in APPENDIX G.

4.7 (a) [] COMMUNITY PLACEMENT pursuant to RCW 9.94A.700, for SEE ORDER on COMMUNITY PLACEMENT ATTACHED - CRIME COMMITTED qualifying crimes committed before 7-1-2000, is ordered for _____ months or for the period of earned early release awarded pursuant to RCW 9.94A.728, whichever is longer. [24 months for any serious violent offense, vehicular homicide, vehicular assault, or sex offense prior to 6-6-96; 12 months for any assault 2°, assault of a child 2°, felony violation of RCW 69.50/52, any crime against person defined in RCW 9.94A.411 not otherwise described above.] APPENDIX H for Community Placement conditions is attached and incorporated herein.

(b) [] COMMUNITY CUSTODY pursuant to RCW 9.94.710 for any SEX OFFENSE committed after 6-5-96 but before 7-1-2000, is ordered for a period of 36 months or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. APPENDIX H for Community Custody Conditions and APPENDIX J for sex offender registration is attached and incorporated herein.

- (c) **COMMUNITY CUSTODY** - pursuant to RCW 9.94A.715 for qualifying crimes committed after 6-30-2000 is ordered for the following established range:
- Sex Offense, RCW 9.94A.030 - 36 to 48 months—when not sentenced under RCW 9.94A.712
 - Serious Violent Offense, RCW 9.94A.030 - 24 to 48 months
 - Violent Offense, RCW 9.94A.030 - 18 to 36 months
 - Crime Against Person, RCW 9.94A.411 - 9 to 18 months
 - Felony Violation of RCW 69.50/52 - 9 to 12 months

or for the entire period of earned early release awarded under RCW 9.94A.728, whichever is longer. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.737.

APPENDIX H for Community Custody conditions is attached and incorporated herein.

APPENDIX J for sex offender registration is attached and incorporated herein.

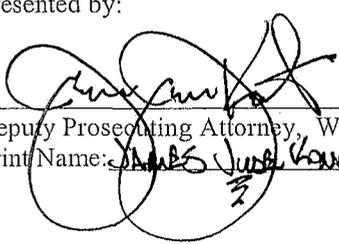
4.8 **WORK ETHIC CAMP:** The court finds that the defendant is eligible for work ethic camp, is likely to qualify under RCW 9.94A.690 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the defendant shall be released to community custody for any remaining time of total confinement. The defendant shall comply with all mandatory statutory requirements of community custody set forth in RCW 9.94A.700. **Appendix H** for Community Custody Conditions is attached and incorporated herein.

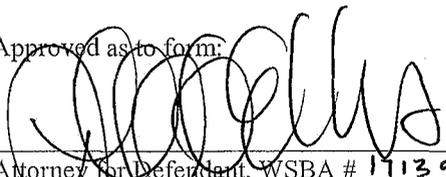
4.9 **ARMED CRIME COMPLIANCE, RCW 9.94A.475, 480.** The State's plea/sentencing agreement is attached as follows:

The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

Date: June 1, 2009


 JUDGE
 Print Name: Carol Schapira

Presented by:

 Deputy Prosecuting Attorney, WSBA# 16082
 Print Name: James J. Hunt

Approved as to form:

 Attorney for Defendant, WSBA # 17139
 Print Name: JEFF ELLIS

FINGERPRINTS



RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE: *Devon Paul Adams*
DEFENDANT'S ADDRESS: DOC

DEVON PAUL ADAMS

DATED: 5/1/09

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK

BY: *Barbara Miner*
DEPUTY CLERK

Devon Paul Adams
JUDGE KING COUNTY SUPERIOR COURT

CERTIFICATE

I, _____,
CLERK OF THIS COURT, CERTIFY THAT
THE ABOVE IS A TRUE COPY OF THE
JUDGEMENT AND SENTENCE IN THIS
ACTION ON RECORD IN MY OFFICE.
DATED: _____

OFFENDER IDENTIFICATION

S.I.D. NO. WA16751604

DOB: APRIL 18, 1979

SEX: M

RACE: W

CLERK

BY: _____
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

DEVON P. ADAMS

Defendant,

No. 99-1-07761-6 SEA

JUDGMENT AND SENTENCE,
(FELONY) - APPENDIX B,
CRIMINAL HISTORY

2.2 The defendant has the following criminal history used in calculating the offender score (RCW 9.94A.525):

Adult Felonies:
Crime

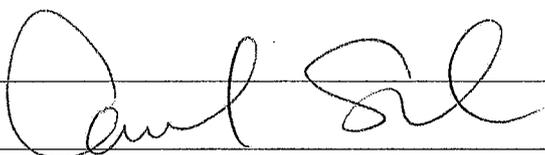
Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
TMVWOP 6.13.98	7.17.98	A	98-1-05301-8	KING Co
felony Veh. N.C.O. 12.13.98	6.25.99	A	98-1-10272-8	KING Co.

Juvenile Court:

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
Res. Burg 8.5.94	12.28.94	J	94-8-04571-8	KING.
Robbery 1 ^o 9.5.94	11.9.94	J	94-8-05746-6	KING
Escape 1 ^o 11.22.95	2.28.96	J	94-8-01039-3	KING
VUFA 2 ^o 12.20.96	5.5.97	J	96-8-08537-7	KING

[] The following prior convictions were counted as one offense in determining the offender score (RCW 9.94A.525(5)):

Date: 6.1.9



 JUDGE, KING COUNTY SUPERIOR COURT
 CAROL SHAPIRO

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
Plaintiff,	)	No. 99-1-07761-6 SEA
)	
vs.	)	APPENDIX G
	)	ORDER FOR BIOLOGICAL TESTING
DEVON P. ADAMS	)	AND COUNSELING
)	
Defendant,)	
)	

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

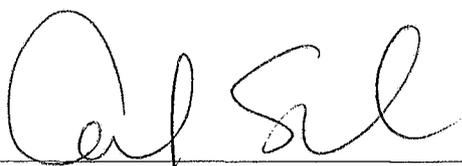
(2) HIV TESTING AND COUNSELING (RCW 70.24.340):

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 205-7837 to make arrangements for the test to be conducted within 30 days.

If (2) is checked, two independent biological samples shall be taken.

Date: June 1, 2009



JUDGE, King County Superior Court
CAROL SHAPIRA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

PAGE 1 of 2

STATE OF WASHINGTON

Plaintiff)

v.

No. 99-1-07761-6 SEA
(Count I)

June 1, 2009

ADAMS, Devon Paul

Defendant)

JUDGMENT AND SENTENCE
(FELONY) – APPENDIX H
COMMUNITY PLACEMENT/CUSTODY

The court having found the defendant guilty of offense(s) qualifying for community placement/custody, it is further ordered as set forth below.

COMMUNITY PLACEMENT/CUSTODY: Defendant additionally is sentenced on convictions herein, for each sex offense and serious violent offense committed on or after June 6, 1996, to community placement/custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150(1) and (2) whichever is longer; and on conviction herein for an offense categorized as a sex offense or a serious violent offense committed on or after July 1, 1990, but before June 6, 1996, to community placement for two years or up to the period of earned release awarded pursuant to RCW 9.94A.150(1) and (2) whichever is longer; and on conviction herein for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, to a one-year term of community placement.

Community placement/custody is to begin either upon completion of the term of confinement or at such time as the defendant is transferred to community custody in lieu of early release.

(a) MANDATORY CONDITIONS: Defendant shall comply with the following conditions during the term of community placement/custody:

- (1) Report to and be available for contact with the assigned Community Corrections Officer as directed;
(2) Work at Department of Corrections-approved education, employment, and/or community service;
(3) Not consume controlled substances except pursuant to lawfully issued prescriptions;
(4) While in community custody not unlawfully possess controlled substances;
(5) Pay supervision fees as determined by the Department of Corrections;
(6) Receive prior approval for living arrangements and residence location;
(7) Defendant shall not own, use or possess a firearm or ammunition when sentenced to community service, community supervision or both (RCW 9.94A.120(13));
(8) Notify Community Corrections Officer of any change in address or employment; and
(9) Remain within geographic boundary, as set forth in writing by the Community Corrections Officer.

WAIVER: The following above-listed mandatory conditions are waived by the court:

(b) OTHER CONDITIONS: Defendant shall comply with the following other conditions during the term of community placement/custody:

10. Do not purchase, possess or use any illegal drug or drug paraphernalia and submit to urinalysis testing and searches based upon reasonable suspicion of your person, residence, property and vehicle by the Community Corrections Officer to monitor compliance.

11. Do not associate with known users or sellers of illegal drugs.

12. Do not frequent areas known for drug activity, as defined in writing by the Community Corrections Officer.

13. Do not purchase, possess or use alcohol (beverage or medicinal) and submit to testing and searches based upon reasonable suspicion of your person, residence, property and vehicle by the Community Corrections Officer to monitor compliance.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff)

v.)

ADAMS, Devon Paul

Defendant)

No. 99-1-07761-6 SEA
(Count I)

JUDGMENT AND SENTENCE
(FELONY) – APPENDIX H
COMMUNITY PLACEMENT/CUSTODY

14. Do not enter any business where alcohol is the primary commodity for sale.
15. Do not purchase, possess, control or use any deadly weapon and submit to searches based upon reasonable suspicion of your person, residence, property and vehicle by the Community Corrections Officer to monitor compliance.
16. Obtain a written substance abuse evaluation from a qualified provider and complete all treatment recommendations, as approved and directed by the Community Corrections Officer.
17. Engage in and make reasonable progress in the Department of Corrections Moral Reconciliation Therapy (MRT) program. *Continue therapy*
18. Report to the Department of Corrections and successfully complete the Victim Awareness Education Program (VAEP); as directed by the Community Corrections Officer.

Date:

[Handwritten signature]

JUDGE, KING COUNTY SUPERIOR COURT

APPENDIX H – COMMUNITY PLACEMENT/CUSTODY

JUNE 1, 2009

[Handwritten signature]
JUDGE CAROL SHAPRA

APPENDIX Y

40318-3

9-13-01
PETITIONER MAY FILE PETITION
WITHOUT PAYMENT OF FILING FEE

STATE OF WASHINGTON COURT OF APPEALS
DIVISION 1

COURT OF APPEALS FILED
2001 AUG 27 11:07
9/12/01

[Signature]
COURT ADMINISTRATOR/CLERK
DEVON ADAMS
Petitioner.

PERSONAL RESTRAINT PETITION

NO. 90-1-07761-6 22A

If there is not enough room on this form, attach other sheets of paper. Fill out all of this form and other papers you are attaching before you sign this in front of a notary.

A. STATUS OF PETITIONER

I, DEVON PAUL ADAMS #783625 WASHINGTON STATE PENITENTIARY 1313 N 13TH AVE, WALLA WALLA 99362 (full name and address)

apply for relief from confinement. I am X am not now in custody serving a sentence upon conviction of a crime. (If not serving a sentence upon conviction of a crime) I am now in custody because of the following type of court order: 300 MONTHS FOR THE CONVICTION OF MURDER IN THE FIRST DEGREE
60 MONTHS FOR THE WEAPON ENHANCEMENT

(identify type of order)

- The court in which I was sentenced is KING COUNTY SUPERIOR COURT
- I was convicted of the crime (s) of MURDER IN THE FIRST DEGREE (COUNT 1) WITH A WEAPON ENHANCEMENT, AND UNLAWFUL POSSESSION OF A FIREARM IN THE SECOND DEGREE
- I was sentenced after trial X, after plea of guilty on SEPTEMBER 1, 2000 (date of sentence)
- The judge who imposed sentence was HON. CAROL TCHIVIRA (name of trial court judge)
- My Lawyer at trial court was MICHAEL SANDO PIONEER BUILDING - SUITE 205 (name and address if known; if none, write none)
600 FIRST AVENUE - SEATTLE WA 98104

B. GROUNDS FOR RELIEF

(If I claim more than one reason for relief from confinement, I attached sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground", "Second Ground", ect.)

I claim that I have 1 (number) reason(s) for this court to grant me relief from the conviction and sentence described in Part A.

1 Ground

1. I should be given a new trial or released from confinement because (here state legal reasons why you think there was some error made in your case which gives you the right to a new trial or release from confinement):

DUE TO LACK OF COMMUNICATION MY LAWYER FAILED TO REPRESENT ME.

2. The following facts are important when considering my case (After each fact statement, put the name of the person or persons who know the fact and will support your statement of fact. If the fact is already in the record of your case, indicate that, also.):

SEE ATTACHED

3. The following reported court decision (include the citations if possible) in cases similar to mine show the error I believe happened in my case (If none are known, state "none known".)

NONE KNOWN AT THIS TIME

4. The following statutes and constitutional provisions should be considered by the court (If none known, state "None known".)

NONE KNOWN AT THIS TIME

5. I did _____ did not appeal from the decision of the trial court. (If the answer is that I did), I appealed to _____
(name of court or court's to which appeal was taken)

My lawyer on appeal was _____
(name and address if known; if none write "none")

The decision of the appellate court was _____ was not _____ published. (If the answer is that it was published, and I have this information), the decision is published in _____
(volume number, Washington Appellate Reports or Washington Reports, and page number)

6. Since my conviction I have _____ have not asked the court for some relief from my sentence other than I have written above. (If the answer is that I have asked, the court I asked was _____
NONE
(name of court or courts in which relief was sought)

7. (If I have answered in question 6 that I did ask for relief), the name of my lawyer in the proceeding mentioned in my answer to question 6 was _____
NONE
(name and address if known, if none, write "none")

8. If the answer to the above questions do not really tell about the proceedings and the courts, judges and attorneys involved in your case tell about it here:
NONE

5. This petition is the best way I know to get the relief I want, and no other way will work as well because:

I HAVE NO OPPORTUNITY TO EVEN FILE AN APPEAL WITH THE COURTS
DUE TO MY ATTORNEYS ACTIONS. I ASK THAT I BE GIVEN AN OPPORTUNITY
TO GO TO TRIAL AGAIN, OR BE GRANTED AN OPPORTUNITY TO FILE MY APPEAL
WITH THE APPEALS COURT. I TRULY BELIEVE IF MY ATTORNEY HAD
EFFECTIVELY REPRESENTED ME, THE OUTCOME OF MY CASE WOULD
HAVE BEEN DIFFERENT.

STATEMENT OF FINANCES

If you cannot afford to pay the \$250 filing fee or cannot afford to pay an attorney to help you, fill this out. If you have enough money for these things, do not fill out this part of the form.

1. I do do not ask the court to file this without making me pay the \$250 filing fee because I am so poor I cannot pay the fee.

2. I have \$ 25.01 in my prison or institution account.

3. I do do not ask the court to appoint a lawyer for me because I am so poor I cannot afford to pay a lawyer.

4. I am am not employed. My salary or wages amount to \$ _____ a month. My employer is _____

(Name and address)

5. During the past 12 months I did did not get any money from a business, profession or other form of self-employment. (If I did, it was _____

(Kind of self-employment)

and the total income I got was \$ _____.

6. During the past 12 months, I

did did not get any rent payments. If so, the total amount I got was \$ _____.

get any interest. If so, the total amount I got was \$ _____.

get any dividends. If so, the total amount I got was \$ _____.

get any other money. If so, the amount of money I got was \$ _____.

the total amount of cash I have is \$ _____.
 I have any savings accounts or checking accounts.
 If so, the amount in all accounts is \$ _____.
 I own stocks, bonds, or notes. If so, their total
 value is \$ _____.

8. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what each item of property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

<u>Items</u>	<u>Value</u>
NONE	

9. I am am not married. If I am married, my wife or husband's name and address is MUEL SAETURN 6409 44TH AVE S. SEATTLE, WA
98118

10. All of the persons who need me to support them are listed here.

<u>Name and Address</u>	<u>Relationship</u>	<u>Age</u>
NONE		

11. All the bills I owe are listed here.

<u>Name of creditor</u> <u>you owe money to</u>	<u>Address</u>	<u>Amount</u>
NONE		

D. REQUEST FOR HEARINGS

I want this Court to:

vacate my conviction and give me a new trial. OR

vacate my conviction and dismiss the criminal charges against me without a new trial.

other: ALLOW ME THE OPPORTUNITY TO HAVE MY CASE HEARD
(Specify)

IN THE COURT OF APPEALS OR CONSIDER FOR A RETRIAL

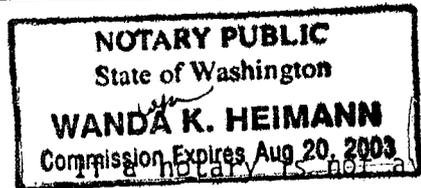
E. OATH OF PETITIONER

STATE OF WASHINGTON }
COUNTY OF Walla Walla } ss:

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

Devon Adams
(Sign here)

SUBSCRIBED AND SWORN to before me this 23rd day of August, 2007.



Wanda K. Heimann
Notary Public in and for the State of Washington, residing at Walla Walla, WA
My commission expires 8/20/08

If a notary is not available, explain why none is available and indicate who can be contacted to help you find a Notary:

Then sign below:

I declare that I have examined this petition and to the best of my knowledge and belief it is true and correct.

DATED this _____ day of _____, 2007.

(Sign here)

GROUND TWO

3 DAYS BEFORE MY TRIAL STARTED MY LAWYER MICHAEL DANKO HAD A PHONE CONFERENCE WITH THE PROSECUTOR, DURING THAT CONVERSATION THE PROSECUTOR OFFERED A DEAL FOR A PLEA OF MURDER IN THE SECOND DEGREE. AT THE TIME OF THE CONVERSATION BETWEEN MY LAWYER AND AND THE PROSECUTOR, MR. DANKO WAS IN ARIZONA. HE CAME BACK THE NIGHT BEFORE MY TRIAL WHICH WAS THE 26TH OF MARCH, THE NEXT DAY I SAW MR. DANKO IN COURT AND HE MENTIONED NOTHING. THE DAY AFTER MY CONVICTION A FRIEND OF MINE WAS READING A LOCAL NEWSPAPER (SEATTLE TIMES OR SEATTLE P-I) ARTICLE AND MENTIONED TO ME THAT IT STATED THE PROSECUTOR OFFERED A PLEA OF MURDER IN THE SECOND DEGREE. WHEN I ASKED MR. DANKO ABOUT THE OFFER THE PROSECUTOR MADE, HE SAID IT WAS NEVER SERIOUSLY DISCUSSED. I TOLD HIM THAT HE SHOULDVE ATLEAST TOLD ME, AND HE AGAIN STATED THAT IS WAS NEVER REALLY DISCUSSED.

DURING THE PHONE CONFERENCE BETWEEN MY LAWYER MICHAEL DANKO AND THE PROSECUTOR JAMES KONAT THEY GOT INTO AN ARGUMENT WHICH RESULTED IN MY LAWYER HANGING UP ON MR. KONAT.¹ MY LAWYER WAS NOT INTERESTED IN A MURDER TWO PLEA, HE INSISTED ON A MANSLAUGHTER CHARGE, WHICH I NEVER KNEW ABOUT.¹ THIS ARGUMENT WAS DISCUSSED ON THE RECORD AT THE FIRST DAY OF TRIAL. I BELIEVE THIS ARGUMENT BETWEEN MY LAWYER AND THE PROSECUTOR EFFECTED MY LAWYERS WILLINGNESS TO COME TO AN AGREEMENT WITH MR. KONAT THE PROSECUTOR

GROUND THREE

THE TWO WITNESSES, MIKE DIDNT TELL ME ABOUT

DURING MY TIME WAITING FOR TRIAL MY LAWYER MR. DANKO TOLD ME THAT THERE WERE A TOTAL OF 4 WITNESSES THAT THE STATE HAD. THREE OF THEM HE SAID HE HAD TALKED TO, THE OTHER WITNESS SCOOTER VAN LIEU HE SAID WAS NOT IN THE STATE OF WASHINGTON. SO I BELIEVED THERE TO BE ONLY FOUR. ON MY FIRST DAY OF TRIAL THE PROSECUTOR TALKED OF TWO OTHER WITNESSES. MY LAWYER SAID THAT HE HAD NEVER HEARD OF THEM, THE PROSECUTOR TOLD MR. DANKO THAT THERE STATEMENTS HAD BEEN IN THE DISCOVERY. THE PROSECUTOR TOLD HIM WHAT PAGE AND THERE THEY WERE. THE IMPORTANCE OF ONE OF THE WITNESSES A TONY GRAY, WAS CRITICAL IN MY CASE. SCOOTER VAN LIEU AND TONY GRAY WERE RELATED. THEY WERE AT THE SCENE OF THE CRIME. WHILE MR. VAN LIEU CLAIMED TO

HIDING BEHIND A CAR.

BE ONLY FEET AWAY FROM THE CRIME. HIS RELATIVE MR. GRAY WROTE IN HIS STATEMENT THAT MR. VAN LIEU HAD BEEN IN THE HOUSE WITH HIM AT THE TIME OF THE CRIME. MY ATTORNEY MR. DANCO FAILED TO RECOGNIZE THIS, THE WHOLE TIME HE TOLD ME MR. VAN LIEU AND THE THREE OTHER WITNESSES RON BANKS, JASON WHITEN, AND NICOLE WILLIAMS WERE THE ONLY WITNESSES. IF HE HAD THOROUGHLY GONE THROUGH THE DISCOVERY HE WOULD HAVE FOUND MR. GRAY'S STATEMENT AND WOULD HAVE HAD TIME TO INVESTIGATE ON THE STATEMENT MADE BY MR. GRAY.

MR. GRAY'S STATEMENT SAYING HIS BROTHER WAS IN THE HOUSE IS VERY CRITICAL BECAUSE IT IS MR. VAN LIEU'S STATEMENT AND TESTIMONY THAT WAS SUPPOSED TO PROVE PRE-MEDITATION. WITH MR. GRAY'S STATEMENT IT CONFLICTS WITH MR. VAN LIEU'S CLAIMS, TO PROVE MR. DANCO KNEW NOTHING OF MR. GRAY AND ONE OTHER WITNESSES STATEMENTS IT WAS HEARD IN OPEN COURT ON MARCH 27TH, 2000.

APPENDIX Z

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

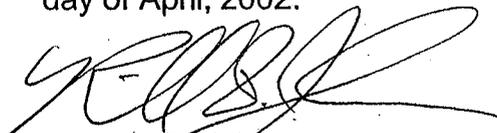
In the Matter of the Personal Restraint Petition of:)	
)	
	)	No. 49318-3-1
)	
DEVON ADAMS,	)	CERTIFICATE OF FINALITY
)	
	)	King County
)	
Petitioner.	)	Superior Court No. 99-1-07761-6.SEA
)	

THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington in
and for King County.

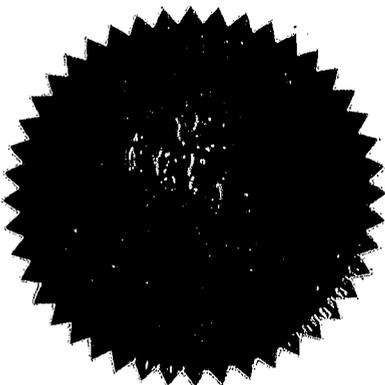
This is to certify that the order of the Court of Appeals of the State of Washington,
Division I, filed on September 26, 2001, became final on April 5, 2002.

c: Devon Adams

IN TESTIMONY WHEREOF, I
have hereunto set my hand
and affixed the seal of
said Court at Seattle, this 5th
day of April, 2002.



Richard D. Johnson
Court Administrator/Clerk of the
Court of Appeals, State of
Washington Division I.



RICHARD D. JOHNSON,
Court Administrator/Clerk

The Court of Appeals
of the
State of Washington
Seattle
98101-4170

DIVISION I
One Union Square
600 University Street
(206) 464-7750
TDD: (206) 587-5505

September 26, 2001

Devon Adams
W.S.P.
D.O.C. #783625
1313 N. 13th Ave.
Walla Walla, WA. 99362

CASE #: 49318-3-1
Personal Restraint Petition Of: Devon Adams

Counsel:

Enclosed please find a copy of the Order Dismissing Personal Restraint Petition entered by this court in the above case today.

Pursuant to RAP 16.14(c), "the decision is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in Rule 13.5(a), (b) and (c)."

This court's file in the above matter has been closed

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

twg

enclosure

No. 49318-3-I

courts due to [his attorney's] actions." While petitioner states he "truly believes[s] if [his] attorney had effectively represented [him], the outcome of [his] case would have been different", those beliefs are not supported by any credible evidence. Self-serving assertions and conclusory allegations, by themselves, are not sufficient to command judicial consideration and discussion in a personal restraint proceeding. In re Rice, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992). Accordingly, petitioner has not stated grounds upon which relief can be granted by way of a personal restraint petition. Now, therefore, it is hereby

ORDERED that the personal restraint petition is dismissed.

Done this 26th day of September, 2001.

Beckere, A.C.J.
Acting Chief Judge

FILED
COURT OF APPEALS
STATE OF WASH.
2001 SEP 26 AM 10:34

APPENDIX a



SUPERIOR COURT OF WASHINGTON
COUNTY OF KING

STATE OF WASHINGTON

Plaintiff,

vs.

Devon P. Adams

Defendant.

FILED
KI COUNTY, WASHINGTON

SEP 01 2000
SUPERIOR COURT CLERK
BY JOSEPH MASON
DEPUTY

No. 99-1-07761-6 SEA
certified copies of criminal
history for sentencing offender score

~~The above-entitled Court, having heard a motion~~

~~IT IS HEREBY ORDERED that~~

DATED: _____, 19____

Deputy Prosecuting Attorney

Attorney for Defendant

~~_____
JUDGE~~

33

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

No. 98-1-10272-8 SEA

Plaintiff,

JUDGMENT AND SENTENCE

v.

DEVON P ADAMS

Defendant.

CERTIFIED COPY

I. HEARING

1. The defendant, the defendant's lawyer, MICHAEL DANKO, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: _____

The state has moved for dismissal of count(s) II

II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report(s) and case record to date, and there being no reason why judgment should not be pronounced, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on (date): 05-11-99 by plea of:

Count No.: I Crime: DOMESTIC VIOLENCE FELONY VIOLATION OF A COURT ORDER

RCW 10.99.050 Crime Code 06010

Date of Crime 10.99.050 Incident No. _____

Count No.: _____ Crime: _____

RCW _____ Crime Code _____

Date of Crime _____ Incident No. _____

Count No.: _____ Crime: _____

RCW _____ Crime Code _____

Date of Crime _____ Incident No. _____

Additional current offenses are attached in Appendix A.

SPECIAL VERDICT/FINDING(S):

- (a) A special verdict/finding for being armed with a **Firearm** was rendered on Count(s): _____
- (b) A special verdict/finding for being armed with a **Deadly Weapon** other than a **Firearm** was rendered on Count(s): _____
- (c) A special verdict/finding was rendered that the defendant committed the crimes(s) with a **sexual motivation** in Count(s): _____
- (d) A special verdict/finding was rendered for **Violation of the Uniform Controlled Substances Act** offense taking place
 - in a school zone in a school on a school bus in a school bus route stop zone in a public park in public transit vehicle in a public transit stop shelter in Count(s): _____
- (e) **Vehicular Homicide** Violent Offense (D.W.I. and/or reckless) or Nonviolent (disregard safety of others)
- (f) Current offenses **encompassing** the same criminal conduct and counting as one crime in determining the offender score (RCW 9.94A.400(1)(a)) are: _____

2.2 OTHER CURRENT CONVICTION(S): Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____

POSTED

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SEATTLE, WA.

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

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
(a) TMVWOP	07-17-98	ADULT	981053018	KING CO
(b)				
(c)				
(d)				

- Additional criminal history is attached in **Appendix B**.
- Prior convictions (offenses committed before July 1, 1986) served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(6)(c)):
- One point added for offense(s) committed while under community placement for count(s)

2.4 SENTENCING DATA:

SENTENCING DATA	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE	ENHANCEMENT	TOTAL STANDARD RANGE	MAXIMUM TERM
Count I		UNRANKED				5 YRS AND/OR \$10,000
Count						
Count						

Additional current offense sentencing data is attached in **Appendix C**.

2.5 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 D. The State did did not recommend a similar sentence.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

- The Court **DISMISSES** Count(s) _____

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached **Appendix E**.
- Defendant shall **not** pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.142(2), sets forth those circumstances in attached **Appendix E**.
- Restitution to be determined at future hearing on (Date) _____ at _____ m. Date to be set.
- Defendant waives presence at future restitution hearing(s).
- Defendant shall pay **Victim Penalty Assessments** pursuant to RCW 7.68.035 in the amount of \$100 if all crime(s) date prior to 6-6-96 and \$500 if any crime date in the Judgment is after 6-5-96.
- Restitution is not ordered.

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a) \$ _____, Court costs; Court costs are waived;
- (b) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs, 2015 Smith Tower, Seattle, WA 98104; Recoupment is waived (RCW 10.01.160);
- (c) \$ _____, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA; VUCSA fine waived (RCW 69.50.430);
- (d) \$ _____, King County Interlocal Drug Fund; Drug Fund payment is waived;
- (e) \$ _____, State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);
- (f) \$ _____, Incarceration costs; Incarceration costs waived (9.94A.145(2));
- (g) \$ _____, Other cost for: _____

4.3 PAYMENT SCHEDULE: Defendant's **TOTAL FINANCIAL OBLIGATION** is: \$ 500 ^{interest to court from 1/98}. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:

- Not less than \$ _____ per month; On a schedule established by the defendant's Community Corrections Officer. _____
- The Defendant shall remain under the Court's jurisdiction and the supervision of the Department of Corrections for up to ten years from date of sentence or release from confinement to assure payment of financial obligations.

CONFINEMENT ONE YEAR OR LESS: Defendant shall serve a term of total confinement in the King County Jail if applicable under RCW 9.94A.190(3) in the Department of Corrections as follows, commencing: Immediately; (Date): August 6, 1999 by no later than 4 p.m.

45 months/days on Count I _____ months/days on Count _____
_____ months/days on Count _____ months/days on Count _____

*Work release is authorized if eligible.

Home detention pursuant to RCW 9.94A.030(42) is ordered if defendant is eligible for _____ day(s), the last one-third of the term of confinement, _____

The terms in Count(s) No. _____ are concurrent/consecutive.
The sentence herein shall run concurrently/consecutively with the sentence in cause number(s) _____ but consecutive to any other term of confinement not referred to in this Judgment.

Credit is given for 7 day(s) served days determined by the King County Jail solely for conviction under this cause number pursuant to RCW 9.94A.120(15). Jail term is satisfied; defendant shall be released under this cause.

(a) ALTERNATIVE CONVERSION PURSUANT TO RCW 9.94A.380: _____ days of total confinement are hereby converted to:

- _____ days of partial confinement to be served subject to the rules and regulations of the King County Jail.
- _____ days/hours community service under the supervision of the Department of Corrections to be completed as follows: on a schedule established by the defendants community corrections officer. _____

Alternative conversion was not used because: Defendant's criminal history, Defendant's failure to appear, Other: _____

(b) COMMUNITY SUPERVISION, RCW 9.94A.383: Defendant shall serve 12 months in community supervision. Community supervision shall commence immediately but is tolled during any period of confinement. **The Defendant shall report to the Dept. of Corrections, Intake Officer, 2401 4th Avenue, 6th Floor, Seattle, WA, 98121-1435 (phone 464-7055) no later than 72 hours of the commencement of community supervision.** The defendant shall comply with all rules and regulations of the Department created for community supervision and shall not own, use, or possess any firearm or ammunition.

Defendant shall comply with special "crime related prohibitions" defined in RCW 9.94A.030 and set forth in Appendix F.

4.5 NO CONTACT: For the maximum term of 5 years, defendant shall have no contact with Megan Suckman, after 6 months DV counseling then the NCO will be reconsidered. Violation of this no contact order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.

4.6 BLOOD TESTING: (sex offense, violent offense, prostitution offense, drug offense associated with the use of hypodermic needles) Appendix G is a blood testing and counseling order that is part of and incorporated by reference into this Judgment and Sentence.

4.7 OFF-LIMITS ORDER: (known drug trafficker) Appendix I is an off limits order that is part of and incorporated by reference into this Judgment and Sentence.

4.8 SEX OFFENDER REGISTRATION: (sex offender crime conviction) Appendix J covering sex offender registration, is attached and incorporated by reference into this Judgment and Sentence.

Violations of the conditions or requirements of this sentence are punishable for a period not to exceed sixty (60) days of confinement for each violation. (RCW 9.94A.200(2))

Date: 6-25-99

Shawn A. Armstrong
Judge
Print Name: _____

Presented by:
David V. Martin
Deputy Prosecuting Attorney, Office WSBA ID #91002
Print Name: David V. Martin

Approved as to form:
Michael Danko
Attorney for Defendant, WSBA # 19312
Print Name: Michael Danko

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)	
)	
Plaintiff,)	No. 98-1-10272-8 SEA
)	
v.)	
	)	INFORMATION
DEVON PAUL ADAMS)	
)	
)	
Defendant.)	

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse DEVON PAUL ADAMS of the crime of **Domestic Violence Felony Violation of Post-Sentence Court Order**, committed as follows:

That the defendant DEVON PAUL ADAMS in King County, Washington, on or about December 13, 1998, did knowingly violate the terms of a no contact order issued pursuant to RCW 10.99.050(1) of which the defendant had notice, forbidding the defendant's contact with Muei Saeturn, by intentionally assaulting Muei Saeturn;

Contrary to RCW 10.99.050(2), and against the peace and dignity of the State of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse DEVON PAUL ADAMS of the crime of **Assault in the Fourth Degree**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were 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 other, committed as follows:

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

1 CAUSE NO. 98-1-10272-8 SEA

2 PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR
3 CONDITIONS OF RELEASE

4 The State incorporates by reference the Certification for
5 Determination of Probable Cause submitted in this case, Seattle
6 Police Incident Number 98-521420, by Detective Michelle Calley.

7 REQUEST FOR BAIL

8 The defendant is only 19 years of age, yet he has been
9 convicted of Robbery 1°, Escape 3°, Harassment, Taking a Motor
10 Vehicle Without Owner's Permission (five counts), Violation of the
11 Uniform Firearms Act, Residential Burglary (two counts), and
12 Carrying a Concealed Pistol, for a total of ten felony convictions.
13 None of these convictions arises out of the same incident. The
14 defendant has clearly demonstrated that he is not safe to be in the
15 community. The State requests the defendant be ordered to have no
16 contact with Muei and Farm Saeturn, and the witnesses in this case,
17 Melissa Kepodara and Chad Conti.

18
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Robin E. Fox, WSBA #91002

Prosecuting Attorney Case
Summary and Request for Bail
and/or Conditions of Release - 1

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

CAUSE _____



SEATTLE
POLICE
DEPARTMENT

**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER	98-521420
UNIT FILE NUMBER	DV98-512

That Michele Calley is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case Number 98-521420;

There is probable cause to believe that Devon P. Adams, date of birth April 18, 1979, committed the crime(s) of Felony Violation of a No Contact Order.

This belief is predicated on the following facts and circumstances:

On July 21, 1998 in the Municipal Court of Seattle, Washington, a No Contact Order was entered as a condition of sentencing that prohibits Devon P. Adams, date of birth April 18, 1979, from having contact with Muei Saeturn, date of birth August 27, 1997. Devon Adams' signature appears over the words "Signature of Defendant". The order expires on July 21, 2000.

On December 13, 1998, defendant Adams violated the order by having contact with and assaulting his girlfriend, Muei Saeturn. He also assaulted Ms. Saeturn's mother, Farm Saeturn, date of birth August 24, 1947. On December 12, 1998, defendant Adams and Ms. Saeturn went to a party. Adams, Saeturn, and witnesses Melissa T. Keodara (date of birth February 10, 1980) and Chad Conti (date of birth July 22, 1977) went to Ms. Saeturn's house, 6409 44 Ave. S., Seattle, King County, Washington, at approximately 0115 hrs. on December 13, 1998. When Adams and Conti decided to go to a store, Saeturn asked to go along. Saeturn stated that she does not trust Adams because he has cheated on her. Adams became annoyed that Saeturn keeps him "in handcuffs." He was going toward the door with two video cassettes in his hand. He suddenly turned around and threw them at Saeturn, striking her in the right cheek. He then approached Saeturn. Witness Keodara stood between Adams and Saeturn, but Adams was able to shove Saeturn anyway. Adams walked out the door and Saeturn shut the door behind him. Saeturn then punched the window. Saeturn's parents heard the noise and came down. Adam's came back inside. He started yelling at Saeturn and her parents. Saeturn's mother, Farm Saeturn, told Adams to leave. He swung at Farm attempting to hit her. Conti grabbed Adams and got him outside. Adams came back inside and flipped over furniture and yelled at Saeturn's parents as he called 911 and spoke to the operator. Conti pushed Adams back outside.

When Officers Sausman and Bauer arrived, they saw a Ford Bronco in front of 6409 44 Ave. S. A man got out of the vehicle and approached the officers with his hands up. He said that he had a court order and knew he was going to jail. Officers found Saeturn inside, crying, shaking, appearing very scared.



SEATTLE
POLICE
DEPARTMENT

**C. CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER	98-521420
UNIT FILE NUMBER	DV98-512

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct to best of my knowledge and belief. Signed and dated by me this 16th day of December, 1998, at Seattle, Washington.

Richard Callery

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

DEVON P ADAMS

Defendant.

No. 98-1-05301-8 SEA

JUDGMENT AND SENTENCE

CERTIFIED COPY

FILED

98 JUL 20 AM 9:50

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

I. HEARING

1.1 The defendant, the defendant's lawyer, ~~ALICE ZALESKI~~ DAMION KLAUS, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: _____

1.2 The state has moved for dismissal of count(s) _____

II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report(s) and case record to date, and there being no reason why judgment should not be pronounced, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on (date): 07-07-98 by plea of:

Count No.: I Crime: TAKING MOTOR VEHICLE WITHOUT PERMISSION
RCW 9A.56.070 Crime Code 02724
Date of Crime 06-13-98 Incident No. _____

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

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

Additional current offenses are attached in Appendix A.

SPECIAL VERDICT/FINDING(S):

- (a) A special verdict/finding for being armed with a **Firearm** was rendered on Count(s): _____
- (b) A special verdict/finding for being armed with a **Deadly Weapon** other than a **Firearm** was rendered on Count(s): _____
- (c) A special verdict/finding was rendered that the defendant committed the crimes(s) with a **sexual motivation** in Count(s): _____
- (d) A special verdict/finding was rendered for **Violation of the Uniform Controlled Substances Act** offense taking place in a school zone in a school on a school bus in a school bus route stop zone in a public park in public transit vehicle in a public transit stop shelter in Count(s): _____
- (e) **Vehicle Homicide** Violent Offense (D.W.I. and/or reckless) or Nonviolent (disregard safety of others)
- (f) Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score (RCW 9.94A.400(1)(a)) are: _____

2.2 OTHER CURRENT CONVICTION(S): Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____

4
78 Y JUL 21

JUDGMENT NUMBER

COPY TO SENTENCING GUIDELINES COMMISSION JUL 2 01998

COMMITMENT ISSUED JUL 2 01998

PROPOSED

13

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

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
(a) TMVWOP	04-04-94	JUV	948004427	KING
(b) TMVWOP	07-22-94	JUV	948013868	KING
(c) WEAPONS CCW-GUN	05-16-94	JUV	948022573	KING
(d) TMVWOP	11-10-94	JUV	948024908	KING

Additional criminal history is attached in Appendix B.

Prior convictions (offenses committed before July 1, 1986) served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(6)(c)):

One point added for offense(s) committed while under community placement for count(s) _____

2.4 **SENTENCING DATA:**

SENTENCING DATA	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE	ENHANCEMENT	TOTAL STANDARD RANGE	MAXIMUM TERM
Count 1	5	I			4 TO 12 MONTHS	5 YRS AND/OR \$10,000
Count						
Count						

Additional current offense sentencing data is attached in Appendix C.

2.5 **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 D. The State did did not recommend a similar sentence.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

The Court DISMISSES Count(s) _____

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 **RESTITUTION AND VICTIM ASSESSMENT:**

Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.

Defendant shall **not** pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.142(2), sets forth those circumstances in attached Appendix E.

Restitution to be determined at future hearing on (Date) 9/16/98 at 8:30 A.m. Date to be set.

Defendant waives presence at future restitution hearing(s).

Defendant shall pay Victim Penalty Assessments pursuant to RCW 7.68.035 in the amount of \$100 if all crime(s) date prior to 6-6-96 and \$500 if any crime date in the Judgment is after 6-5-96.

Restitution is not ordered.

4.2 **OTHER FINANCIAL OBLIGATIONS:** Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

(a) \$ _____, Court costs; Court costs are waived;

(b) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs, 2015 Smith Tower, Seattle, WA 98104; Recoupment is waived (RCW 10.01.160);

(c) \$ _____, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA; VUCSA fine waived (RCW 69.50.430);

(d) \$ _____, King County Interlocal Drug Fund; Drug Fund payment is waived;

(e) \$ _____, State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);

(f) \$ _____, Incarceration costs; Incarceration costs waived (9.94A.145(2));

(g) \$ _____, Other cost for: _____

4.3 **PAYMENT SCHEDULE:** Defendant's **TOTAL FINANCIAL OBLIGATION** is: \$ 500 + RESTITUTION. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:

Not less than \$ _____ per month; On a schedule established by the defendant's Community Corrections Officer. _____

The Defendant shall remain under the Court's jurisdiction and the supervision of the Department of Corrections for up to ten years from date of sentence or release from confinement to assure payment of financial obligations.

4.4 CONFINEMENT ONE YEAR OR LESS: Defendant shall serve a term of total confinement in the King County Jail or if applicable under RCW 9.94A.190(3) in the Department of Corrections as follows, commencing: Immediately; (Date): _____ by no later than _____ m.

6 months/days on Count I _____ months/days on Count _____
_____ months/days on Count _____ months/days on Count _____

Work release is authorized if eligible.

Home detention pursuant to RCW 9.94A.030(42) is ordered if defendant is eligible for _____ day(s), the last one-third of the term of confinement, _____

The terms in Count(s) No. _____ are concurrent/consecutive.

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

but consecutive to any other term of confinement not referred to in this Judgment.

Credit is given for 35 day(s) served days determined by the King County Jail solely for conviction under this cause number pursuant to RCW 9.94A.120(15). Jail term is satisfied; defendant shall be released under this cause.

(a) ALTERNATIVE CONVERSION PURSUANT TO RCW 9.94A.380: _____ days of total confinement are hereby converted to:

- _____ days of partial confinement to be served subject to the rules and regulations of the King County Jail.
- _____ days/hours community service under the supervision of the Department of Corrections to be completed as follows: on a schedule established by the defendants community corrections officer. _____

Alternative conversion was not used because: Defendant's criminal history, Defendant's failure to appear, Other: _____

(b) COMMUNITY SUPERVISION, RCW 9.94A.383: Defendant shall serve 12 months in community supervision. Community supervision shall commence immediately but is tolled during any period of confinement. The Defendant shall report to the Dept. of Corrections, Intake Officer, 2401 4th Avenue, 6th Floor, Seattle, WA, 98121-1435 (phone 464-7055) no later than 72 hours of the commencement of community supervision. The defendant shall comply with all rules and regulations of the Department created for community supervision and shall not own, use, or possess any firearm or ammunition.

Defendant shall comply with special "crime related prohibitions" defined in RCW 9.94A.030 and set forth in Appendix F. DEFENDANT IS PROHIBITED FROM DRIVING OR RIDING IN AN AUTOMOBILE

4.5 NO CONTACT: For the maximum term of 5 years, defendant shall have no contact with WITHOUT THE REGISTERED OWNER BEING
DEANNE HUIZENGA

Violation of this no contact order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; PRESENT
any assault or reckless endangerment that is a violation of this order is a felony.

4.6 BLOOD TESTING: (sex offense, violent offense, prostitution offense, drug offense associated with the use of hypodermic needles) Appendix G is a blood testing and counseling order that is part of and incorporated by reference into this Judgment and Sentence.

4.7 OFF-LIMITS ORDER: (known drug trafficker) Appendix I is an off limits order that is part of and incorporated by reference into this Judgment and Sentence.

4.8 SEX OFFENDER REGISTRATION: (sex offender crime conviction) Appendix J covering sex offender registration, is attached and incorporated by reference into this Judgment and Sentence.

Violations of the conditions or requirements of this sentence are punishable for a period not to exceed sixty (60) days of confinement for each violation. (RCW 9.94A.200(2))

Date: 7-17-98

M Huggins

Judge
Print Name: _____

Presented by:

Joe Song
Deputy Prosecuting Attorney, Office WSBA ID #91002
Print Name: JOE SONG

Approved as to form:
Sharon Kluss
Attorney for Defendant, WSBA # 19445
Print Name: SHARON KLUSS

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)	
)	
Plaintiff,)	No. 98-1-05301-8 SEA
)	
v.)	
DEVON PAUL ADAMS	)	INFORMATION
)	
)	
Defendant.)	

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse DEVON PAUL ADAMS of the crime of Taking Motor Vehicle Without Permission, committed as follows:

That the defendant DEVON PAUL ADAMS in King County, Washington on or about June 13, 1998, did intentionally and without permission of Deanne Huizenga, the owner and person entitled to possession thereof, take and drive away a motor vehicle, to-wit: a 1987 Honda Accord, Washington license number 064-ECI, and with knowledge that such motor vehicle had been unlawfully taken did voluntarily ride in and upon such motor vehicle;

Contrary to RCW 9A.56.070, and against the peace and dignity of the State of Washington.

NORM MALENG
Prosecuting Attorney

By: _____
Craig A. Peterson, WSBA #91002
Senior Deputy Prosecuting Attorney

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CAUSE NO. 98-1-05301-8 SEA

PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR
CONDITIONS OF RELEASE

The facts outlined in the attached Certification for Determination of Probable Cause are incorporated in this document.

REQUEST FOR BAIL

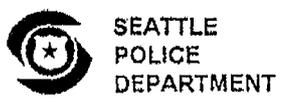
Bail in the amount of \$3,000 is requested. Defendant has prior juvenile convictions for Taking Motor Vehicle Without Permission (TMVWOP) (1993), TMVWOP (1993), TMVWOP (1994), Residential Burglary (1994), TMVWOP (1994), Residential Burglary (1994), Robbery 1° (1994), Escape 1° (1995), Assault 4° (1996) and Unlawful Possession of a Firearm 2° (1997).

Craig A. Peterson, WSBA #91002

Prosecuting Attorney Case
Summary and Request for Bail
and/or Conditions of Release - 1

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

CAUSE NO. _____



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER	98-240417
UNIT FILE NUMBER	98-344

That Teresa Duffy is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case Number 98-240417;

There is probable cause to believe that Devon Adams committed the crime(s) of Auto Theft.

This belief is predicated on the following facts and circumstances:

In the city of Seattle, County of King, on 06-13-98 at 0248 hrs., Seattle Police Officer Harris was driving N/B on Rainier ave S. in the 8700 block when he observed a Black 1987 Honda Accord, Wa. License #064ECI drive by slow. Officer Harris ran the plate on his MDT computer and the Honda came back as a SPD stolen. Officer Harris turned around and made a stop on the Honda. Officer Harris took ADAMS into custody. Officer Harris observed the ignition and found it was damaged. Officer Harris noticed ignition parts and a screwdriver on the floorboard. Officer Harris read ADAMS his rights and completed a pat down. Officer Harris found a screwdriver in ADAMS right front pant pocket. Officer Harris took the screwdriver and photos of the damage and placed those into evidence.

Victim Huizenga reported her 1987 Honda stolen on 06-12-98. Victim does not know suspect ADAMS and did not give him permission to take the car.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct to best of my knowledge and belief. Signed and dated by me this 15th day of June, 1998, at Seattle, Washington.

Teresa Duffy



SUPERIOR COURT OF WASHINGTON
COUNTY OF KING
JUVENILE COURT

CERTIFIED
COPY

KING COUNTY, WASHINGTON

DEC 28 1994

SUPERIOR COURT CLERK
CARLOTTA GREEN
DEPUTY

State of Washington v.

Devon P. Adams

4-18-79

NO. 94-8-04571-9

ORDER OF DISPOSITION (INFORMATION)

DIAG/JRA 12-28-94

I. BASIS

1.1 A dispositional hearing was held in this case on: 12-28-94

1.2 Persons appearing at the hearing were:

- Juvenile
- Juvenile's lawyer McIntosh
- (Deputy) Prosecuting Attorney Bigelow
- Probation Counselor Jones for Love
- Other _____

II. FINDINGS

Based on the testimony heard and the case record to date: the Court finds:

() plea

2.1 The above named juvenile was found guilty by _____ of the offense(s) of:

Ct. I - Residential Burglary (X) the Court

2.2 RESTITUTION

- That damage was done to the victim in the amount of _____
- The amount of loss cannot be determined at this time.
- That the juvenile has the present ability to pay restitution in the amount of _____
- That the juvenile does not have the present ability to pay restitution, however that the juvenile will develop the ability to pay restitution.
- That the juvenile does not have the present ability to pay restitution and cannot reasonably acquire the means to pay.

2.3 CATEGORY OF OFFENDER

The juvenile is:

- A minor or first offender
- A middle offender
- A serious offender

2.4 MANIFEST INJUSTICE

() A disposition within the standard range for this offense would effectuate manifest injustice. Findings of fact and conclusions of law to be presented by _____, 19____ (date)

24

2.5 The Court finds that the standard range of sentence for Count I is commitment for 8-12 weeks. The standard range(s) on count(s) _____ are found to be as stated on p. _____ of this order.

ORDER

3.2 COMMITMENT Concurrent with 94-B-057264

COUNT I (X) The juvenile is committed to the Department of Social and Health Services, Division of Juvenile Rehabilitation, for a period of 8-12 weeks.

COUNT _____ () The juvenile is committed to the Department of Social and Health Services, Division of Juvenile Rehabilitation, for a period of _____ weeks.

3.3 () Credit is/ls not given for time served _____

3.4 () The following counts are hereby dismissed _____

3.5 The Department of Social and Health Services, Division of Juvenile Rehabilitation, shall have the authority to consent to medical, psychological, psychiatric, and dental care which may be deemed necessary by attending physicians, including such immunization as required of students in the public schools.

3.6 That this order shall remain in full force and effect until further order of the Court or until the same is revoked, modified, or changed, or terminated by an order of the Court or by law.

3.7 Other _____

Dated: 12-28-94

J. Kathleen Heenan
Judge/Court Commissioner

FINGERPRINT(S)

CERTIFICATE



I, _____ clerk of this Court, certify that the above is a true copy of the Order of Disposition in this action on record in my office.

Dated: DEC 28 1994

Dated: _____

Fingerprints of: Devon P. Adams

Kenneth S. Helm

Attested by:

Clerk

Kenneth S. Helm

Clerk

By _____

Deputy Clerk

By [Signature]
Deputy Clerk

Presented by: _____

Approved/Copy Received: _____

Deputy Prosecuting Attorney

Lawyer for Respondent

Probation Counselor

Respondent



SUPERIOR COURT WASHINGTON COUNTY OF KING JUVENILE COURT

CERTIFIED COPY

NO. 94-8-05746-6

State of Washington v.

Devon P. Adams

KING COUNTY SUPERIOR COURT CLERK SEATTLE, WA

4/18/79

ORDER OF DISPOSITION (INFORMATION)

I. BASIS

1.1 A dispositional hearing was held in this case on:

November 10, 1994

1.2 Persons appearing at the hearing were:

Juvenile Juvenile's lawyer (Deputy) Prosecuting Attorney

Becker

Skinner

Probation Counselor Other

Howe

II. FINDINGS

Based on the testimony heard and the case record to date: the Court finds:

(X) plea

2.1 The above named juvenile was found guilty by

of the offense(s) of:

() the Court

Robbery 1^o

2.2 RESTITUTION

- That damage was done to the victim in the amount of
The amount of loss cannot be determined at this time.
That the juvenile has the present ability to pay restitution in the amount of
That the juvenile does not have the present ability to pay restitution, however that the juvenile will develop the ability to pay restitution.
That the juvenile does not have the present ability to pay restitution and cannot reasonably acquire the means to pay.

2.3 CATEGORY OF OFFENDER

The juvenile is:

- A minor or first offender
A middle offender
A serious offender

2.4 MANIFEST INJUSTICE

A disposition within the standard range for this offense would effectuate a manifest injustice. Findings of fact and conclusions of law to be presented by (date) 19

Handwritten signature

DIAGNOSIS BPD

The Court finds that the standard range of sentence for Count I is 6 months of community supervision with _____ hours of community service; maximum \$ _____ fine; _____ days of confinement; or commitment for _____ weeks. The standard range(s) on count(s) _____ are found to be as stated on the record or in the statement of juvenile offender on plea of guilty form.

III. ORDER

CONSECUTIVE TO: _____

3.1 COMMUNITY SUPERVISION COUNT I _____ months COUNT _____ months COUNT _____ months REMARKS
TOTAL MONTHS _____

COMMUNITY SERVICE _____ hours _____ hours _____ hours Rate is _____
For _____ hours of counseling, credit is given for _____ hours per month
_____ hours of community service. first due _____

CONFINEMENT Days _____ Days _____ Days _____ To commence on _____
() Consecutive @ _____
() To be served on weekends () passes authorized
() To be served at the Division of Juvenile Rehabilitation
() Credit given for time served _____ days.

- () Counseling/Drug-Alcohol Information/Evaluation () as directed by Probation Counselor
- () Regular School Attendance/Work Training Program/Employment () as directed by Probation Counselor
- () The juvenile shall _____

- (X) The Victim Penalty Assessment is ordered/waived in the amount of \$ _____
- () Restitution shall be paid prior to other financial obligations.

RESTITUTION is ordered to be disbursed as follows: TOTAL \$ _____

COUNT	AMOUNT	VICTIM:

Restitution hearing set for 12/19/94 @ 8:15 AM

Co-Respondents

COUNT _____ # _____
COUNT _____ # _____
COUNT _____ # _____

ATTORNEY FEES

- () Respondent shall pay attorney's fee. \$ _____
- () Respondent's responsibility for attorney's fee is waived.
- () This portion of the disposition is to be continued until parent has been screened financially.

TOTAL FINANCIAL OBLIGATION excluding clerk's fees is _____
to be paid at the rate of _____ per month, first payment due _____

ALL COUNTS WITHIN THIS NUMBER SHALL RUN CONSECUTIVELY.

2.5 The Court finds that the standard range of sentence for Count I is commitment for 103-129 weeks. The standard range(s) on count(s) _____ are found to be as stated on p. _____ of this order.

ORDER

3.2 COMMITMENT

COUNT I The juvenile is committed to the Department of Social and Health Services, Division of Juvenile Rehabilitation, for a period of 103-129 weeks.

COUNT _____ () The juvenile is committed to the Department of Social and Health Services, Division of Juvenile Rehabilitation, for a period of _____ weeks.

3.3 Credit is/ is not given for time served. 34 days

3.4 () The following counts are hereby dismissed _____

3.5 The Department of Social and Health Services, Division of Juvenile Rehabilitation, shall have the authority to consent to medical, psychological, psychiatric, and dental care which may be deemed necessary by attending physicians, including such immunization as required of students in the public schools.

3.6 That this order shall remain in full force and effect until further order of the Court or until the same is revoked, modified, or changed or terminated by an order of the Court or by law.

3.7 Other Court recommends drug/alcohol treatment for this respondent

Dated: 11/10/94

Robert Bridge
Judge/Court Commissioner

FINGERPRINT(S)

CERTIFICATE



Dated: _____
Fingerprints of: Devon Adams
Attested by: _____

Kenneth S. Helm
Clerk

By Lenore A. Phillips
Deputy Clerk

Presented by: _____

Approved/Copy Received: _____

Deputy Prosecuting Attorney

Probation Counselor

I, _____, clerk of this Court, certify that the above is a true copy of the Order of Disposition in this action on record in my office.

Dated: _____
Kenneth S. Helm
Clerk

By _____
Deputy Clerk

Lawyer for Respondent

Respondent



SUPERIOR COURT OF WASHINGTON
COUNTY OF KING
JUVENILE COURT

CERTIFIED COPY

() Clerks Action Required

JRA/DIAG 5.5.97

State of Washington v.

Devon Paul Adams

DOB: 4/18/79

NO. 96-8-08537-7

Order of Disposition

I. BASIS

1.1 A dispositional hearing was held in this case on: May 5, 1997

1.2 Persons appearing at the hearing were:

- Juvenile
- Juvenile's Lawyer McIntosh
- (Deputy) Prosecuting Attorney Scales
- Probation Counselor McGuinness for Smith
- Other Mother

II. FINDINGS

Based on the testimony heard and the case record to date, the Court finds:

() plea of guilty Alford plea
 _____ 5/5/97
 date date

DOL

2.1 The above named juvenile was found guilty by _____ of the offense(s) of:

() the Court

Cl I Unlawful Possession of A Firearm 2°

2.2 CATEGORY OF OFFENDER

The juvenile is:

- () A minor or first offender
- A middle offender
- () A serious offender

2.3 MANIFEST INJUSTICE

() A disposition within the standard range for this offense would effectuate a manifest injustice.

2.4 OPTION B

- () Option B - Reasons as set forth on the record
- () Option B - Standard Range Suspended

8537-7

NO.

2.5 The Court finds that the standard range of sentence for Count I is commitment for 21-28 weeks. The standard range(s) on count(s) _____ are found to be as stated on the record or in the Statement of Juvenile Offender on Plea of Guilty form.

ORDER

3.2 COMMITMENT

Count I The juvenile is committed to the Department of Social and Health Services, Division of Juvenile Rehabilitation, for a period of 21-28 weeks.
 *Consecutive to 94-0-05746-6

Count _____ () The juvenile is committed to the Department of Social and Health Services, Division of Juvenile Rehabilitation, for a period of _____ weeks.

Count _____ () The juvenile is committed to the Department of Social and Health Services, Division of Juvenile Rehabilitation, for a period of _____ weeks.

3.3 (X) Credit ~~is~~ not given for time served 10 days

3.4 () The following counts are hereby dismissed _____

3.5 The Department of Social and Health Services, Juvenile Rehabilitation Administration, shall have the authority to consent to medical, psychological, psychiatric, and dental care which may be deemed necessary by attending physicians, including such immunization as required of students in the public schools.

3.6 That this order shall remain in full force and effect until further order of the Court or until the same is revoked, modified, or changed, or terminated by an order of the Court or by law.

3.7 (X) The Victim Penalty Assessment is ordered waived in the amount of \$ _____

3.8 Other: _____

Dated: May 5, 1997 Deborah R. Flick
Judge/Court Commissioner

FINGERPRINT(S)	CERTIFICATE
 <p>Dated: _____</p> <p>Fingerprints of: _____</p> <p>Attested by: <u>M. Janice Michels</u> CLERK</p> <p>By _____ DEPUTY CLERK</p> <p>Presented by: _____</p> <p>Approved/Copy Received: _____</p> <p>DEPUTY PROSECUTING ATTORNEY</p>	<p>I, _____ clerk of this Court, certify that the above is a true copy of the Order of Disposition in this action on record in my office.</p> <p>Dated: _____</p> <p><u>M. Janice Michels</u> CLERK</p> <p>By _____ DEPUTY CLERK</p> <p>PROBATION COUNSELOR _____</p> <p>RESPONDENT _____</p> <p>LAWYER FOR RESPONDENT _____</p>



SUPERIOR COURT OF WASHINGTON
COUNTY OF KING
JUVENILE COURT

CERTIFIED COPY

() Clerks Action Required

State of Washington v.

Devon Adams
DOB: *04/18/79*

FILED
KING COUNTY WASHINGTON
FEB 28 1996
SUPERIOR COURT CLERK
BY LARRY D. FORD, SR.
DEPUTY

NO. *96-8-01039-3*

Order of Disposition

1.1 A dispositional hearing was held in this case on: February 28, 1996

1.2 Persons appearing at the hearing were:

- Juvenile *Devon Adams*
- Juvenile's Lawyer *D. McIntosh*
- (Deputy) Prosecuting Attorney *M. Young*
- Probation Counselor *H. Gates*
- Other _____

II. FINDINGS

Based on the testimony heard and the case record to date: the Court finds:

plea of guilty () Alford plea
02/28/96 _____
date date

2.1 The above named juvenile was found guilty by _____ of the offense(s) of:

() the Court

Count I - Escape ¹⁰ _____
date

2.2 CATEGORY OF OFFENDER

- The juvenile is:
- A minor or first offender
 - A middle offender
 - A serious offender

2.3 MANIFEST INJUSTICE

() A disposition within the standard range for this offense would effectuate a manifest injustice.

2.4 OPTION B

- Option B - Reasons as set forth on the record
- Option B - Standard Range Suspended

7

DIAG/SRA

NO. 1039-3

2.5 The Court finds that the standard range of sentence for Count I is commitment for 4 weeks. The standard range(s) on count(s) I are found to be as stated on the record or in the Statement of Juvenile Offender on Plea of Guilty form.

ORDER

3.2 COMMITMENT

Count I The juvenile is committed to the Department of Social and Health Services, Division of Juvenile Rehabilitation, for a period of 4 weeks. *

Count _____ () The juvenile is committed to the Department of Social and Health Services, Division of Juvenile Rehabilitation, for a period of _____ weeks.

Count _____ () The juvenile is committed to the Department of Social and Health Services, Division of Juvenile Rehabilitation, for a period of _____ weeks.

3.3 () Credit is/is not given for time served _____

3.4 () The following counts are hereby dismissed _____

3.5 The Department of Social and Health Services, Juvenile Rehabilitation Administration, shall have the authority to consent to medical, psychological, psychiatric, and dental care which may be deemed necessary by attending physicians, including such immunization as required of students in the public schools.

3.6 That this order shall remain in full force and effect until further order of the Court or until the same is revoked, modified, or changed, or terminated by an order of the Court or by law.

3.7 The Victim Penalty Assessment is ordered waived in the amount of \$ _____

3.8 Other: *Consecutive to 94-8-05746-6

Dated: Feb 28, 1996

[Signature]
Judge/Court Commissioner

FINGERPRINT(S)

CERTIFICATE

Dated: 2/28/96
Fingerprints of: DEVON ADAMS
Attested by: [Signature]
M. Janice Michels
CLERK

By: [Signature]
LARRY FORD
DEPUTY CLERK

Presented by: _____

Approved/Copy Received: _____

DEPUTY PROSECUTING ATTORNEY

I, _____
clerk of this Court, certify that the above is a true copy of the Order of Disposition in this action on record in my office.

Dated: _____
M. Janice Michels
CLERK

By: _____
DEPUTY CLERK

PROBATION COUNSELOR
RESPONDENT

LAWYER FOR RESPONDENT

4411-9

2.5 The Court finds that the standard range of sentence for Count I is 3-6 months of community supervision with 16-32 hours of community service; maximum \$25- fine; 24 days of confinement; or commitment for _____ weeks. The standard range(s) on count(s) _____ are found to be as stated on the record or in the statement of juvenile offender on plea of guilty form.

III. ORDER

CONSECUTIVE TO: _____

3.1 COMMUNITY SUPERVISION COUNT I COUNT _____ COUNT _____ REMARKS
_____ months _____ months _____ months TOTAL MONTHS _____

COMMUNITY SERVICE _____ hours _____ hours _____ hours Rate is _____
For _____ hours of counseling, credit is given for _____ hours per month
_____ hours of community service. _____ first due _____

CONFINEMENT Days 24 Days _____ Days _____ To commence on _____
 Consecutive
 To be served on weekends
 To be served at the Division of Juvenile Rehabilitation
 Credit given for time served 24 days. _____
 _____ passes authorized

- Counseling/Drug-Alcohol Information/Evaluation as directed by Probation Counselor
- Regular School Attendance/Work Training Program/Employment as directed by Probation Counselor
- The juvenile shall _____

- The Victim Penalty Assessment is ordered/waived in the amount of \$ _____
- Restitution shall be paid prior to other financial obligations.

RESTITUTION is ordered to be disbursed as follows: TOTAL \$ _____

COUNT	AMOUNT	VICTIM:
_____	_____	Deborah Boomer, 2214-4th Ave NE #3 Seattle 98119
_____	_____	USAA, PO Box 34544 Seattle 98124-8886
_____	_____	Claim # 6207657

Co-Respondents
COUNT _____ Cala Bourwarden # 948-02291-3
COUNT _____ James Dator # 948-02290-5
COUNT _____ # _____

ATTORNEY FEES
 Respondent shall pay attorney's fee. \$ _____
 Respondent's responsibility for attorney's fee is waived.
 This portion of the disposition is to be continued until parent has been screened financially

TOTAL FINANCIAL OBLIGATION excluding clerk's fees is _____
to be paid at the rate of _____ per month, first payment due _____

ALL COUNTS WITHIN THIS NUMBER SHALL RUN CONSECUTIVELY.

ORIGINAL-LEGAL FILE

4411-9

3.2 CONDITIONS OF PROBATION: That while on community supervision the juvenile offender shall be under the charge of a probation counselor and comply with the following conditions: (1) must have parent/guardian's permission regarding whereabouts, hours, and activities (2) must report any change in residence, school, or work status to probation counselor. (Obtain permission from probation counselor before changing residence) (3) must have probation counselor's permission for out of state travel and (4) must keep all appointments with probation counselor. Must further comply with any conditions set forth in writing, signed by juvenile offender, lawyer and filed herein, during the term of community supervision.

3.3 JURISDICTION
() Jurisdiction is extended to _____ for purposes of restitution/community supervision.
() Jurisdiction is transferred to _____ County for purposes of supervision.

3.4 () The following counts are hereby dismissed _____

3.5 This order shall remain in full force and effect until further order of the Court or until the same is revoked, modified or changed, or terminated by an order of the Court or by law.

3.6 That while detained authorization is granted to provide necessary medical and dental examination and treatment as professionally prescribed.

3.7 NOTICE OF FEES
All payments ordered above are payable through the registry of the Court. A cost of \$5.00 shall be collected in addition to each fee, penalty, fine or cost collected by juvenile courts. (There is no cost on payments under \$25.00.)

3.8 Other: _____

Dated: 11-10-94

Bobbe J. Boyd
Judge/Court Commissioner

FINGERPRINT(S)

CERTIFICATE



I, _____, clerk of this Court, certify that the above is a true copy of the Order of Disposition in this action on record in my office.

Dated: 11-10-94

Fingerprints of: Michels, Devon

Attested by: M. Janice Michels
Clerk

Dated: _____

M. Janice Michels
Clerk

By Lenore A. Phillips
Deputy Clerk

By _____
Deputy Clerk



SUPERIOR COURT OF WASHINGTON
COUNTY OF KING
JUVENILE COURT

CERTIFIED
COPY

FILED
KING COUNTY, WASHINGTON

NOV 10 1994

K.C. SUPERIOR COURT CLERK
BY RENEE A. PHILIPS DEPUTY

State of Washington v.

Devon P. Adams

4/18/99

NO. 94-8-04164-1

ORDER OF DISPOSITION (INFORMATION)

I. BASIS

November 10, 1994

1.1 A dispositional hearing was held in this case on:

1.2 Persons appearing at the hearing were:

- Juvenile
- Juvenile's lawyer McTate
- (Deputy) Prosecuting Attorney Slattery
- Probation Counselor Love
- Other parents

II. FINDINGS

Based on the testimony heard and the case record to date: the Court finds:

plea

2.1 The above named juvenile was found guilty by

of the offense(s) of:

the Court Residential Burglary

BPD

2.2 RESTITUTION

- That damage was done to the victim in the amount of _____
- The amount of loss cannot be determined at this time.
- That the juvenile has the present ability to pay restitution in the amount of _____
- That the juvenile does not have the present ability to pay restitution, however that the juvenile will develop the ability to pay restitution.
- That the juvenile does not have the present ability to pay restitution and cannot reasonably acquire the means to pay.

2.3 CATEGORY OF OFFENDER

The juvenile is:

- A minor or first offender
- A middle offender
- A serious offender

2.4 MANIFEST INJUSTICE

A disposition within the standard range for this offense would effectuate a manifest injustice. Findings of fact and conclusions of law to be presented by _____

Date: _____

[Handwritten signature]

4164-1

2.5 The Court finds that the standard range of sentence for Count I is 3-6 months of community supervision with 24-40 hours of community service; maximum \$ 25 fine; 5-10 days of confinement; or commitment for _____ weeks. The standard range(s) on count(s) _____ are found to be as stated on the record or in the statement of juvenile offender on plea of guilty form.

III. ORDER

CONSECUTIVE TO: _____

3.1 COMMUNITY SUPERVISION COUNT I COUNT _____ COUNT _____ REMARKS
_____ months _____ months _____ months TOTAL MONTHS _____

COMMUNITY SERVICE _____ hours _____ hours _____ hours Rate is _____
For _____ hours of counseling, credit is given for _____ hours per month
_____ hours of community service. _____ first due _____

CONFINEMENT Days 20 Days _____ Days _____ To commence on _____
 Consecutive
 To be served on weekends
 To be served at the Division of Juvenile Rehabilitation
 Credit given for time served 20 days. _____
() passes authorized

() Counseling/Drug-Alcohol Information/Evaluation () as directed by Probation Counselor
() Regular School Attendance/Work Training Program/Employment
() as directed by Probation Counselor
() The juvenile shall _____

The Victim Penalty Assessment is ordered/waived in the amount of \$ _____
() Restitution shall be paid prior to other financial obligations.

RESTITUTION is ordered to be disbursed as follows: TOTAL \$ _____
COUNT AMOUNT VICTIM:

Respondent's presence is waived at a hearing

Co-Respondents
COUNT _____ # _____
COUNT _____ # _____
COUNT _____ # _____

ATTORNEY FEES
 Respondent shall pay attorney's fee. \$ _____
 Respondent's responsibility for attorney's fee is waived.
This portion of the disposition is to be continued until parent has been screened financially.

TOTAL FINANCIAL OBLIGATION excluding clerk's fees is _____
to be paid at the rate of _____ per month, first payment due _____

ALL COUNTS WITHIN THIS NUMBER SHALL RUN CONSECUTIVELY.

4164-1

3.2 CONDITIONS OF PROBATION: That while on community supervision the juvenile offender shall be under the charge of a probation counselor and comply with the following conditions: (1) must have parent/guardian's permission regarding whereabouts, hours, and activities (2) must report any change in residence, school, or work status to probation counselor. (Obtain permission from probation counselor before changing residence) (3) must have probation counselor's permission for out of state travel and (4) must keep all appointments with probation counselor. Must further comply with any conditions set forth in writing, signed by juvenile offender, lawyer and filed herein, during the term of community supervision.

3.3 JURISDICTION

- () Jurisdiction is extended to _____ for purposes of restitution/community supervision.
- () Jurisdiction is transferred to _____ County for purposes of supervision.

3.4 () The following counts are hereby dismissed _____

3.5 This order shall remain in full force and effect until further order of the Court or until the same is revoked, modified or changed, or terminated by an order of the Court or by law.

3.6 That while detained authorization is granted to provide necessary medical and dental examination and treatment as professionally prescribed.

3.7 NOTICE OF FEES

All payments ordered above are payable through the registry of the Court. A cost of \$5.00 shall be collected in addition to each fee, penalty, fine or cost collected by juvenile courts. (There is no cost on payments under \$25.00.)

3.8 Other: _____

Dated: 11-10-94

Bobby J. Bridge
Judge/Court Commissioner

FINGERPRINT(S)

CERTIFICATE



I, _____ clerk of this Court, certify that the above is a true copy of the Order of Disposition in this action on record in my office

Dated: 11-10-94
Fingerprints of: Devon Adams

Dated: _____

Attested by: M. Janice Michels
Clerk

M. Janice Michels
Clerk

By Lenore A. Phillips
Deputy Clerk

By _____
Deputy Clerk

CERTIFIED COPY

FILED
NOV 10 1994
K. J. WOODWARD, CLERK
JUVENILE COURT DEPUTY



SUPERIOR COURT OF WASHINGTON
COUNTY OF KING
JUVENILE COURT

State of Washington v.

Devon P. Adams

4/18/79

NO. 94-8-02490-8

ORDER OF DISPOSITION (INFORMATION)

I. BASIS

1.1 A dispositional hearing was held in this case on:

November 10, 1994

1.2 Persons appearing at the hearing were:

- Juvenile
- Juvenile's lawyer Becker
- (Deputy) Prosecuting Attorney Sturmer
- Probation Counselor Leone
- Other parent

II. FINDINGS

Based on the testimony heard and the case record to date: the Court finds:

plea

2.1 The above named juvenile was found guilty by

of the offense(s) of:

the Court MUWOP

2.2 RESTITUTION

- That damage was done to the victim in the amount of _____
- The amount of loss cannot be determined at this time.
- That the juvenile has the present ability to pay restitution in the amount of _____
- That the juvenile does not have the present ability to pay restitution, however that the juvenile will develop the ability to pay restitution.
- That the juvenile does not have the present ability to pay restitution and cannot reasonably acquire the means to pay.

2.3 CATEGORY OF OFFENDER

The juvenile is:

- A minor or first offender
- A middle offender
- A serious offender

2.4 MANIFEST INJUSTICE

A disposition within the standard range for this offense would effectuate a manifest injustice. Findings of fact and conclusions of law to be presented by _____, 15 _____ (date)

DoL

[Handwritten signature]

2490-5

2.5 The Court finds that the standard range of sentence for Count I is 6-9 months of community supervision with 40-50 hours of community service; maximum \$50- fine; 10-20 days of confinement; or commitment for _____ weeks. The standard range(s) on count(s) _____ are found to be as stated on the record or in the statement of juvenile offender on plea of guilty form.

III. ORDER

CONSECUTIVE TO: _____

3.1 COMMUNITY SUPERVISION COUNT I COUNT _____ COUNT _____ REMARKS
_____ months _____ months _____ months TOTAL MONTHS _____

COMMUNITY SERVICE _____ hours _____ hours _____ hours Rate is _____
For _____ hours of counseling, credit is given for _____ hours per month
_____ hours of community service. first due _____

CONFINEMENT Days 10 Days _____ Days _____ To commence on _____
) Consecutive @
) To be served on weekends () passes authorized
) To be served at the Division of Juvenile Rehabilitation
) Credit given for time served 10 days.

() Counseling/Drug-Alcohol Information/Evaluation () as directed by Probation Counselor
() Regular School Attendance/Work Training Program/Employment () as directed by Probation Counselor
() The juvenile shall _____

) The Victim Penalty Assessment is ordered/waived in the amount of \$ _____

() Restitution shall be paid prior to other financial obligations.

RESTITUTION is ordered to be disbursed as follows: TOTAL \$ _____

COUNT	AMOUNT	VICTIM:
_____	_____	<u>John Limantzakis, 2328 Magnolia Blvd W, Sea 98199</u>
_____	_____	<u>Sea Co, P.O. Box 34700, Sea 98124 Claim # 2K94181988</u>
_____	_____	<u>Mari Travinga, 2628-37th Ave W, Sea 98199</u>
_____	_____	<u>Bell Anderson Ins, P.O. Box 887, Kent WA 98035-0887</u>
Co-Respondents		
COUNT _____	<u>Max Unkefeld</u>	# <u>94-5-04606-5</u> policy # <u>01531053</u>
COUNT _____	<u>Kelly Gange</u>	# <u>94-8-04586-7</u>
COUNT _____	_____	# _____

ATTORNEY FEES
) Respondent shall pay attorney's fee. \$ _____
) Respondent's responsibility for attorney's fee is waived.
) This portion of the disposition is to be continued until parent has been screened financially

TOTAL FINANCIAL OBLIGATION excluding clerk's fees is _____
to be paid at the rate of _____ per month, first payment due _____

ALL COUNTS WITHIN THIS NUMBER SHALL RUN CONSECUTIVELY.

2490-8

3.2 CONDITIONS OF PROBATION: That while on community supervision the juvenile offender shall be under the charge of a probation counselor and comply with the following conditions: (1) must have parent/guardian's permission regarding whereabouts, hours, and activities (2) must report any change in residence, school, or work status to probation counselor. (Obtain permission from probation counselor before changing residence) (3) must have probation counselor's permission for out of state travel and (4) must keep all appointments with probation counselor. Must further comply with any conditions set forth in writing, signed by juvenile offender, lawyer and filed herein, during the term of community supervision.

3.3 JURISDICTION

() Jurisdiction is extended to _____ for purposes of restitution/community supervision.
() Jurisdiction is transferred to _____ County for purposes of supervision.

3.4 () The following counts are hereby dismissed _____

3.5 This order shall remain in full force and effect until further order of the Court or until the same is revoked, modified or changed, or terminated by an order of the Court or by law.

3.6 That while detained authorization is granted to provide necessary medical and dental examination and treatment as professionally prescribed.

3.7 NOTICE OF FEES

All payments ordered above are payable through the registry of the Court. A cost of \$5.00 shall be collected in addition to each fee, penalty, fine or cost collected by juvenile courts. (There is no cost on payments under \$25.00.)

3.8 Other: _____

Dated: 11-10-94

Bobbe L. Bridge
Judge/Court Commissioner

FINGERPRINT(S)

CERTIFICATE



NOV 10 1994

Dated: _____

Fingerprints of: Devon Adams

Attested by: _____

M. Janice Michels

Clerk

By: Lenore A. Phillips

Deputy Clerk

I, _____
clerk of this Court, certify that the above is a true copy of the Order of
Disposition in this action on record in my office.

Dated: _____

M. Janice Michels

Clerk

By: _____

Deputy Clerk



SUPERIOR COURT OF WASHINGTON
COUNTY OF KING
JUVENILE COURT

CERTIFIED COPY

FILED
KING COUNTY, WASHINGTON

JUL 22 1994

SUPERIOR COURT CLERK
DONALD H. McDONALD
DEPUTY

State of Washington v.

Devon P. Adams

NO. 94-8-01386-8

4/18/79

ORDER OF DISPOSITION (INFORMATION)

I. BASIS

1.1 A dispositional hearing was held in this case on: July 22, 1994

1.2 Persons appearing at the hearing were:

- Juvenile
- Juvenile's lawyer Butler
- (Deputy) Prosecuting Attorney Ferguson
- Probation Counselor Love
- Other Mother

II. FINDINGS

Based on the testimony heard and the case record to date: the Court finds:

() plea

2.1 The above named juvenile was found guilty by _____ of the offense(s) of:

Cl I Taking (X) the Court and/or Riding

2.2 RESTITUTION

- () That damage was done to the victim in the amount of _____
- () The amount of loss cannot be determined at this time.
- () That the juvenile has the present ability to pay restitution in the amount of _____
- () That the juvenile does not have the present ability to pay restitution, however that the juvenile will develop the ability to pay restitution.
- () That the juvenile does not have the present ability to pay restitution and cannot reasonably acquire the means to pay.

2.3 CATEGORY OF OFFENDER

The juvenile is:

- () A minor or first offender
- A middle offender
- () A serious offender

2.4 MANIFEST INJUSTICE

- () A disposition within the standard range for this offense would effectuate a manifest injustice. Findings of fact and conclusions of law to be presented by _____, 19____.

DOL

[Handwritten signature]

2558-1

2.5 The Court finds that the standard range of sentence for Count I is 3-6 months of community supervision with 16 hours of community service; maximum \$ _____ fine; _____ days of confinement; or commitment for _____ weeks. The standard range(s) on count(s) _____ are found to be as stated on the record or in the statement of juvenile offender on plea of guilty form.

III. ORDER

CONSECUTIVE TO: _____

3.1 COMMUNITY SUPERVISION COUNT I COUNT _____ COUNT _____ REMARKS buw
6 ~~3~~ months _____ months _____ months TOTAL MONTHS 6

COMMUNITY SERVICE 24 hours _____ hours _____ hours Rate is 0
For _____ hours of counseling, credit is given for _____ hours of community service. hours per month first due 9/1/94

CONFINEMENT Days 2 Days _____ Days _____ To commence on _____
() Consecutive, () To be served on weekends () passes authorized
() To be served at the Division of Juvenile Rehabilitation
(X) Credit given for time served 2 days.

(X) Counseling/Drug-Alcohol Information/Evaluation (X) as directed by Probation Counselor
no unexcused absences, tardies, behavioral referrals, suspensions
(X) Regular School Attendance/Work Training Program/Employment or expulsions
(X) as directed by Probation Counselor

(X) The juvenile shall commit no new offenses;
abide by a curfew of 10 pm Sun-Thurs and midnight Fri-Sat; not
possess and/or use nonprescribed drugs, alcohol or weapons;
maintain JPC approved residence.

(X) The Victim Penalty Assessment is ordered waived in the amount of \$ _____.

() Restitution shall be paid prior to other financial obligations.

RESTITUTION is ordered to be disbursed as follows: TOTAL \$ _____

COUNT	AMOUNT	VICTIM:
_____	_____	_____
_____	_____	_____
_____	_____	_____

Co-Respondents
COUNT _____ # _____
COUNT _____ # _____
COUNT _____ # _____

ATTORNEY FEES
() Respondent shall pay attorney's fee \$ _____
() Respondent's responsibility for attorney's fee is waived.
() This portion of the disposition is to be continued until parent has been screened financially.

TOTAL FINANCIAL OBLIGATION excluding clerk's fees is _____
to be paid at the rate of _____ per month, first payment due _____.

ALL COUNTS WITHIN THIS NUMBER SHALL RUN CONSECUTIVELY.

2558-1

3.2 CONDITIONS OF PROBATION: That while on community supervision the juvenile offender shall be under the charge of a probation counselor and comply with the following conditions: (1) must have parent/guardian's permission regarding whereabouts, hours, and activities (2) must report any change in residence, school, or work status to probation counselor. (Obtain permission from probation counselor before changing residence) (3) must have probation counselor's permission for out of state travel and (4) must keep all appointments with probation counselor. Must further comply with any conditions set forth in writing, signed by juvenile offender, lawyer and filed herein, during the term of community supervision.

3.3 JURISDICTION

() Jurisdiction is extended to _____ for purposes of restitution/community supervision.
() Jurisdiction is transferred to _____ County for purposes of supervision.

3.4 () The following counts are hereby dismissed _____

3.5 This order shall remain in full force and effect until further order of the Court or until the same is revoked, modified or changed, or terminated by an order of the Court or by law.

3.6 That while detained authorization is granted to provide necessary medical and dental examination and treatment as professionally prescribed.

3.7 NOTICE OF FEES

All payments ordered above are payable through the registry of the Court. A cost of \$5.00 shall be collected in addition to each fee, penalty, fine or cost collected by juvenile courts. (There is no cost on payments under \$25.00.)

3.8 Other: _____

ORDER & ATTACHMENTS APPROVED

JUL 22 1994

Dated: July 22, 1994
STEPHEN M. GADDIS
COURT COMMISSIONER

[Handwritten Signature]

Judge/Court Commissioner

FINGERPRINT(S)



Dated: 7-22-94
Fingerprints of: Derrin Adams
Attested by: M. Janice Michels

By: *[Handwritten Signature]*
Deputy Clerk

CERTIFICATE

I, _____
clerk of this Court, certify that the above is a true copy of the Order of Disposition in this action on record in my office.

Dated: _____

M. Janice Michels

Clerk

By: _____
Deputy Clerk

FILED
KING COUNTY, WASHINGTON
APR 4 1994
SUPERIOR COURT
CARLOTTA GREEN
DEPUTY

CERTIFIED
COPY



SUPERIOR COURT OF WASHINGTON
COUNTY OF KING
JUVENILE COURT

State of Washington v.

NO. 94-8-00442-7

Dwain Adams

ORDER OF DISPOSITION (INFORMATION)

I. BASIS

1.1 A dispositional hearing was held in this case on: April 4, 1994

1.2 Persons appearing at the hearing were:

- Juvenile
- Juvenile's lawyer Reves
- (Deputy) Prosecuting Attorney Griffin
- Probation Counselor McCullough
- Other _____

II. FINDINGS

Based on the testimony heard and the case record to date: the Court finds:

plea

2.1 The above named juvenile was found guilty by _____ of the offense(s) of:

() the Court Taking

2.2 RESTITUTION

- () That damage was done to the victim in the amount of _____.
- () The amount of loss cannot be determined at this time.
- () That the juvenile has the present ability to pay restitution in the amount of _____.
- () That the juvenile does not have the present ability to pay restitution, however that the juvenile will develop the ability to pay restitution.
- () That the juvenile does not have the present ability to pay restitution and cannot reasonably acquire the means to pay.

2.3 CATEGORY OF OFFENDER
*(X) Restitution hearing May 5, 1994 @ 8:15
Respondent's presence waived*

The juvenile is:

- A minor or first offender
- () A middle offender
- () A serious offender

2.4 MANIFEST INJUSTICE

() A disposition within the standard range for this offense would effectuate a manifest injustice. Findings of fact and conclusions of law to be presented by _____ (date) 19

Jax

442-7

2.5 The Court finds that the standard range of sentence for Count I is 36 months of community supervision with 10-32 hours of community service; maximum \$ 0.25 fine; _____ days of confinement; or commitment for _____ weeks. The standard range(s) on count(s) _____ are found to be as stated on the record or in the statement of juvenile offender on plea of guilty form.

III. ORDER

CONSECUTIVE TO: _____

3.1 COMMUNITY SUPERVISION COUNT I COUNT _____ COUNT _____ REMARKS _____
6 months _____ months _____ months TOTAL MONTHS 6

COMMUNITY SERVICE 32 hours _____ hours _____ hours Rate is 8
For 1 hours of counseling, credit is given for _____ hours of community service. hours per month first due 5/4/94

CONFINEMENT Days _____ Days _____ Days _____ To commence on _____
() Consecutive @
() To be served on weekends () passes authorized
() To be served at the Division of Juvenile Rehabilitation
() Credit given for time served _____ days.

- (X) Counseling/Drug-Alcohol Information/Evaluation as directed by Probation Counselor
- (X) Regular School Attendance NO UNEXCUSED ABSENCES, TARDIES, BEHAVIORAL REFERRALS, SUSPENSIONS, DETENTIONS OR FAILING GRADES
- (X) Work Training Program/Employment as directed by Probation Counselor
- (X) The juvenile shall abide by curfew of 10 PM Sunday thru Thursday and 11 PM Friday Saturday; not use possess alcohol, nonprescribed drugs, weapons of any kind
- (X) The Victim Penalty Assessment is ordered/waived in the amount of \$ _____

() Restitution shall be paid prior to other financial obligations.

RESTITUTION is ordered to be disbursed as follows: TOTAL \$ _____
COUNT AMOUNT VICTIM:
NO response by victim as of this date

Co-Respondents
COUNT _____ # _____
COUNT _____ # _____
COUNT _____ # _____

ATTORNEY FEES
() Respondent shall pay attorney's fee. \$ _____
() Respondent's responsibility for attorney's fee is waived.
() This portion of the disposition is to be continued until parent has been screened financially.

TOTAL FINANCIAL OBLIGATION excluding clerk's fees is _____
to be paid at the rate of _____ per month, first payment due _____

ALL COUNTS WITHIN THIS NUMBER SHALL RUN CONSECUTIVELY.

442-7

3.2 CONDITIONS OF PROBATION: That while on community supervision the juvenile offender shall be under the charge of a probation counselor and comply with the following conditions: (1) must have parent/guardian's permission regarding whereabouts, hours, and activities (2) must report any change in residence, school, or work status to probation counselor. (Obtain permission from probation counselor before changing residence) (3) must have probation counselor's permission for out of state travel and (4) must keep all appointments with probation counselor. Must further comply with any conditions set forth in writing, signed by juvenile offender, lawyer and filed herein, during the term of community supervision.

3.3 JURISDICTION

- () Jurisdiction is extended to _____ for purposes of restitution/community supervision.
- () Jurisdiction is transferred to _____ County for purposes of supervision.

3.4 () The following counts are hereby dismissed _____.

3.5 This order shall remain in full force and effect until further order of the Court or until the same is revoked, modified or changed, or terminated by an order of the Court or by law.

3.6 That while detained authorization is granted to provide necessary medical and dental examination and treatment as professionally prescribed.

3.7 NOTICE OF FEES

All payments ordered above are payable through the registry of the Court. A cost of \$5.00 shall be collected in addition to each fee, penalty, fine or cost collected by juvenile courts. (There is no cost on payments under \$25.00.)

3.8 Other: _____

Dated: 4/4/94

[Signature]

Judge/Court Commissioner

FINGERPRINT(S)

CERTIFICATE



APR 04 1994

Dated: _____

Fingerprints of: Dawn Adams

Attested by: _____

M. Janice Michels
Clerk

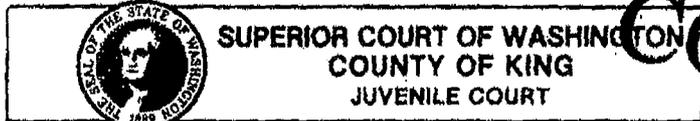
By Carol Ann Green
Deputy Clerk

I, _____
clerk of this Court, certify that the above is a true copy of the Order of
Disposition in this action on record in my office.

Dated: _____

M. Janice Michels
Clerk

By _____
Deputy Clerk



CERTIFIED COPY

FILED KING COUNTY, WASHINGTON APR 4 1994 SUPERIOR COURT J.J. CARLOTTA GREEN DEPUTY

State of Washington v.

NO. 94-8-00442-7

Dwain Adams

ORDER OF DISPOSITION (INFORMATION)

I. BASIS

1.1 A dispositional hearing was held in this case on: April 4, 1994

1.2 Persons appearing at the hearing were:

- Juvenile
- Juvenile's lawyer Reves
- (Deputy) Prosecuting Attorney Griffin
- Probation Counselor McCullough
- Other _____

II. FINDINGS

Based on the testimony heard and the case record to date: the Court finds:

plea

2.1 The above named juvenile was found guilty by _____ of the offense(s) of:

the Court Taking

2.2 RESTITUTION

- That damage was done to the victim in the amount of _____
- The amount of loss cannot be determined at this time.
- That the juvenile has the present ability to pay restitution in the amount of _____
- That the juvenile does not have the present ability to pay restitution, however that the juvenile will develop the ability to pay restitution.
- That the juvenile does not have the present ability to pay restitution and cannot reasonably acquire the means to pay.

2.3 CATEGORY OF OFFENDER

The juvenile is:

- A minor or first offender
- A middle offender
- A serious offender

2.4 MANIFEST INJUSTICE

A disposition within the standard range for this offense would effectuate a manifest injustice. Findings of fact and conclusions of law to be presented by _____ (date) 19__

For

442-7

2.5 The Court finds that the standard range of sentence for Count I is 36 months of community supervision with 16.32 hours of community service; maximum \$ 0.25 fine; _____ days of confinement; or commitment for _____ weeks. The standard range(s) on count(s) _____ are found to be as stated on the record or in the statement of juvenile offender on plea of guilty form.

III. ORDER

CONSECUTIVE TO: _____

3.1 COMMUNITY SUPERVISION COUNT I COUNT _____ COUNT _____ REMARKS 6
6 months _____ months _____ months TOTAL MONTHS 6

COMMUNITY SERVICE 32 hours _____ hours _____ hours Rate is 8
For 1 hours of counseling, credit is given for _____ hours of community service. hours per month first due 5/4/94

CONFINEMENT Days _____ Days _____ Days _____ To commence on _____
() Consecutive @
() To be served on weekends () passes authorized
() To be served at the Division of Juvenile Rehabilitation
() Credit given for time served _____ days.

(X) Counseling/Drug-Alcohol Information/Evaluation (X) as directed by Probation Counselor
no unlicensed agencies, therapists, behavioral referrals, suspensions, expulsions or failing grades
(X) Regular School Attendance/Work Training Program/Employment
(X) The juvenile shall *abide by curfew of 10 PM Sunday thru Thursday and 11 PM Friday Saturday; NOT use, possess alcohol, non-prescribed drugs, weapons of any kind* (X) as directed by Probation Counselor
(X) The Victim Penalty Assessment is ordered/waived in the amount of \$ _____

() Restitution shall be paid prior to other financial obligations.

RESTITUTION is ordered to be disbursed as follows: TOTAL \$ _____
COUNT AMOUNT VICTIM:
NO response by victim as of this date

Co-Respondents
COUNT _____ # _____
COUNT _____ # _____
COUNT _____ # _____

ATTORNEY FEES
() Respondent shall pay attorney's fee. \$ _____
() Respondent's responsibility for attorney's fee is waived.
() This portion of the disposition is to be continued until parent has been screened financially.

TOTAL FINANCIAL OBLIGATION excluding clerk's fees is _____
to be paid at the rate of _____ per month, first payment due _____

ALL COUNTS WITHIN THIS NUMBER SHALL RUN CONSECUTIVELY.

442-7

3.2 CONDITIONS OF PROBATION: That while on community supervision the juvenile offender shall be under the charge of a probation counselor and comply with the following conditions: (1) must have parent/guardian's permission regarding whereabouts, hours, and activities (2) must report any change in residence, school, or work status to probation counselor. (Obtain permission from probation counselor before changing residence) (3) must have probation counselor's permission for out of state travel and (4) must keep all appointments with probation counselor. Must further comply with any conditions set forth in writing, signed by juvenile offender, lawyer and filed herein, during the term of community supervision.

3.3 JURISDICTION
() Jurisdiction is extended to _____ for purposes of restitution/community supervision.
() Jurisdiction is transferred to _____ County for purposes of supervision.

3.4 () The following counts are hereby dismissed _____

3.5 This order shall remain in full force and effect until further order of the Court or until the same is revoked, modified or changed, or terminated by an order of the Court or by law.

3.6 That while detained authorization is granted to provide necessary medical and dental examination and treatment as professionally prescribed.

3.7 NOTICE OF FEES
All payments ordered above are payable through the registry of the Court. A cost of \$5.00 shall be collected in addition to each fee, penalty, fine or cost collected by juvenile courts. (There is no cost on payments under \$25.00.)

3.8 Other: _____

Dated: 4/4/94

[Signature]

Judge/Court Commissioner

FINGERPRINT(S)

CERTIFICATE



APR 04 1994

Dated: _____
Fingerprints of: Dawn Adams
Attested by: M. Janice Michels
Clerk
By: Carol Ann Green
Deputy Clerk

I, _____
clerk of this Court, certify that the above is a true copy of the Order of Disposition in this action on record in my office.
Dated: _____
M. Janice Michels
Clerk
By _____
Deputy Clerk

APPENDIX b

King County Superior Court
Re: Devon Adams
Sentencing Date: 5/19/00

Your Honor:

My name is Ann DeKoster and I am Devon's Mom. Thank you for the opportunity to address the Court on behalf of my son and I would like to convey some of the reasons I feel a lenient sentence would be appropriate.

A cold blooded killer. I think not.

The prosecutor does not know my son but accused him of such. A son who has worked hard completing high school and two quarters of college. A son who just started a new job three days before September 8, 1999. A son who has a wife and a 22 month old daughter both of whom he adores, and they him.

Devon was raised in a single parent home. His father left when he was about three. The relationship with his father has been strained at best and abusive at worst. All Devon ever wanted was his father's affection and all he ever got was either his inattention or abuse (while drunk as his father is an alcoholic as well). His father was present at the trial but that is probably the most he has been around Devon in years. Devon didn't always get what he needed from me either and in hindsight there are many things I would have done differently, like spending more time together, intervening earlier, less time visiting friends and getting high myself.

Devon's youth was spent playing sports and attending school. It was around 5th grade where the problems started developing, a problem with anger that he has struggled with ever since. He worked at it though, going to counseling both individually and with me. At McClure Middle School is where the real change started taking place. He struck up new friendships and along with those acquaintances came drug and alcohol use. Along with that came the beginning of Devon's legal problems. He was scheduled to start at O'Dea High School on a scholarship in 9th grade but attended school for one week and left, then it was in and out of schools until he ended up incarcerated. During this whole period, he would still try and come back to his old self and try and make it in school and with me as a family but his addictions had taken over. I was never afraid of him but rather afraid for him and the harm he was doing to himself.

A cold blooded killer. Not at all.

Rather a young 21 year old man who has struggled with addiction since he took his first drink and toke at age 13. In prison by 15 for an armed robbery at a 7/11 with an unloaded shot gun. In the words of "Buddha", an officer with the Gang Unit (on investigating the robbery), "He acted like he thought he was in a movie. He was so drunk he didn't know what he was doing."

King County Superior Court

Such was the case in every one of Devon's crimes, always drunk, always high off of one drug or another. These drugs included "Sherm" - a cigarette or joint dipped in embalming fluid and then smoked. This particular drug put him in the hospital in 1998 struggling for his life. Did it stop him from using again? NO. He was using it again in September of 1999. Did blackouts stop him from drinking? NO. That is the nature of addiction. Nothing is more important. Alcoholism and addiction are diseases, not unlike cancer or diabetes. The cause is genetic, the cure is difficult. Devon has never given up trying to stay clean and sober. He voluntarily committed himself last Spring to Lakeside Milam Center in Kirkland. Most of the people there were on their 20th year of addiction and had been in treatment numerous times. We learned that with alcoholism in juveniles, the deterioration is even faster so by the time age 17 is reached, they may as well have been drinking for 20 years. It is not always a pleasant life. If Franklin Brown were alive, he would probably tell you that. Devon will tell you that, as addicts often suffer from depression as well. Devon was treated for depression and ADD during incarceration and treatment and prescribed Prozac.

A cold blooded killer. Not Devon Paul Adams.

Devon on another day would have been helping Mr. Brown. He has always stood up for the underdog, calling me on my judgmental tendencies. As in prior matters, Devon has always taken the responsibility, as he does in this most deadly affair because surely Franklin Brown is no longer here and we are all sorry for that and for his family, but please see the killing for what it was - two addicts half out of their minds and one of them had a gun and that one was my son. Devon takes responsibility for the death of Franklin Brown and will have to reconcile that with his Higher Power. As his previous record indicates as in this one, he didn't even know what he was doing in his state of mind brought on by his addiction. Not that that condones his action, but it might help understand why a good hearted, thoughtful, kind person could end up shooting someone.

When the alcohol is taken away and his anger is under control, Devon is a warm, caring, responsible, loving and giving young man. I am proud to be his mother and as can be seen by the statements of others, I am not the only one who thinks that way. I am proud of his struggle to make it out of the pit of alcoholism and addiction. After all the years he has spent in treatment, in hospitals and jail, he has never given up. He still has hope.

Please use leniency in sentencing my son. He can still have a life, a clean and sober one, a productive one, a chance to be a husband to his wife and a father to his daughter.

A cold blooded killer. No, not this young man, he is my good son.

Respectfully yours,


Ann DeKoster

3411 33rd Avenue W.
Seattle, WA 98199
(206) 286-0330

King County Superior Court

Re: Devon Adams-sentencing date 5/19/00

Your Honor:

Devon and I have been together since December 26th of 1994 and spending almost everyday of my life with him since, I have come to know Devon very well. We have been through any and every trial and tribulation together for the past five years. I wish that I could have been there every minute of his trial but I could not afford to miss any days at my new job. Although I was not present, I have been keeping up with his trial through talking to his mother who was there everyday.

Devon has been struggling so hard with alcoholism. I have seen him drink almost every night until he has a black out and wake up in the morning hating himself for it. I have seen him think he was dead on numerous occasions after smoking sherm sticks. I have seen him end up in the hospital from almost overdosing on drugs and alcohol and I have seen him drink again a couple of days after recovering. His addiction has almost cost him his life and family but his drinking and doing drugs has made him to be such a desperate man that he could not face reality.

For a long time I could not understand why he couldn't just have one drink or why he couldn't just stop drinking all together if drinking put him through such misery. It was only when Devon admitted himself into treatment and we did treatment together that I started to understand the disease and I could separate the disease from that man that he really is.

As much as I have seen Devon drunk and high I have seen him stay clean. He is a wonderful man. I would not be with him to this day if he were not such a wonderful person. Devon is caring and has a heart of gold. He always looks beyond other people's disabilities. I can recall every time when a mentally challenged man, Mike, who lives in the neighborhood that Devon and his friends knew since they were little kids, would come around to the beach where we hung out. Devon's friends would be so cruel to him and Devon would yell at them for it and sit there talking to Mike for half an hour. I could see in his eyes how he was interested in knowing about Mike and that he was so concerned in making him feel like he had someone to talk to. And when we drive up to his mom's house for the weekend he would yell at me and tell me to drive real slow because there are a lot of little kids that live in the neighborhood. Devon is also a good listener and a good friend. That is the man that I fell I love with and that man still exists beneath the drugs and alcohol.

I ask you to please consider giving Devon a lenient sentence. My heart goes out for Franklin Brown and his family. But Devon Adams is not a cold-blooded killer. I don't know anything about Franklin Brown but with an alcohol level of .25 I truly believe that

Mr. Brown and Devon both were two people struggling with life with this addiction and because Devon had a gun, one man lost his life and the other man lost his freedom. Devon still has his life but he will spend the rest of it dealing with this addiction and dealing with taking another man's life because he is not a cold-hearted killer.

When Devon and I planned to have our baby, Satory Adams, together it was because I knew he would be a good father. No matter how much we have been through, I have never had any regrets that we have a daughter together. No matter how hard times are, he has always been a good dad. He has always loved her and always put her aside of our relationship problems. I have never had to worry about him hurting her or not taking proper care of her. Satory loves her father very much. Devon has come a long way from being a father exactly the opposite of his own who has hurt him throughout his life. I am proud to say that I share this beautiful little girl with Devon.

Thank you for the opportunity to let me speak on behalf of Devon Adams who is a good friend, a wonderful husband-to-be, and a great father.

Sincerely,



Muei Saeturn

LAKESIDE-MILAM RECOVERY CENTERS
DISCHARGE SUMMARY

PATIENT NAME: Devon Adams

AGE: 19

PHONE: 206-286-0330

ADDRESS: 3411 33rd Ave. W. Seattle, WA. 98199

DATE ENTERED: 3-7-99

REASON FOR DISCHARGE: Completed inpatient treatment.

DATE DISCHARGED: 4-4-99
PROHIBITION ON REDISCLOSURE

CONTINUING CARE PROGRAM: LMRC Downtown

REFERRAL SOURCE: LMRC Downtown/Yellow Pages

DISCHARGE DIAGNOSIS: Polysubstance Dependence 304.90

THIS INFORMATION HAS BEEN DISCLOSED TO YOU FROM RECORDS WHOSE CONFIDENTIALITY IS PROTECTED BY FEDERAL LAW. FEDERAL REGULATIONS (42CFR.PART 2) PROHIBIT YOU FROM MAKING ANY FURTHER DISCLOSURE OF IT WITHOUT THE SPECIFIC WRITTEN CONSENT OF THE PERSON TO WHOM IT PERTAINS OR AS OTHERWISE PERMITTED BY SUCH REGULATIONS. A GENERAL AUTHORIZATION FOR THE RELEASE OF MEDICAL OR OTHER INFORMATION IS NOT SUFFICIENT FOR THIS PURPOSE.

INITIAL ASSESSMENT: Excessive consumption of alcohol and other drugs over a longer period of time than anticipated and in greater quantities as evidenced by: loss of control, blackouts, high tolerance, preoccupation with use, withdrawal symptoms, social, job and family problems from use, morning use, attempts at control, prior treatment, rationalizing, minimizing and denial.

CLINICAL PROBLEMS IDENTIFIED; PROGRESS TOWARD RESOLUTION:

Devon was at the end of his rope with his drug use. He had spent as much time as he ever wanted paying for the drug induced capers that his addiction had gotten him into. Enough is enough.

PROBLEM ONE: Common Care Path. Devon completed his detox phase and entered the general treatment process. At first, Devon was a little "I don't know about this" but as he started to change and see that there were others who were in his same addiction, he began to change. He started to challenge his disease and as he began to get more open-minded, slowly his defenses started to crumble and toward the end of his residency, he became a solid group leader, able to express his true feelings, hopes and fears of the future. He presented a strong first step where he was easily able to show the progression of his disease, the unmanageability and the powerlessness. It was very thoughtful and evident that he had put a lot of hard work into it. Devon has a lot of issues, some that he has confronted in treatment and others that are waiting for him when he discharges. He will need to continue to identify some of the people, places and things that make him angry and frustrated and continue to work on solutions through the program to not let these get in the way of his recovery.

PROBLEM TWO: Devon's lack of knowledge of his disease.

He presented a lot of guilt and shame over his using and related behaviors. There was never any doubt that he had lost control over the amounts, frequency and duration of his use. He was always open and honest about that but another occurrence began to manifest itself. As he pushed himself to gain more knowledge of his addiction, his guilt lessened, that his addiction wasn't his fault and that he could do something about it if he chose to. He attended all the lectures, films, groups, both in-house and outside the facility. Devon made great progress in all areas but still needs the continuing care portion of his recovery to continue to reinforce his understanding of his disease.

PROBLEM THREE: Anger.

Big problem with Devon. He admits that it could try and make him justify his using again. Therefore, he has to start learning how to deal with it. Anger management might be a possible solution but it's altogether possible that he needs to work the twelve steps very hard and after a year if he has not made progress that is satisfactory, he should seek other professional care. Hopefully with someone who has a solid background in addiction. If he hangs around with his old friends and frequents the same places, his chances are slim that he will succeed in recovery. Get involved in his program., locate a home group, attend and bond with his peers, and always look for that positive sober support. Get back into strong physical activities, don't slip back into being lazy and bored, concentrate on his AA program, daughter, family and going to school. Fill in the times that you used with clean and sober activities. Without the hard work there will be no success.

PROGNOSIS: Good, if Devon bonds with his 12 step recovery groups, attends his weekly continuing care groups, works the twelve steps and maintains a solid sponsorship affiliation.

LEGAL PROBLEMS PENDING: Stay in regular contact with: Boyd Brakken, Probation Officer. Phone: 206-233-2694, Fax 206-233-2692. Needs contact and reporting.

CONTINUING CARE PLAN:

1. Total abstinence from alcohol and other chemicals that affect the central nervous system.
2. Completion of recommended continuing care program at LMRC Downtown.
3. Attendance at a minimum of 7 AA/NA/CA meetings per week.
4. Adherence to the nutritional and exercise plan as outlined by the LMRC staff.
5. Continued contact with recovering people.
6. Contact with sponsor three times weekly. Once face to face, twice by telephone.
7. One 12 step meeting weekly and a big book study. He is to participate in all meetings.
8. Complete a 10th step on a daily basis and follow all directions of those in recovery.
9. Choose a home group and begin attending within the first two weeks after discharge.
10. Devon is to enter and complete Relapse Prevention class .Read page 449 of the Big Book daily.

COUNSELOR:

Alan J. [Signature]

DATE:

4-4-99

Copies to: Dr. Larkin; Patient;
LMRC Downtown

PROHIBITION ON REDISCULOSURE

THIS INFORMATION HAS BEEN DISCLOSED TO YOU FROM RECORDS WHOSE CONFIDENTIALITY IS PROTECTED BY FEDERAL LAW. FEDERAL REGULATIONS (42CFR.PART 2) PROHIBIT YOU FROM MAKING FURTHER DISCLOSURE OF IT WITHOUT THE WRITTEN CONSENT OF THE PERSON TO WHOM IT PERTAINS OR AS OTHERWISE PERMITTED BY FEDERAL REGULATIONS. A GENERAL AUTHORIZATION FOR THE RELEASE OF MEDICAL OR OTHER INFORMATION IS NOT SUFFICIENT FOR THIS PURPOSE.



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

PARKE CREEK GROUP HOME
11042 Parke Creek Rd • Ellensburg WA 98926-9056

DISCHARGE SUMMARY

NAME: Devon P. Adams

DATE: 2/23/97

ASSESSMENT: Crucial

SIGNS AND SYMPTOMS: Increase Tolerance, Increasing Black outs, Aggression, Attempts at Abstinence, Family/School and Legal Problems, Morning Use, Binge Use

DATES ENTERED: 1/29/97

COMPLETED: 2/23/97

SUCCESSFUL - Yes

MENTAL HEALTH DIAGNOSIS AND MEDICATION: N/A

LEGAL/SENTENCING/MANAGEMENT DATA:

Devon was serving 4.2 weeks for Parole Revocation. He has a weapons charge pending. He was returned to Parole. While at Parke Creek Group Home, Devon was not a real management problem. He did think that he should get his way and would use in appropriate language towards staff. He would approach staff after a short while to apologize for his behavior.

FAMILY AND/OR CULTURAL CONSIDERATIONS:

Devon has many people working to help him get into college. His mother is very supportive and attended family weekend to help open new lines of communication between them.

PROGRESS IN TREATMENT AND COMMITMENT TO RECOVERY:

Devon did well with his paper work. He participated well in group and gave peer's feedback. He was open to share how his using affected his life. Devon seems committed to recovery. He still likes to have things his way and works at being the one in control of his surroundings.

CONTINUING CARE PLAN:

Devon should attend 3 - 5 AA or NA meetings a week. He should get a sponsor and stay in close contact with his sponsor. He is to attend group at Ryther Group Home while on Parole.

Signed by Tom Erickson CDC
Tom Erickson, JRRC, CDC

Approved by Tim Magee
Tim Magee, Treatment Supervisor

PROHIBITION ON REDISCULOSURE

"This information has been disclosed to you from records whose confidentiality is protected by federal law. Federal regulations (42CFR, Part 2) prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is not sufficient for the purpose."

APPENDIX c



Notice of Disciplinary Action

IDENT NAME (Last) (First) (Middle)	ADAMS DEVON PAUL	SCHOOL	LAWTON	DATE	5/29/87
ADDRESS	3411 33rd Ave. W.	ZIP	98199	ATT. CD.	R
PARENT/GUARDIAN NAME (Last) (First) (Middle)	DE KOSTER, Ann	STUDENT ID. NO.	4557641	BIRTHDATE	4/18/79
		HOME PHONE	282 7494	WORK PHONE	441 1980
		GRADE	Second	HIGH SCHOOL CREDITS	

I. CHARGE(S) AND COMMENTS

The student has been charged with committing violations of the following school and/or District rules:

Devon has been very disruptive not only in his classroom but in the office. He is not willing to listen to adults and does not follow instructions when spoken to.

II. ACTION TAKEN

Because of the above charge(s) the following corrective action has been or will be taken:

Removal from school for up to three (3) school days:	
1 <input checked="" type="checkbox"/> SUSPENSION: SHORT-TERM	The student will be suspended from <u>5/29/87</u> through <u>6/2/87</u>
2 <input type="checkbox"/> SUSPENSION: LONG-TERM	The student will be suspended from _____ through _____
3 <input type="checkbox"/> EXPULSION FROM SCHOOL	The student will be expelled on _____
4 <input type="checkbox"/> EXPULSION	The student will be expelled from the District on _____
5 <input type="checkbox"/> EMERGENCY EXPULSION	The student is immediately expelled.
Either No. 2 or No. 3 or No. 4 may be checked alone, or in conjunction with No. 5.	

III. RE-ENTRY

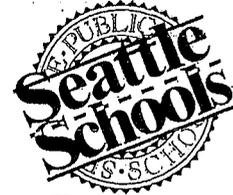
Please contact the Office of Student Placement, 587-4230, to determine reentry requirements.

Principal
POSITION/TITLE


SIGNATURE

John Muir
Elementary
School

3301 South Horton Street
Seattle, WA 98144
(206) 281-6630



The
Seattle Public
Schools

December 11, 1989

Ms. Ann De Koster
3411 33rd Ave. W.
Seattle, WA 98199

RE: Devon Adams

Dear Ms. De Koster,

Devon's inappropriate behavior has created a crisis situation at school. His angry outburst directed towards his teacher and other adults can no longer be tolerated in the classroom and school. He is defiant, swears and makes derogatory remarks to adults when he doesn't get his way.

We discussed Devon's inappropriate behavior on the phone today and my decision was to give Devon an in-school suspension.

During A.M. recess he left the office without permission and went to his classroom. Mrs. Cloud said "Devon you are not suppose to be here". He said "shut up, I am going to have my dad come to school and kill you"! When I spoke to him about it he said that his dad would come to school and get me too.

I would like for Devon to stay home tomorrow, Tuesday, December 12. Hopefully when he returns on Wednesday he will be more settled and ready to learn.

Attached to this letter is Karin Hori's card. She works with the Atlantic Street Center, a family and individual counseling agency. She could arrange counseling for Devon. Please call her.

Sincerely,

A handwritten signature in cursive script that reads "Harry Nelson".

Harry Nelson, Principal

John Muir
Elementary
School

3301 South Horton Street
Seattle, WA 98144
(206) 281-6630



The
Seattle Public
Schools

January 10, 1989

Ms. Ann De Koster
3411 33rd Avenue West
Seattle, WA 98199

Dear Ms. De Koster,

Today when Devon was in Science class Ms. Isaksen, the science teacher, asked Devon to take another seat in the room. Devon wanted to sit by his friends, he became angry and said "you ain't got to be a bitch". He then walked out of the classroom.

This is the second day in which Devon has used inappropriate language toward his teachers. When confronted with why he is so angry he always expresses his feelings toward not being able to see his father and moving to California if his behavior continues.

We have tried to understand and deal with Devon's issues without success. We would like to meet with you to discuss alternative ways of helping Devon.

Please call to set up a conference time as soon as possible.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry Nelson".

Harry Nelson, Principal

HN:bc

02/20/90
Physical Education
John Muir Elementary

Harry Nelson
Principal
John Muir Elementary

Dear Mr. Nelson,

We have discussed on many occasions Devon Adams. Devon is in Room TBC. I continue to show documentation for his disruptive, disrespectful and abusive behavior in his Physical Education class.

Over a six month period Devon has disrupted the class by talking, fighting, yelling, screaming, whining, temper tantrums, abusive language, abusive physical presents, and the threatening of my life.

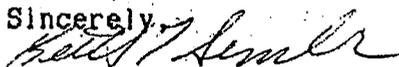
I have spoken personally with his mother on three occasions. I have sat in on a school staffing with his mother. Yet his disrespect and abusive behavior continues.

At this time I feel an alternative Physical Education program is in order for Devon. For the remainder period of time left for volleyball Devon will work in a more private area in the gym and on alternative activities. The following activities will be completed by Devon.

1. Volleyball crossword puzzle.
2. Write a story about volleyball.
3. Draw a detailed picture of a class working on individual volleyball skills.
4. Draw a detailed picture of a class working in a game of volleyball skills.
5. Creating a four square cartoon sequence showing a social problem children might develop in volleyball.

At the completion of the volleyball class and the projects outlined above Devon will be expected to re-enter the class for the next course of study. If at that time Devon continues to have an alternative behavior than that which is expected of him than another alternative course of study for physical education will be developed for him.

Sincerely,


Keith L. Semler

c.c. Mrs. Adams
Mrs. Cloud
Devon Adams

John Muir
Elementary
School

3301 South Horton Street
Seattle, WA 98144
(206) 281-6630



The
Seattle Public
Schools

March 9, 1990

Ms. Ann De Koster
3411 33rd Avenue West
Seattle, WA 98199

RE: Devon Adams

Dear Ms. DeKoster,

At 11:30 today Devon asked Mrs. Cloud if he could help in the School Store. When she said "NO" Devon said "Fuck You". She tried to talk with him but he told her shut-up twice.

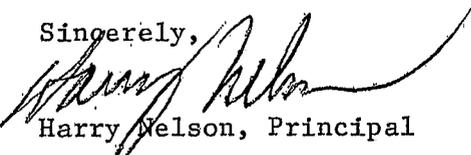
Ms. Hori took Devon to the nurses office. She had to physically restrain him. He was swearing, threw his pickles against the wall, it splattered all over.

I told Ms. Hori we had two options either send him by cab or call the police and have them deliver him home.

Devon calmed down after screaming at me using abusive language.

Devon is not to return to school Monday, I am not going to formally suspend him provided you keep him home until we can get his behavior under control. Prior to his returning to school I would like a meeting with you, Mr. Wright, Mrs. Husband, Mrs. Cloud, Ms. Hori and myself.

Sincerely,


Harry Nelson, Principal

HN:bc



Notice of Disciplinary Action

IDENTIFICATION	(Last) Adams	(First) Devon	(Middle) Paul
ADDRESS	3411 - 33rd Ave. W.		ZIP 98199
PARENT/GUARDIAN NAME	(Last) DeKoster	(First) Ann	(Middle) C.

SCHOOL John Muir	DATE 3-19-90
ATT. CD.	STUDENT I.D. NO. 4557641
BIRTHDATE 04-18-79	
HOME PHONE 282-7494	WORK PHONE 789-1056
GRADE 05	HIGH SCHOOL CREDITS

I. CHARGE(S) AND COMMENTS

The student has been charged with committing violations of the following school and/or District rules:

Insubordination, refusing to follow teacher directions. Refusal to stay in office. Threatening to get teacher. Name calling, teacher, principal, fucker, asshole, bastard, etc. Violent behavior kicking walls, door, table, chairs, etc. Had to be restrained by Principal and Family Practitioner. Devon is a safety threat in school environment.

II. ACTION TAKEN

Because of the above charge(s) the following corrective action has been or will be taken.

<input checked="" type="checkbox"/>	SUSPENSION: SHORT-TERM	Removal from school for up to three (3) school days. The student will be suspended from <u>3-20-90</u> through <u>3-22-90</u>
<input type="checkbox"/>	SUSPENSION: LONG-TERM	The student will be suspended from _____ through _____.
<input type="checkbox"/>	EXPULSION FROM SCHOOL	The student will be expelled on _____.
<input type="checkbox"/>	EXPULSION	The student will be expelled from the District on _____.
<input type="checkbox"/>	EMERGENCY EXPULSION	The student is immediately expelled.

Either No. 2 or No. 3 or No. 4 may be checked alone, or in conjunction with No. 5.

III. RE-ENTRY

Please contact the Office of Student Placement, 587-4230, to determine reentry requirements.

POSITION/TITLE

SIGNATURE



Report Card Supplement
School Comments

SCHOOL YEAR
89-90

STUDENT NAME

SCHOOL

Devon Adams

John Muir

TEACHER(S)

Cloud

FIRST QUARTER

Devon is very impulsive and needs to stop and think about his behavior. He needs to take responsibility for his actions.

SECOND QUARTER

Devon's Reading grade reflects his daily points ~~he~~ earns a point each day for doing ~~his~~ Reading assignments without disturbing others and staying on task. At the end of ^{the} quarter Devon only had 29 points out of the 50.

THIRD QUARTER

Devon has been trying to stop and think before he acts. Since his asthma medicine has ^{been} regulated, he seems more stable behaviorally.

FOURTH QUARTER

Devon did a much better job this quarter in his work and he also improved emotionally. Devon, you can be proud of your improvement and have a good summer.



Seattle Public Schools

Notice of Disciplinary Action

STUDENT NAME (Last)	(First)	(Middle)
Adams	Devon	
ADDRESS	ZIP	
3411 33 Ave. W.		
PARENT/GUARDIAN NAME (Last)	(First)	(Middle)
Ann DeKoster		

SCHOOL	DATE
New Option MS	10/10/91
ATT. CD.	BIRTHDATE
STUDENT I.D. NO.	
4557641	
HOME PHONE	WORK PHONE
286-0719	728-3212
GRADE	HIGH SCHOOL CREDITS
7	

I. CHARGE(S) AND COMMENTS

The student has been charged with committing violations of the following school and/or District rules:

D-1 Disruptive Conduct

I. ACTION TAKEN

Because of the above charge(s) the following disciplinary action has been or will be taken.

<input checked="" type="checkbox"/>	SUSPENSION: SHORT-TERM	Removal from school for up to three (3) school days.
		The student will be suspended from 10/11/91 through _____
<input type="checkbox"/>	SUSPENSION: LONG-TERM	The student will be suspended from _____ through _____
<input type="checkbox"/>	EXPULSION FROM SCHOOL	The student will be expelled on _____
<input type="checkbox"/>	EXPULSION	The student will be expelled from the District on _____
<input type="checkbox"/>	EMERGENCY EXPULSION	The student is immediately expelled.

Either No. 2 or No. 3 or No. 4 may be checked alone, or in conjunction with No. 5.

NOTE: Upon the request of the student or parent, the school will provide homework assignments until the emergency expulsion is rescinded or until it becomes final.

RE-ENTRY

Please contact the Office of Student Placement, 281-6424, to determine reentry requirements.

Program Manager
POSITION/TITLE

Barbara Kuznetz
SIGNATURE

*** IF YOU WISH TO APPEAL,
PLEASE CALL 298-7175.**



Seattle Public Schools

Notice of Disciplinary Action

STUDENT NAME	(Last)	(First)	(Middle)
ADDRESS	ZIP		
PARENT/GUARDIAN NAME	(Last)	(First)	(Middle)

Adams Devon Paul
3411 33rd Ave W 98199
DE KOSTER ANN C.

SCHOOL	DATE
ATT. CD.	BIRTHDATE
STUDENT I.D. NO.	HOME PHONE
GRADE	WORK PHONE
	HIGH SCHOOL CREDITS

McClure 10/27/92
4557641 04/18/79
282-7494 286-0719
08

I. CHARGE(S) AND COMMENTS

The student has been charged with committing violations of the following school and/or District rules:

DISRUPTIVE CONDUCT

Devon may return to school on Monday, November 2, 1992. A parent conference has been arranged for 7:00a.m., Monday, November 2, 1992.

II. ACTION TAKEN

Because of the above charge(s) the following disciplinary action has been or will be taken.

<input checked="" type="checkbox"/>	SUSPENSION: SHORT-TERM	Removal from school for up to three (3) school days. The student will be suspended from <u>10/29/92</u> through <u>10/30/92</u>
<input type="checkbox"/>	SUSPENSION: LONG-TERM	The student will be suspended from _____ through _____
<input type="checkbox"/>	EXPULSION FROM SCHOOL	The student will be expelled on _____
<input type="checkbox"/>	EXPULSION	The student will be expelled from the District on _____
<input type="checkbox"/>	EMERGENCY EXPULSION	The student is immediately expelled.

Either No. 2 or No. 3 or No. 4 may be checked alone, or in conjunction with No. 5.

NOTE: Upon the request of the student or parent, the school will provide homework assignments until the emergency expulsion is rescinded or until it becomes final.

III. RE-ENTRY

Please contact the Office of Student Placement, 281-6424, to determine reentry requirements.

Jim DeJarnatt, Assistant Principal
POSITION/TITLE

[Signature]
SIGNATURE

**IF YOU WISH TO APPEAL,
PLEASE CALL 281-6645.**



Seattle Public Schools

Notice of Disciplinary Action

STUDENT NAME (Last) Adams (First) Devon (Middle) Paul			SCHOOL McClure	DATE 01/05/93
ADDRESS 3411 33rd Ave W		ZIP 98199	ATT. CD.	STUDENT I.D. NO. 4557641
PARENT/GUARDIAN NAME (Last) De Koster (First) Ann (Middle) C			HOME PHONE 282-7494	WORK PHONE 286-0719
			GRADE 08	HIGH SCHOOL CREDITS

I. CHARGE(S) AND COMMENTS

The student has been charged with committing violations of the following school and/or District rules:

DISRUPTIVE CONDUCT - called a teacher names.

Mother notified by phone. Devon may return on Thursday, 1/7/92.

II. ACTION TAKEN

Because of the above charge(s) the following disciplinary action has been or will be taken.

<input checked="" type="checkbox"/>	SUSPENSION: SHORT-TERM	Removal from school for up to three (3) school days. The student will be suspended from <u>1/5/93</u> through <u>1/6/93</u>
<input type="checkbox"/>	SUSPENSION: LONG-TERM	The student will be suspended from _____ through _____.
<input type="checkbox"/>	EXPULSION FROM SCHOOL	The student will be expelled on _____.
<input type="checkbox"/>	EXPULSION	The student will be expelled from the District on _____.
<input type="checkbox"/>	EMERGENCY EXPULSION	The student is immediately expelled.

Either No. 2 or No. 3 or No. 4 may be checked alone, or in conjunction with No. 5.

NOTE: Upon the request of the student or parent, the school will provide homework assignments until the emergency expulsion is rescinded or until it becomes final.

III. RE-ENTRY

Please contact the Office of Student Placement, 281-6424, to determine reentry requirements.

Felisa Hundley, House Administrator
POSITION/TITLE

Felisa Hundley
SIGNATURE

**IF YOU WISH TO APPEAL,
PLEASE CALL 281-6645.**

281-6645-298-7160



Seattle Public Schools

Notice of Disciplinary Action

STUDENT NAME	(Last)	(First)	(Middle)
	ADAMS	DEVON	PAUL
ADDRESS	3411 33rd Ave W		ZIP 98199
PARENT/GUARDIAN NAME	(Last)	(First)	(Middle)
	De Koster	Ann	C

SCHOOL	DATE	
McClure	1/21/93	
ATT. CD.	STUDENT I.D. NO.	BIRTHDATE
	4557641	4/18/79
HOME PHONE	WORK PHONE	
282-7494		
GRADE	HIGH SCHOOL CREDITS	
8		

I. CHARGE(S) AND COMMENTS

The student has been charged with committing violations of the following school and/or District rules:

DISRUPTIVE CONDUCT - repeatedly told teacher "fuck you bitch" and made threats on her life and property, and continues to refer to teacher as "bitch" while talking to his mother on telephone, in presence of principal.

DESTRUCTION OF SCHOOL PROPERTY - split office "gate" from hinges as he slung the gate open as he left.

As discussed with you Devon may return to school on February 2, 1993.

II. ACTION TAKEN

Because of the above charge(s) the following disciplinary action has been or will be taken.

<input type="checkbox"/>	SUSPENSION: SHORT-TERM	Removal from school for up to three (3) school days. The student will be suspended from _____ through _____
2 <input type="checkbox"/>	SUSPENSION: LONG-TERM	The student will be suspended from <u>1/19/93</u> through <u>1/29/93</u>
3 <input type="checkbox"/>	EXPULSION FROM SCHOOL	The student will be expelled on _____
4 <input type="checkbox"/>	EXPULSION	The student will be expelled from the District on _____
5 <input type="checkbox"/>	EMERGENCY EXPULSION	The student is immediately expelled.

NOTE: Upon the request of the student or parent, the school will provide homework assignments until the emergency expulsion is rescinded or until it becomes final.

Either No. 2 or No. 3 or No. 4 may be checked alone, or in conjunction with No. 5.

III. RE-ENTRY

Please contact the Office of Student Placement, 281-6424, to determine reentry requirements.

Beatrice A. Cox, Principal
POSITION/TITLE

Beatrice A. Cox
SIGNATURE

**IF YOU WISH TO APPEAL,
PLEASE CALL 281-6043.**

-----298-7160



Notice of Discipline Action

STUDENT NAME	(Last) Adams	(First) Devon	(Middle) Paul
ADDRESS	3411 33rd Ave W		ZIP 98199
PARENT/GUARDIAN NAME	(Last) De Koster	(First) Ann	(Middle) C

SCHOOL	McClure	DATE	5/13/93
ATT. CD.	STUDENT I.D. NO. 4557641	BIRTHDATE	4/18/79
HOME PHONE	no phone		WORK PHONE
GRADE	08	HIGH SCHOOL CREDITS	

I. CHARGE(S) AND COMMENTS

The student has been charged with committing violations of the following school and/or District rules:

DISOBEDIENCE - consistent refusal to follow directions of staff; repeated occurrences of swearing at or calling names to staff. Devon has had several warnings about behavior.

Devon may return to school on 5/19/93 and a conference is requested.

II. ACTION TAKEN

Because of the above charge(s) the following disciplinary action has been or will be taken.

<input checked="" type="checkbox"/>	SUSPENSION: SHORT-TERM	Removal from school for up to three (3) school days. The student will be suspended from <u>5/17/93</u> through <u>5/18/93</u>
<input type="checkbox"/>	SUSPENSION: LONG-TERM	The student will be suspended from _____ through _____
<input type="checkbox"/>	EXPULSION FROM SCHOOL	The student will be expelled on _____
<input type="checkbox"/>	EXPULSION	The student will be expelled from the District on _____
<input type="checkbox"/>	EMERGENCY EXPULSION	The student is immediately expelled.

Either No. 2 or No. 3 or No. 4 may be checked alone, or in conjunction with No. 5.

NOTE: Upon the request of the student or parent, the school will provide homework assignments until the emergency expulsion is rescinded or until it becomes final.

III. RE-ENTRY

Please contact one of the following Parent Information Centers (Southwest: 281-6998; Southeast: 281-6456; Northeast: 281-6989) to determine reentry requirements. In cases of long-term suspension or expulsion from school, one of the Parent Information Centers can also inform you of other programs available to serve the student's educational needs during the period of exclusion from the regular school.

Felisa Hundley, House Administrator
POSITION/TITLE

Felisa Hundley
SIGNATURE

**If you wish to appeal,
please call 298-7175**

-----298-7160



The Seattle Public Schools

Notice of Disciplinary Action

STUDENT NAME	(Last) Adams	(First) Devon	(Middle) Paul
ADDRESS	3411 33rd Ave. West		ZIP
	Seattle, Washington		98199
PARENT/GUARDIAN NAME	(Last) De Koster	(First) Ann C.	(Middle)

SCHOOL	Ballard	DATE	2/3/94
ATT. CD.	STUDENT I.D. NO.	BIRTHDATE	
	4557641	4/18/79	
HOME PHONE	728-3122	WORK PHONE	
GRADE	9th	HIGH SCHOOL CREDITS	

I. CHARGE(S) AND COMMENTS

The student has been charged with committing violations of the following school and/or District rules:

C-3 Verbal confrontation at lunch time with gang implications.

This student is on emergency expulsion from Ballard High School. Parents must schedule an appointment for a conference with the principal. Devon must remain at home until the conference. Additional sanctions may be imposed after the conference.

II. ACTION TAKEN

Because of the above charge(s) the following disciplinary action has been or will be taken.

Removal from school for up to three (3) school days.	
1 <input type="checkbox"/>	SUSPENSION: SHORT-TERM The student will be suspended from _____ through _____.
2 <input type="checkbox"/>	SUSPENSION: LONG-TERM The student will be suspended from _____ through _____.
3 <input type="checkbox"/>	EXPULSION FROM SCHOOL The student will be expelled on _____.
4 <input type="checkbox"/>	EXPULSION The student will be expelled from the District on _____.
5 <input checked="" type="checkbox"/>	EMERGENCY EXPULSION The student is immediately expelled.

Either No. 2 or No. 3 or No. 4 may be checked alone, or in conjunction with No. 5.

NOTE: Upon the request of the student or parent, the school will provide homework assignments until the emergency expulsion is rescinded or until it becomes final.

III. RE-ENTRY

Please contact one of the following Parent Information Centers (Southwest: 281-6998; Southeast: 291-6456; Northeast: 281-6989) to determine reentry requirements. In cases of long-term suspension or expulsion from school, one of the Parent Information Centers can also inform you of other programs available to serve the student's educational needs during the period of exclusion from the regular school.

Assistant Principal

POSITION/TITLE

SIGNATURE

Betty N. Iverson

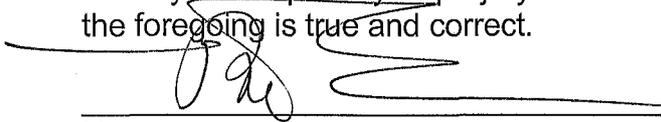
Mrs. Betty N. Iverson

**If you wish to appeal,
please call 298-7160.**

Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Jeff Ellis, the attorney for the appellant, at Ellis, Holmes & Witchley PLLC, containing a copy of the State's Response to Personal Restraint Petition, in STATE V. ADAMS, Cause No. 64265-1-I, in the Court of Appeals, Division I, for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.



Name
Done in Seattle, Washington



Date