

**SUPREME COURT OF THE STATE OF WASHINGTON**

SHYANNE COLVIN, et al.,

Petitioners,

v.

JAY INSLEE, et al.,

Respondents.

RESPONSE TO  
PETITIONERS' MOTION TO  
AMEND PETITION

**I. INTRODUCTION**

Petitioners filed a petition for writ of mandamus, asking this Court to grant extraordinary relief and to order the release of thousands of prisoners due to fear they may contract the COVID-19 coronavirus in prison, regardless of their actual risk of exposure to the disease and regardless of the risk to the public and the rights of victims. The Court has already expedited the case, scheduling oral argument for next week. After the Court ruled on Petitioners' emergency motion, Petitioners now move to convert their petition into a hybrid mandamus/personal restraint petition. Petitioners ask the Court to allow them to pursue an unprecedented class action personal restraint petition on behalf of thousands of other prisoners, regardless of the prisoners' actual conditions of confinement or the impact of COVID-19 in their facility.

Respondents respectfully request that the Court deny the motion. Legally, the proposed amendment would prejudice Respondents and victims, and would be futile for multiple reasons, including Petitioners' lack of standing to seek habeas relief for other prisoners. As a practical matter, the PRP request asks the Court to order the release of thousands of individuals without individually assessing the conditions of their confinement or the danger they may pose to the community. Even just among the five named Petitioners, one is serving a life sentence and another committed a serious offense shortly after he was last released from prison. The broader class Petitioners seek to represent includes people convicted of murder, rape, domestic violence, and other violent crimes whose victims and their families are terrified they will be released. There is no basis to allow Petitioners to convert their claim to a PRP request.

## **II. FACTS**

On March 24, 2020, Petitioners filed a petition seeking the extraordinary remedy of a writ of mandamus. Since then, the parties have filed briefs and exhibits, Petitioners have moved for emergency relief and Respondents filed a response, and numerous entities have sought leave to file amicus briefs, all directed at the request for the extraordinary remedy of mandamus. The Court expedited review, setting argument for next week.

Now, after the concurrence to the ruling on the motion for emergency relief suggested Petitioners might individually obtain relief by way of a personal restraint petition, Petitioners move to amend their petition. Petitioners seek to make their petition a hybrid petition for writ of mandamus and personal restraint petition. Petitioners do not seek such relief just for themselves individually. Rather, Petitioners ask to pursue an unprecedented class action personal restraint petition, seeking relief for “all persons in DOC custody” (Motion for Leave to Amend at 2).

### **III. ARGUMENT**

The Court should deny the motion to amend because of the prejudice the proposed amendment would cause, and because amendment would be futile since, among other reasons, Petitioners lack standing to seek habeas relief for other prisoners.

#### **A. The Proposed Amendment Prejudices Respondents and Victims**

In the three weeks since Petitioners filed this matter, and while managing the state’s and Department of Corrections’ response to the COVID-19 pandemic, Respondents have compiled and submitted a large record and extensive briefing to respond to Petitioners’ request for mandamus relief. Now, on the eve of oral argument, Petitioners seek to change course and instead pursue habeas relief on behalf of themselves and all prisoners in the State of Washington. Contrary to Petitioners’ claims,

allowing this last minute reversal of course would significantly prejudice Respondents and impair the rights of victims.

Where, as here, the amended pleading “raises entirely new concerns,” this Court has a “general tendency to deny motions to amend.” *Herron v. Tribune Pub. Co.*, 108 Wn.2d 162, 167, 736 P.2d 249 (1987). This is because the opposing party is “more likely to suffer prejudice because [it has] not been provided with notice of the circumstances giving rise to the new claim and may have to renew discovery.” *Id.* Petitioners’ proposed personal restraint petition would necessitate not just briefing on a new legal theory, but also the gathering and presenting of facts pertaining to Petitioners’ individual conditions of confinement at their respective facilities, a necessity made clear by the need for Petitioners to add 14 new paragraphs in the amended petition’s statement of facts alone. *See* Exhibit 1 to Motion for Leave to Amend, ¶¶ 64, 66-67, 69, 74, 76, 118-122 & n. 99, 117 & 125. Respondents, who have directed their briefing and exhibits towards Petitioners’ request for a writ of mandamus, have had no opportunity to develop a factual record to respond to these new allegations.

Thus far, the briefing and record in this matter have focused on issues related to mandamus because mandamus is the relief Petitioners sought. Except for a few pages explaining why the Court should not unilaterally convert the petition into a personal restraint petition,

Respondents have not briefed the standards governing habeas relief; standards that differ considerably from those governing mandamus.

Respondents also have not submitted a record relevant to a personal restraint petition, which must necessarily include facts regarding the basis of custody. For example, Petitioner Theodore Rhone, as a persistent offender, received a sentence of life without parole following his conviction for armed robbery. Exhibit 1, Judgment and Sentence. The sentence requires that Rhone remain in prison for his natural life, without opportunity for early release. *See, e.g.*, RCW 9.94A.570 (persistent offender not eligible for furlough, home detention, or any other form of early release); RCW 9.94A.728(1)(c)(v) (“Persistent offenders are not eligible for extraordinary medical placement.”); RCW 9.94A.555(1)(a) (declaring Legislature’s intent that “Community protection from persistent offenders is a priority for any civilized society.”). The courts have affirmed Rhone’s conviction and rejected a collateral challenge to the custody. *See, e.g., State v. Rhone*, 11 Wn. App. 2d 1048 (2019) (unpublished) (No. 51517-2-II) (2019 WL 6878827) (summarizing the prior procedural history and denying collateral relief).

If the Court were to allow Rhone to challenge again the validity of his confinement through a personal restraint petition, and the case remains expedited, Respondents will not have a fair opportunity to brief fully why

Rhone's challenge to his confinement must fail under the standards applicable to a personal restraint petition. This is true whether Petitioners assert their claim for immediate release head on, as a challenge to his confinement, or indirectly as a "conditions" PRP under RAP 16.4(c)(6), where individualized evidence of Rhone's confinement is required. Even if Petitioners somehow could show that their individual conditions of confinement were unlawful (which they cannot) the remedy cannot lawfully be release, contrary to their judgments and sentences, but rather a change in their conditions of confinement.

Similarly, Petitioner Leondis Berry received 129 months for six counts of robbery, plus 240 months for firearm sentencing enhancements, for a total sentence of 369 months. Exhibit 2, Judgment and Sentence. Because Berry committed his crimes as an adult, the sentencing enhancements are mandatory, he cannot obtain early release credits while serving those enhancements, and the courts may not waive the sentencing enhancements. *See, e.g.*, RCW 9.94A.533; RCW 9.94A.729. Similar to Rhone, the state and federal courts have rejected Berry's collateral challenge to his custody. If the Court allows Berry to challenge his confinement through a personal restraint petition, and retains the expedited schedule, Respondents will not have a fair opportunity to respond to a personal restraint petition challenging Berry's custody.

The same is true for the other Petitioners. For example, the Department has confined Petitioner Kill under three separate judgments, imposed for multiple convictions. Exhibit 3, Judgments and Sentences. Although Mr. Kill suggests he will not be a risk to the public if released, he committed several serious crimes, including robbery and residential burglary, while already on community custody. Exhibit 3. Converting the petition into a personal restraint petition, especially one in which the remedy sought is release, and keeping the expedited schedule, will deprive Respondents of a fair opportunity to defend against a habeas challenge to Mr. Kill's confinement under the judgments and sentences.

If the Court allows Petitioners to convert the action into a personal restraint petition and keeps the expedited schedule, Respondents also will not have the opportunity to fully brief the proper remedies that the Court may provide in a personal restraint petition proceeding.

Contrary to Petitioners' assertion, the Court cannot grant release from confinement as a remedy for the alleged failure to protect Petitioners from COVID-19. "A personal restraint petition is an appropriate procedure only where the petitioner is under a 'restraint' resulting from the challenged decision." *In re the Welfare of M.R.*, 51 Wn. App. 255, 257, 753 P.2d 986, review denied, 111 Wn.2d 1002 (1988). A person is under a "restraint" for purposes of a personal restraint petition if "the petitioner has limited

freedom because of a court decision in a civil or criminal proceeding, the petitioner is confined, the petitioner is subject to imminent confinement, or the petitioner is under some other disability resulting from a judgment or sentence in a criminal case.” RAP 16.4(b).

Here, the restraints at issue are Petitioners’ judgments and sentences resulting from their criminal cases. Petitioners’ challenge to those restraints is fundamentally a challenge to the judgments and sentences that confine Petitioners. Even assuming, *arguendo*, that Petitioners could challenge their *conditions* of confinement based on their disagreement with the manner in which the Governor and Secretary are responding to COVID-19, the appropriate relief would be a remedy to *those particular challenged conditions*—not the mass release of all Petitioners and thousands of others without any regard to their specific conditions of confinement. If the Court converts the action to a personal restraint petition, and keeps the expedited schedule, Respondents will not have a fair opportunity to respond to the personal restraint petition.

In addition, amending the action to seek habeas relief for “all persons in DOC custody” would severely prejudice the rights of victims. article I, section 35 of the Washington State Constitution gives victims the right to make a statement at any proceeding where a defendant’s release is considered. If this Court converts the action into a personal restraint petition

for “all persons in DOC custody,” and expedites review, victims of violent crime in many cases will not receive the rights provided to them under the Washington State Constitution.

Petitioners do not mention this constitutional mandate, despite the severe impact their requested relief would have upon the victims of the individuals they ask the Court to release. Respondents’ counsel, as well as the Department of Corrections Victims Services Unit, have received communications from victims expressing fear that the person who committed crimes against them will receive early release. One woman, whose husband is serving a sentence for soliciting her murder, expressed terror because her husband will kill her if released. This victim’s husband tried to hire a fellow inmate to kill her when confined in jail pending trial. Numerous other victims, particularly those who have suffered from domestic violence or sexual abuse at the hands of prisoners, have expressed fear for their safety and security. “Mary Ellen Stone, executive director of the King County Sexual Assault Resource Center, said last week her staff has been hearing from assault victims who have seen news accounts of the lawsuit and worry the state will release their assailants.”<sup>1</sup>

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<sup>1</sup> Jim Brunner and Joseph O’Sullivan, *Inslee plan to release hundreds of prison inmates leaves questions, draws criticisms from all sides*, SEATTLE TIMES, (April 14, 2020) <https://www.seattletimes.com/seattle-news/politics/inslec-plan-to-release-hundreds-of-prison-inmates-leaves-questions-draws-criticisms-from-all-sides/>.

As Respondents demonstrated in their response to the petition and emergency motion, Petitioners ask this Court to order the release of over 11,700 prisoners based only on three factors they have identified (age, medical condition, and date of anticipated release)—a request that would in practice require the Department to disregard all other vitally important concerns relating to the risk to victims, the protection of public safety, and the health and safety of the prisoners themselves. In addition to two notorious serial killers, Petitioners would also have this Court order the release of individuals formerly sentenced to death, such as Darold Stenson and Jonathan Gentry, many untreated sex offenders, and scores of other violent offenders. Petitioners’ proposal to convert this action into a personal restraint petition on behalf of all prisoners in DOC custody, and to expedite review of such a petition, would severely prejudice the victims of these individuals and cause undue risk to community safety.

**B. The Court Should Deny the Proposed Amendment as Futile**

Petitioners seek to pursue habeas corpus relief on behalf of all prisoners in DOC custody. Petitioners lack standing to seek such relief, and the relief they request would not be appropriate even if the Court were to convert the request to a PRP action.

The Court should therefore deny leave to amend based on the futility of the amendment. *See Ino, Inc. v. City of Bellevue*, 132 Wn.2d 103, 142,

937 P.2d 154, *amended*, 943 P.2d 1358 (1997) (denying leave to add new claim as “both untimely and futile” because analysis of the substantive law made clear claim would fail); *see also Culpepper v. Snohomish Cty. Dep’t of Planning & Cmty. Dev.*, 59 Wn. App. 166, 796 P.2d 1285 (1990).

Petitioners’ proposed amendment is futile at the outset because they lack standing to pursue habeas corpus relief on behalf of all persons in DOC custody. A personal restraint petition is just that—a petition filed by one person seeking individual habeas corpus relief. *See* RAP 16.4. To obtain relief in a personal restraint petition, the person must prove that he or she is under a restraint and that the restraint is unlawful under state or federal law. RAP 16.4(a). The RAPs do not contain any provision for a petitioner or even a group of petitioners to seek habeas corpus relief on behalf of all other prisoners. On the contrary, the RAPs require that the individual prisoner seek personal restraint petition relief. RAP 16.6.

As the rules dictate, “the petition should be captioned only with the name of the petitioner.” RAP 16.6(a). Similarly, consistent with the requirements of standing, “The petition may be brought by the person who is under a restraint or in the person’s name by that person’s guardian, conservator, parent, or attorney.” RAP 16.6(a). If a person brings a petition on behalf of another person, such as in a “next friend” petition, the petition still must be brought in the name of the particular person. RAP 16.6(a). The petition must

also be signed or verified by the person seeking relief. RAP 16.7(a)(6). The RAPs do not allow a person or group of people to bring a personal restraint petition on behalf of all persons in DOC custody.

In arguing that the Court may provide class wide relief, Petitioners ignore the procedural steps required for such relief. They rely heavily on *Johnson v. Moore*, 80 Wn.2d 531, 496 P.2d 334 (1972), but *Johnson* does not support their position. The petitioners in that action challenged a single policy of the Seattle jail through various procedural-remedial mechanisms, including habeas corpus and injunctive and declaratory relief. *Id.* at 532. The challenged policy was the jail’s practice of holding individuals “on suspicion” without being taken before a magistrate for arraignment and bail setting. Unlike Petitioners here, however, the petitioners in *Johnson* specifically sought class certification under Civil Rule 23. After several months of proceedings, the trial court denied class certification, finding that individual issues predominated. *Johnson*, 80 Wn.2d at 532. This Court reversed, finding that the superior court had erroneously characterized the action as one seeking habeas relief rather than one for injunctive and declaratory relief. *Id.* at 535. This Court ruled that certification was proper under CR 23(b)(2). *Id.* Here, other than an incidental reference in a footnote (Petitioners’ Motion at 9-10 n. 6), Petitioners completely ignore CR 23. They seek class action status and relief without following the rules that

govern class actions. Given the momentous nature of the relief they seek— immediate release of nearly two-thirds of the prison population without regard for individualized factors relating to victims’ rights or public safety—the Court should decline the invitation to discard established procedures and the rule of law.

Simply put, Petitioners lack standing to seek habeas relief for other prisoners. Neither a federal court nor a state court has jurisdiction over an action unless the litigant demonstrates “standing.” *Whitmore v. Arkansas*, 495 U.S. 149, 110 S. Ct. 1717 109 L. Ed. 2d 135, (1990); *East Gig Harbor Improvement Ass’n. v. Pierce Cty.*, 106 Wn.2d 707, 797, 710, 724 P.2d 1009 (1986). The doctrine of standing prohibits a litigant from raising another’s legal rights. *Omega Nat’l Ins. Co. v. Marquardt*, 115 Wn.2d 416, 432, 799 P.2d 235 (1990); *Haberman v. WPPSS*, 109 Wn.2d 107, 138, 744 P.2d 1032 (1987).

One limited exception to the standing requirement is the doctrine of “next friend” standing, in which a non-party may pursue habeas relief on behalf of the real party in interest. The threshold inquiry in a “next friend” action does not depend in any way upon the merits of the claims, but instead upon the standing of the “friend” to file the action on behalf of the real party in interest. *Whitmore v. Arkansas*, 495 U.S. at 163. There are at least two firmly-rooted prerequisites for next friend standing. First, the “next friend”

must provide an adequate reason, such as mental incompetence of the actual petitioner, to demonstrate why the prisoner is not filing the petition. *Whitmore*, 495 U.S. at 163-64; *Demosthenes v. Baal*, 495 U.S. 731, 736, 110 S. Ct. 2223, 2225, 109 L. Ed. 2d 762 (1990). Second, the person proceeding as the “‘next friend’ must have some significant relationship with the real party in interest.” *Whitmore*, 495 U.S. at 163-64. The purported “next friend” bears the heavy burden clearly to establish the propriety of her status. *Whitmore*, 495 U.S. at 164; *Wells by Kehne v. Arave*, 18 F.3d 656, 658, *amended*, 18 F.3d 658 (9th Cir. 1994).

“These limitations on the ‘next friend’ doctrine are driven by the recognition that ‘[i]t was not intended that the writ of habeas corpus should be availed of, as a matter of course, by intruders or uninvited meddlers, styling themselves next friends.’” *Whitmore*, 495 U.S. at 164 (quoting *United States ex rel. Bryant v. Houston*, 273 F. 915, 916 (2d Cir. 1921)). In the absence of any meaningful evidence of incompetency, there is no basis for next friend standing, nor is there any reason to hold an evidentiary hearing on the subject. *Baal*, 495 U.S. at 736

These requirements exist for good reason. Habeas corpus review involves a particularized review of an incarcerated individual’s status, including—in the context of a challenge to conditions of confinement—that individual’s conditions of confinement at their particular facility. Petitioners’

attempt to bring a personal restraint petition on behalf of all persons in DOC custody, regardless of their circumstances, does not allow for such analysis. To the contrary, although Petitioners emphasize the few cases of COVID-19 currently confirmed at one prison, their proposed petition would seek relief, often in the form of immediate release, for all persons incarcerated in every prison, even those that have no confirmed (or suspected) cases of COVID-19. Such a broad request for relief, without the individualized analysis of the conditions a particular prisoner may face in a particular prison, goes well beyond the individualized analysis required in a habeas corpus action.

Further, Petitioners cannot use a personal restraint petition as an avenue to challenge the actions of state government where other judicial remedies exist. “A personal restraint petition is not a substitute for statutory avenues for review. . . .” *In re Meirhofer*, 182 Wn.2d 632, 648, 343 P.3d 731, 738 (2015). “Among other things, relief is limited to those who meet the requirements of RAP 16.4, including its requirement that the petitioner show that ‘other remedies which may be available to petitioner are inadequate.’” *Id.* (quoting RAP 16.4(d)). As argued in response to the petition for writ of mandamus, Petitioners cannot show the absence of an adequate remedy given that prisoners are currently litigating identical issues in a superior court declaratory judgment action.

Petitioners' request to seek personal restraint relief for "all persons in DOC custody" shows that another remedy exists in superior court, and that the other remedy is the proper course of action. For example, Petitioners seek to contend that Respondents have not reasonably accommodated the disabilities of "all persons in DOC custody." However, one category of prisoners identified by Petitioners is anyone with less than 18 months to serve on a sentence, regardless of age or health condition. The duration of a sentence is not a protected disability. If Petitioners seek habeas relief for all prisoners based upon the alleged failure to accommodate disabilities for this category of individuals, then a material question of fact exists as to whether the individuals even have a disability that requires accommodation. The superior court, not this Court, is the proper forum to resolve such a question of fact. *Garcia v. Henley*, 190 Wn.2d 539, 544, 415 P.3d 241 (2018) (recognizing the role of this Court is not fact finding). Even if this Court allowed Petitioners to pursue a personal restraint petition, the Court would have to remand to a superior court to hold a reference hearing to resolve such disputed facts. RAP 16.11; RAP 16.12. A remand would not only delay the resolution of the pending petition, it would show that the other remedy

at law—filing a civil action in superior court—is the proper and adequate avenue for pursuing the claims raised by Petitioner.<sup>2</sup>

In addition, the relief Petitioners seek on behalf of all prisoners goes well beyond the relief authorized for a personal restraint petition. The personal restraint petition proceeding provides only relief from the unlawful restraint. *In re Sappenfield*, 138 Wn.2d 588, 595, 980 P.2d 1271 (1999). Any remedy other than removal of the unlawful restraint is beyond the scope of relief of a personal restraint petition. *Id.* Although Petitioners ask for the release of thousands of prisoners, Petitioners do not and cannot challenge the validity of the judgments and sentence confining those prisoners. Rather, Petitioners challenge the conditions of confinement in the prisons related to COVID-19. Assuming Petitioners can make this showing, the only remedy is change in the conditions, not release from custody. Without any attempt to distinguish between conditions at various prisons, Petitioners attempt to use the current COVID-19 pandemic and the personal restraint petition process to secure the release of the majority of incarcerated individuals in Washington State. Petitioners make this effort without acknowledging the risk of harm to the public, the long-term health and safety

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<sup>2</sup> The amici curiae have been drafting briefs in the context of a case involving the extraordinary writ of mandamus, not a personal restraint petition. If the material issues in the litigation change, the anticipated amicus briefs may no longer be helpful to the Court.

of the released individuals, and the safety and constitutional rights of victims, and their requested relief would prevent adequate consideration of these vital concerns. Simply put, the writ of habeas corpus as enforced in a personal restraint petition proceeding does not permit such relief.<sup>3</sup>

#### IV. CONCLUSION

For the reasons stated above, Respondent respectfully requests that the Court deny Petitioners' motion to amend.

RESPECTFULLY SUBMITTED this 16th day of April 2020.

*s/ Tim Lang*

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TIM LANG, WSBA #21314  
Senior Assistant Attorney General

*s/John J. Samson*

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<sup>3</sup> Petitioners also renew their request for immediate release, already denied by this Court, but they fail to present any new evidence warranting such preliminary relief.

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing RESPONSE TO PETITIONERS’ MOTION TO AMEND PETITION with the Clerk of the Court, which will send notification of such filing to the following:

Andrea H. Brewer Antoinette M Davis D'Adre Beth Cunningham Caedmon Magboo Cahill Cara Wallace Darren W. Johnson David C. Kimball-Stanley Haley Sebens, Heather Lynn Mckimmie Janet S. Chung Jacqueln M. Aufderheide John Randall Tyler John Ballif Midgley	Jose Dino Vasquez Lauren Jeffers Tsuji Melissa R. Lee Michael E. McAleenan, Nancy Lynn Talner Nathaniel Block, Neil Martin Fox Nicholas Brian Allen Nicholas Broten Straley Nikkita Oliver Rachael Elizabeth Seevers Robert S Chang Susanna M. Buerger Teresa Chen
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I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 16th day of April 2020, at Olympia, Washington.

s/ Kathy Anderson  
Kathy Anderson, Legal Assistant  
Attorney General’s Office  
Corrections Division, OID #91025  
P.O. Box 40116  
Olympia WA 98504-0116  
(360) 586-1445

# **EXHIBIT 1**



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The State moves that the court conform the Judgment and Sentence to the mandate issued by the Court of Appeals in State v. Rhone, 46960-0-II, by amending as follows, deleting all reference to Count I-UPCSWID and Count II-UPOF 1:

- 1) In Section 2.1, Current Offenses, Counts I-UPCSWID and III-UPOF 1 are deleted.
- 2) In Section 2.3, Sentencing Data, Counts I-(UPCSWID) and III-(UPOF 1) are deleted. Count II-Robbery in the First Degree should read an offender score of "13" instead of "15." Count IV-Bailjumping should read an offender score of "10" instead of 12.
- 3) In Section 4.12, Confinement over one year: Persistent offender. Count "I" (UPCSWID) is deleted.
- 4) In Section 4.12(a) Confinement. Count "I" (UPCSWID) is deleted from "Life without the possibility of early release on Count..."
- 5) In Section 4.12 Confinement over one year (a) "'Life w/out parole' months on Count I" is deleted. "116 months on Count III" is deleted. "36 months on Count No. I" is deleted.
- 6) In Section 4.12 under "Actual number of months of total confinement ordered is:" delete "+ 36 months flat-time".
- 7) In Section 4.13 Community Custody, delete "Count I for a range from 9 to 12 months."

The State, moves for an order vacating Count I, UPCSWID, and Count III, UPOF 1. The conviction for Count II-Robbery in the First Degree with a firearm enhancement is affirmed.

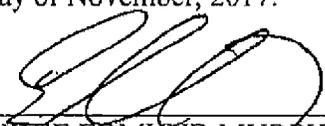
IT IS HEREBY

ORDERED, ADJUDGED AND DECREED that Count I-UPCSWID and Count III-UPOF 1, on this cause number be vacated to conform to the Court of Appeals decision, State v. Rhone, 46960-0-II. The specific deletions shall be as outlined in this motion. All other terms and

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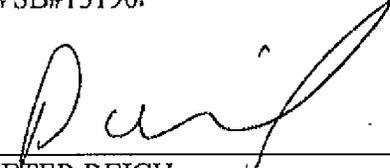
conditions of the original Judgment and Sentence shall remain in full force and effect as if set forth in full herein. The conviction for robbery in the first degree with a firearm enhancement is affirmed. IT IS FURTHER ORDERED that the Clerk of the Court shall attach a copy of this order to the judgment filed on November 18, 2005, so that anyone obtaining a certified copy of the judgment will also obtain a copy of this order.

DONE IN OPEN COURT this 17<sup>th</sup> day of November, 2017.

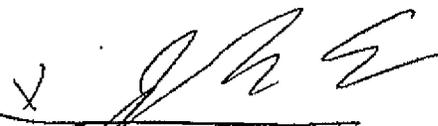
  
JUDGE EDMUND MURPHY

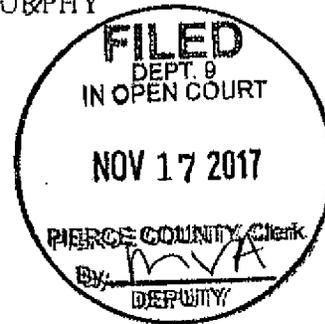
Presented by:

  
PATRICK COOPER  
Deputy Prosecuting Attorney  
WSB#15190.

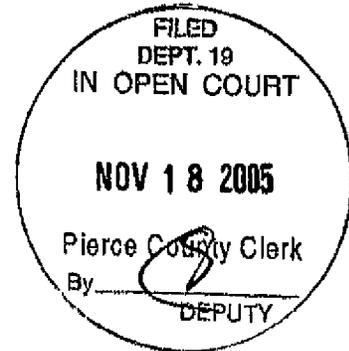
  
PETER REICH  
Attorney for Defendant  
WSB# 37926

THEODORE RHONE

  
#37681



Case Number: 03-1-02581-1 Date: November 22, 2005  
SerialID: D4580021-608B-42B8-884AA35B92114E83  
Certified By: Kevin Stock Pierce County Clerk, Washington



03-1-02581-1 24062367 JDSWCD 11-21-05

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 03-1-02581-1

vs

THEODORE ROOSEVELT RHONE,

Defendant.

WARRANT OF COMMITMENT

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

NOV 21 2005

Kevin Stock, Pierce County Clerk

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

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

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

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

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

Case Number: 03-1-02581-1 Date: November 22, 2005  
SerialID: D4580021-608B-42B8-884AA35B92114E83  
Certified By: Kevin Stock Pierce County Clerk, Washington

03-1-02581-1

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

By direction of the Honorable

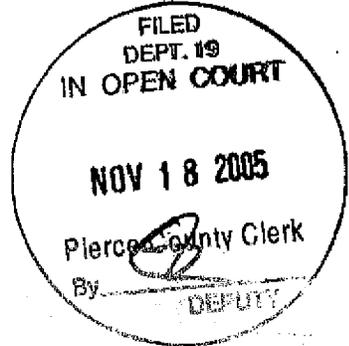
Dated: 11/18/05

*[Signature]*  
\_\_\_\_\_  
JUDGE  
KEVIN STOCK  
CLERK

By: *[Signature]*  
\_\_\_\_\_  
DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF

NOV 21 2005 By *[Signature]*



STATE OF WASHINGTON

County of Pierce

I, Kevin Stock, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this \_\_\_\_\_ day of \_\_\_\_\_,

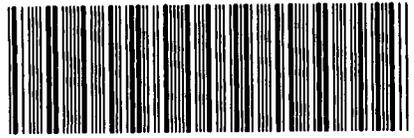
KEVIN STOCK, Clerk

By: \_\_\_\_\_ Deputy

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DEPUTY



03-1-02581-1 24082367 JDSWCD 11-21-05

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 03-1-02581-1

vs.

THEODORE ROOSEVELT RHONE,

Defendant.

WARRANT OF COMMITMENT

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

NOV 21 2005

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

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

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

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

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

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

Dated: 11/18/05

By direction of the Honorable

[Signature]  
JUDGE  
KEVIN STOCK

CLERK  
By: [Signature]  
DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF  
NOV 21 2005 By [Signature]

FILED  
DEPT. 19  
IN OPEN COURT  
NOV 18 2005  
Pierce County Clerk  
By [Signature]  
DEPUTY

STATE OF WASHINGTON

ss:

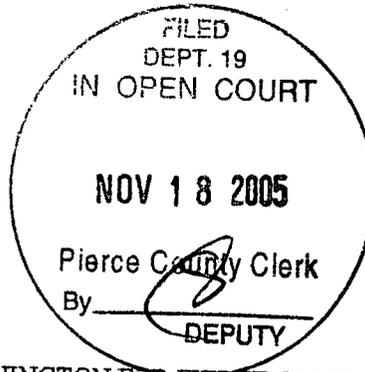
County of Pierce

I, Kevin Stock, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this NOV 21, 2005 day of

KEVIN STOCK, Clerk  
By: [Signature] Deputy

kls



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 03-1-02581-1

vs.

JUDGMENT AND SENTENCE (JS)

THEODORE ROOSEVELT RHONE

Defendant.

- Prison
- Jail One Year or Less
- First-Time Offender
- SSOSA
- DOSA
- Breaking The Cycle (BTC)

SID: 16536308

DOB: [REDACTED]

NOV 21 2005

I HEARING

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

II FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 05/05/05 by  plea  jury-verdict  bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER (J2)	69.50.401(a)(1)(i) 9.41.010 9.94A.310/9.94A.510 9.94A.370/9.94A.530	FASE	05/30/03	031500923
II	ROBBERY IN THE FIRST DEGREE (AAA1)	9A.56.190 9A.56.200(1)(a)(i) 9.41.010 9.94A.310/9.94A.510 9.94A.370/9.94A.530	FASE	5/30/03	031500923
III	UNLAWFUL POSSESSION OF A	9.41.010(12) 9.41.040(1)(a)		5/30/03	031500923

05-9-13727-5

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
	FIREARM IN THE FIRST DEGREE (GGG66)				
IV	BAIL JUMPING (EE7D)	9A.76.170(1) 9a.76.170(3)(c)		07/17/03	031500923

\* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Horn, See RCW 46.61.520, (JP) Juvenile present.

as charged in the SECOND AMENDED (JURY VERDICT) Information

- [X] A special verdict/finding for use of firearm was returned on Count(s) I AND II RCW 9.94A.602, .510.
- [ ] The court finds that the offender has a chemical dependency that has contributed to the offense(s). RCW 9.94A.
- [ ] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- [ ] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

## 2.2 CRIMINAL HISTORY (RCW 9.94A.525):

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J ADULT JUV	TYPE OF CRIME
1	FELON IN POSS OF WEAPON		Portland, OR	05/05/81	A	NV
2	ROBRY 1		Portland, OR	05/05/81	A	V
3	ESCAPE 2	07/02/86	Portland, OR	06/26/86	A	NV
4	PERJURY	05/10/89	Eugene, OR	11/17/87	A	NV
5	UPCS	05/10/89	Eugene, OR	11/17/87	A	NV
6	ASLT 2	05/23/89	Portland, OR	09/28/88	A	V
7	HIT & RUN	05/23/89	Portland, OR	09/28/88	A	NV
8	FORGERY 1		Salem, OR	06/07/89	A	NV
9	RBRY 1	06/30/93	Clark Co.	01/26/93	A	V

- [ ] The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

## 2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	12	2	60-120 MOS	36 MOS	96-156 MOS	LIFE
II	15	9	129-171 MOS	60 MOS	189-231 MOS	LIFE
III	12	7	87-116 MOS		87-116 MOS	10 YRS
IV	12	5	72-96 MOS		72-96 MOS	10 YRS

- 2.4  [ ] EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence  above  below the standard range for Court(s) \_\_\_\_\_. Findings of fact and

conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney [ ] did [ ] did not recommend a similar sentence.

2.5 LEGAL FINANCIAL OBLIGATIONS. The judgment shall upon entry be collectable by civil means, subject to applicable exemptions set forth in Title 6, RCW. Chapter 379, Section 22, Laws of 2003. [ ] The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

[ ] The following extraordinary circumstances exist that make payment of nonmandatory legal financial obligations inappropriate:

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

III. JUDGMENT

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

3.2 [ ] The court DISMISSES Counts \_\_\_\_\_ [ ] The defendant is found NOT GUILTY of Counts \_\_\_\_\_

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

- RIN/RJN \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_
- \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_  
(Name and Address--address may be withheld and provided confidentially to Clerk's Office).
- PCV \$ 500.00 Crime Victim assessment
- DNA \$ 100.00 DNA Database Fee
- PUB \$ 1800.00 Court-Appointed Attorney Fees and Defense Costs
- FRC \$ 110.00 Criminal Filing Fee
- FCM \$ \_\_\_\_\_ Fine
- CLF \$ \_\_\_\_\_ Crime Lab Fee [ ] deferred due to indigency
- CDF/DFA-DFZ \$ \_\_\_\_\_ Drug Investigation Fund for \_\_\_\_\_ (agency)
- JFR \$ \_\_\_\_\_ Jury Fee

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_

\$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_  
\$ 1710.00 TOTAL

[X] All payments shall be made in accordance with the policies of the clerk, commencing immediately, unless the court specifically sets forth the rate herein: Not less than \$ \_\_\_\_\_ per month commencing \_\_\_\_\_ RCW 9.94.760. If the court does not set the rate herein, the defendant shall report to the clerk's office within 24 hours of the entry of the judgment and sentence to set up a payment plan.

4.2 RESTITUTION

[ ] The above total does not include all restitution which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[ ] shall be set by the prosecutor.

[ ] is scheduled for \_\_\_\_\_

[ ] defendant waives any right to be present at any restitution hearing (defendant's initials): \_\_\_\_\_

[ ] RESTITUTION. Order Attached

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

	NAME of other defendant	CAUSE NUMBER	(Victim name)	(Amount-\$)
RJN	Cortez Sebastian Brown			
	Phyllis M Burg			

4.3 COSTS OF INCARCERATION

[ ] In addition to other costs imposed herein, the court finds that the defendant has or is likely to have the means to pay the costs of incarceration, and the defendant is ordered to pay such costs at the statutory rate. RCW 10.01.160.

4.4 COLLECTION COSTS

The defendant shall pay the costs of services to collect unpaid legal financial obligations per contract or statute. RCW 36.18.190, 9.94A.780 and 19.16.500.

4.5 INTEREST

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090

4.6 COSTS ON APPEAL

An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW. 10.73.

4.7 [ ] HIV TESTING

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

4.8 [X] DNA TESTING

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

4.9 NO CONTACT

The defendant shall not have contact with Isaac Miller, 8/23/80 (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for Life years (not to exceed the maximum statutory sentence).

Domestic Violence Protection Order or Antiharassment Order is filed with this Judgment and Sentence.

4.10 OTHER:


4.11 BOND IS HEREBY EXONERATED

4.12 CONFINEMENT OVER ONE YEAR: PERSISTENT OFFENDER. The defendant was found to be a Persistent Offender.

- The court finds Count 1 + 2 is a most serious offense and that the defendant has been convicted on at least two separate occasions of most serious offense felonies, at least one of which occurred before the commission of the other most serious offense for which the defendant was previously convicted.
- The court finds Count \_\_\_\_\_ is a crime listed in RCW 9.94A.030(31)(b)(i) (e.g., rape in the first degree, rape of a child in the first degree (when the offender was sixteen years of age or older when the offender committed the offense), child molestation in the first degree, rape in the second degree, rape of a child in the second degree (when the offender was eighteen years of age or older when the offender committed the offense) or indecent liberties by forcible compulsion; or any of the following offenses with a finding of sexual motivation: murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree; or an attempt to commit any crime listed in RCW 9.94A.030(31)(b)(i)), and that the defendant has been convicted on at least one separate occasion, whether in this state or elsewhere, of a crime listed in RCW 9.94A.030(31)(b)(i) or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in RCW 9.94A.030(31)(b)(i).

Those prior convictions are included in the offender score as listed in Section 2.2 of this Judgment and Sentence. RCW 9.94A.030, RCW 9.94A.

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections:

Life without the possibility of early release on Count 1 + 2

(116) months on Count III

(96) ~~months~~ (30) months on Count IV

~~months~~ (3) months on Count \_\_\_\_\_

Actual number of months of total confinement ordered is: Life without the possibility of early release.

(b) CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively:

\_\_\_\_\_ The sentence herein shall run consecutively to all felony sentences in other cause numbers that were imposed prior to the commission of the crime(s) being sentenced.

\_\_\_\_\_ The sentence herein shall run concurrently with felony sentences in other cause numbers that were imposed subsequent to the commission of the crime(s) being sentenced unless otherwise set forth here.

The sentence herein shall run consecutively to the felony sentence in cause number(s) \_\_\_\_\_

\_\_\_\_\_ The sentence herein shall run consecutively to all previously imposed misdemeanor sentences unless otherwise set forth here: \_\_\_\_\_

\_\_\_\_\_ Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_

4.93

OTHER: \_\_\_\_\_

90

4.12 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

<u>Life w/out parole</u> months on Count	<u>I</u>	<u>Life w/out parole</u> months on Count	<u>II</u>
<u>116</u> months on Count	<u>III</u>	<u>96</u> months on Count	<u>IV</u>
_____ months on Count	_____	_____ months on Count	_____

A special finding/verdict having been entered as indicated in Section 2.1, the defendant is sentenced to the following additional term of total confinement in the custody of the Department of Corrections:

<u>36</u> months on Count No	<u>I</u>	<u>60</u> months on Count No	<u>II</u>
_____ months on Count No	_____	_____ months on Count No	_____
_____ months on Count No	_____	_____ months on Count No	_____

Sentence enhancements in Counts \_ shall run  
 concurrent  consecutive to each other.

Sentence enhancements in Counts \_ shall be served  
 flat time  subject to earned good time credit

A special finding/verdict having been entered as indicated in Section 2.1, the defendant is sentenced to the following additional term of total confinement in the custody of the Department of Corrections:

_____ months on Count No	<u>I</u>	_____ months on Count No	<u>II</u>
_____ months on Count No	<u>III</u>	_____ months on Count No	<u>IV</u>
_____ months on Count No	_____	_____ months on Count No	_____

Sentence enhancements in Counts \_ shall run  
 concurrent  consecutive to each other.

Sentence enhancements in Counts \_ shall be served  
 flat time  subject to earned good time credit

Actual number of months of total confinement ordered is: Life w/out possibility of parole + 36 mos. flat-time + 60 mos. flat-time  
(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: \_\_\_\_\_

The sentence herein shall run consecutively to all felony sentences in other cause numbers prior to the commission of the crime(s) being sentenced.

Confinement shall commence immediately unless otherwise set forth here:

(b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

379 days

4.13  COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:

Count \_\_\_\_\_ for \_\_\_\_\_ months;

Count \_\_\_\_\_ for \_\_\_\_\_ months;

Count \_\_\_\_\_ for \_\_\_\_\_ months;

COMMUNITY CUSTODY is ordered as follows:

Count I for a range from: 9 to 12 Months;

Count II for a range from: 18 to 36 Months;

Count III for a range from: \_\_\_\_\_ to \_\_\_\_\_ Months;

Count IV For a range from: \_\_\_\_\_ To \_\_\_\_\_ Months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses -- serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense -- RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

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

The defendant 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 undergo an evaluation for treatment for  domestic violence  substance abuse

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

The defendant shall comply with the following crime-related prohibitions: \_\_\_\_\_

Other conditions may be imposed by the court or DOC during community custody, or are set forth here: \_\_\_\_\_

4.14  **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.13.

4.15 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: \_\_\_\_\_

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505.
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7602.
- 5.4 **CRIMINAL ENFORCEMENT AND CIVIL COLLECTION.** Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. Per section 2.5 of this document, legal financial obligations are collectible by civil means. RCW 9.94A.634.
- 5.5 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.6 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. N/A

5.7 OTHER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

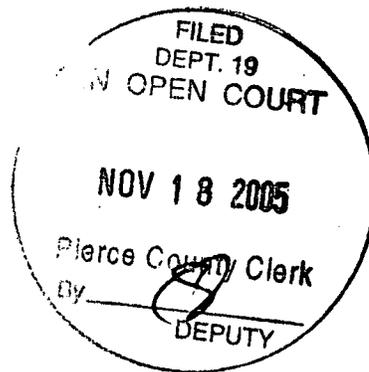
DONE in Open Court and in the presence of the defendant this date: 11/18/05

JUDGE  
Print name: \_\_\_\_\_

P. Dishe  
Deputy Prosecuting Attorney  
Print name: P. Dishe  
WSB # 26045

HARRY S. STRAIN  
Attorney for Defendant  
Print name: HARRY S. STRAIN  
WSB # 24863

Theodore Rhone  
Defendant  
Print name: Theodore Rhone



CERTIFICATE OF CLERK

CAUSE NUMBER of this case: 03-1-02581-1

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

WITNESS my hand and seal of the said Superior Court affixed this date: NOV 21 2005

Clerk of said County and State, by: B. Knighton, Deputy Clerk

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APPENDIX "F"

The defendant having been sentenced to the Department of Corrections for a:

- sex offense
- serious violent offense
- assault in the second degree
- any crime where the defendant or an accomplice was armed with a deadly weapon
- any felony under 69.50 and 69.52 committed after July 1, 1988 is also sentenced to one (1) year term of community placement on these conditions:

The offender shall report to and be available for contact with the assigned community corrections officer as directed:

The offender shall work at Department of Corrections approved education, employment, and/or community service;

The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions:

An offender in community custody shall not unlawfully possess controlled substances;

The offender shall pay community placement fees as determined by DOC:

The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

The offender shall submit to affirmative acts necessary to monitor compliance with court orders as required by DOC.

The Court may also order any of the following special conditions:

- (I) The offender shall remain within, or outside of, a specified geographical boundary: ped CCD
- (II) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals: Victim Isaac Miller
- (III) The offender shall participate in crime-related treatment or counseling services;
- (IV) The offender shall not consume alcohol;
- (V) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or
- (VI) The offender shall comply with any crime-related prohibitions.
- (VII) Other: Forfeit firearm in evidence

IDENTIFICATION OF DEFENDANT

SID No. 16536308  
(If no SID take fingerprint card for State Patrol)

Date of Birth [REDACTED]

FBI No. 638440P1

Local ID No. UNKNOWN

PCN No. 537830603

Other

Alias name, SSN, DOB: RIVERS, TERRANCE LEE, [REDACTED]

FILED  
DEPT. 19  
IN OPEN COURT  
NOV 18 2005  
Pierce County Clerk  
By [Signature]  
DEPUTY

Race:

[ ] Asian/Pacific Islander [X] Black/African-American

[ ] Caucasian

Ethnicity:

[ ] Hispanic [X] Male

[ ] Native American [ ] Other: :

[X] Non-Hispanic [ ] Female

FINGERPRINTS

Left four fingers taken simultaneously



Left Thumb



Right Thumb



Right four fingers taken simultaneously



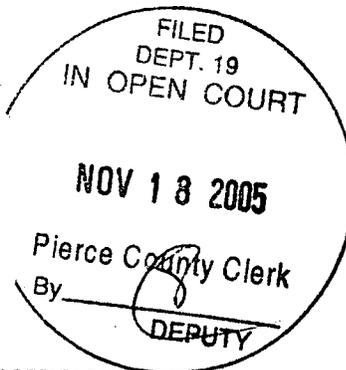
I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, [Signature] Dated: \_\_\_\_\_

DEFENDANT'S SIGNATURE: X 119-170<sup>th</sup> E. Spanaway, Wa, \_\_\_\_\_

DEFENDANT'S ADDRESS: \_\_\_\_\_

[Signature] 11.18.05

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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,	Plaintiff,	CAUSE NO. 03-1-02581-1	NOV 21 2005
vs.			
THEODORE ROOSEVELT RHONE	Defendant.	ADVICE OF RIGHT TO APPEAL	

RIGHT TO APPEAL

Judgment and Sentence having been entered, you are now advised that:

- 1.1 You have the right to appeal:
  - a determination of guilt after a trial.
  - a sentencing determination relating to offender score, sentencing range, and/or exceptional sentence unless you have waived this right as part of a plea agreement.
  - other post convictions motions listed in Rules of Appellate Procedure 2.2.
- 1.2 Unless a notice of appeal is filed with the clerk of the court within thirty (30) days from the entry of judgment or the order appealed from, you have irrevocably waived your right of appeal.
- 1.3 The clerk of the Superior Court will, if requested by you, file a notice of appeal on your behalf.
- 1.4 If you cannot afford the cost of an appeal, you have the right to have a lawyer appointed to represent you on appeal and to have such parts of the trial record as are necessary for review of errors assigned transcribed for you, both at public expense.

ACKNOWLEDGMENT

Regarding the foregoing advice of my "Right to Appeal":

- 1. I understand these rights, and
- 2. I waive formal reading of these rights, and
- 3. I acknowledge receipt of a true copy of these rights.

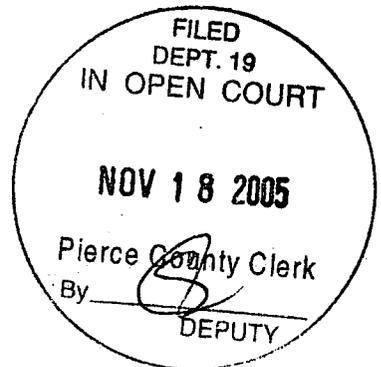
DATE: 11/18/05

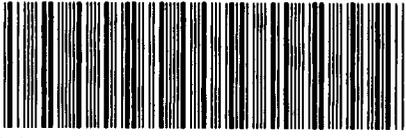
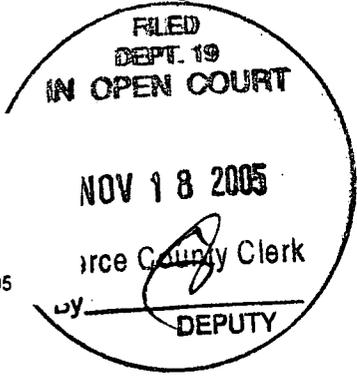
DEFENDANT: *Richard R. Rhone*

DEFENDANT'S ATTORNEY: *[Signature]* 824813

DATE: 11/18/05

JUDGE: *[Signature]*





03-1-02581-1 24082376 ORBS 11-21-05

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 03-1-02581-1

NOV 21 2005

vs.

THEODORE ROOSEVELT RHONE

Defendant.

ORDER FOR BIOLOGICAL SAMPLE DRAW FOR DNA IDENTIFICATION ANALYSIS

THIS MATTER having come on regularly before the undersigned Judge for sentencing following defendant's conviction for:

[ ] A felony sex offense, which occurred after July 1, 1990, as defined by RCW 9.94A.030(33), to wit:

\_\_\_\_\_ and/or

[X] A violent offense, which occurred after July 1, 1990, as defined by RCW 9.94A.030(38), to wit:

Robbery 1<sup>o</sup> \_\_\_\_\_ and/or

[X] Any felony offense for which a conviction was obtained after July 1, 2002, to wit:

UPCSWTD, Robbery 1<sup>o</sup>, UPOF 1<sup>o</sup>, Bail Jumping

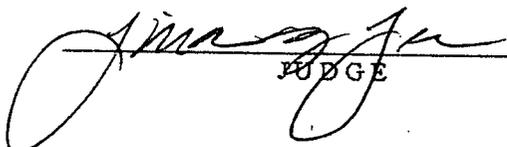
Pursuant to RCW 43.43.754, therefore, it is hereby ordered that the defendant provide a biological sample to be used for DNA identification analysis as follows:

PLACE TO BE TESTED

[ ] (Out-of-Custody) Report immediately to the Pierce County Sheriff's Office located on the 1<sup>st</sup> Floor of the County City Building, 930 Tacoma Ave S, Tacoma, Washington for a biological sample draw.

- [ ] (Out-of-Custody) Contact your CCO or other DOC representative to make an appointment to submit a DNA sample. Your sample must be submitted within 60 days of today's date or the date you are released from jail, whichever comes later.
- [  ] (In-Custody DOC) Submit to the biological sample draw by the Department of Corrections.
- [ ] (In-Custody PC Jail) Submit to biological sample draw by the Pierce County Jail.

DONE IN OPEN COURT this 11/18/05 day of September, 2005.

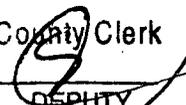
  
 \_\_\_\_\_  
 JUDGE

Presented by:

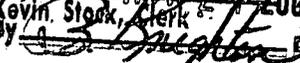
  
 PATRICK H. OISHI 26045  
 Deputy Prosecuting Attorney  
 WSB# 26045

Approved as to form:

  
 KIRK MOSELY  
 Attorney for Defendant  
 WSB# 24845

FILED  
 DEPT. 19  
 IN OPEN COURT  
  
 NOV 18 2005  
 Pierce County Clerk  
 By   
 DEPUTY

Defendant Refused to Sign  
 THEODORE ROOSEVELT RHONE  
 Defendant

STATE OF WASHINGTON, County of Pierce  
 ss: I, Kevin Stock, Clerk of the above  
 entitled Court, do hereby certify that this  
 foregoing instrument is a true and correct  
 copy of the original now on file in my office.  
 IN WITNESS WHEREOF, I hereunto set my  
 hand and the Seal of said Court this  
 day of NOV 21 2005  
 Kevin Stock, Clerk  
 By  Deputy

# **EXHIBIT 2**

JUN 10 2002

COMMITMENT ISSUED

FILED

02 JUN 10 AM 10:26

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.

SCANNED

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, )  
 )  
 Plaintiff, ) No. 01-1-05494-1 SEA  
 )  
 Vs. ) JUDGMENT AND SENTENCE  
 ) FELONY  
 )  
 LEONDIS DAVONE BERRY )  
 )  
 Defendant, )

I. HEARING

I.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: \_\_\_\_\_

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 01/09/2002 by plea of:

Count No.: I Crime: ROBBERY IN THE FIRST DEGREE  
 RCW 9A.56.200 (1) (a) (b) (c) & 9A.56.190 Crime Code: 02904  
 Date of Crime: 05/25/2001 Incident No. \_\_\_\_\_

Count No.: II Crime: ROBBERY IN THE FIRST DEGREE  
 RCW 9A.56.200 (1) (a) (b) (c) & 9A.56.190 Crime Code: 02904  
 Date of Crime: 05/25/2001 Incident No. \_\_\_\_\_

Count No.: VI Crime: ROBBERY IN THE FIRST DEGREE  
 RCW 9A.56.200 (1) (a) (b) (c) & 9A.56.190 Crime Code: 02904  
 Date of Crime: 05/25/2001 Incident No. \_\_\_\_\_

Count No.: IX Crime: ROBBERY IN THE FIRST DEGREE  
 RCW 9A.56.200 (1) (a) (b) (c) & 9A.56.190 Crime Code: 02904  
 Date of Crime: 05/24/2001 Incident No. 02904

[X] Additional current offenses are attached in Appendix A

**SPECIAL VERDICT or FINDING(S):**

- (a)  While armed with a **firearm** in count(s) I, II, VI, IX 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) \_\_\_\_\_ RCW
- (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 I	14	IX	129 TO 171	+60 MONTHS	189 TO 231 MONTHS	LIFE AND/OR \$50,000
Count II	14	IX	129 TO 171	+60 MONTHS	189 TO 231 MONTHS	LIFE AND/OR \$50,000
Count VI	14	IX	129 TO 171	+60 MONTHS	189 TO 231 MONTHS	LIFE AND/OR \$50,000
Count IX	14	IX	129 TO 171	+60 MONTHS	189 TO 231 MONTHS	LIFE AND/OR \$50,000

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. [X] The Court DISMISSES Count(s) III, IV, V, VII, VIII, XI AND ENHANCEMENTS ON CTS X & XII

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) July 11 at 8:30 A.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: \_\_\_\_\_

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ \_\_\_\_\_. 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. collection & TRUST FEES WAIVED

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.

129 months/days on count I; 129 months/days on count VI; 129 months/day on count X  
129 months/days on count II; 129 months/days on count IX; 129 months/day on count XII

The above terms for counts I, II, VI, IX, X, XII are concurrent/~~consecutive~~

The above terms shall run concurrent/consecutive with cause No.(s) \_\_\_\_\_

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: CT I: 60 MOS CT II: 60 MOS  
CT VI: 60 MOS CT IX: 60 MOS

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 369 months.

Credit is given for  379 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 1 life years, defendant shall have no contact with all victims in all courts

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 \_\_\_\_\_ 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 H for Community Custody conditions is attached and incorporated herein.

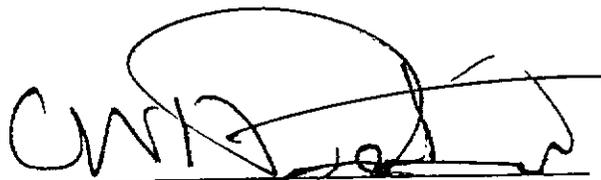
APPENDIX J for sex offender registration is attached and incorporated herein.

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.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 H 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: JUNE 7, 2002



JUDGE CHARLES W. MERTEL  
Print Name: \_\_\_\_\_

Presented by:   
Deputy Prosecuting Attorney, WSBA# 1732  
Print Name: DESORRELY

Approved as to form:   
Attorney for Defendant, WSBA # 14312  
Print Name: Michael Danko

FINGERPRINTS



RIGHT HAND  
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE: Lee Berry  
DEFENDANT'S ADDRESS: 1200

LEONDIS DAVONE BERRY

DATED: JUN - 7 2002  
[Signature]  
JUDGE, KING COUNTY SUPERIOR COURT  
CHARLES W. MERTEL

ATTESTED BY: PAUL L. SHERFEY,  
SUPERIOR COURT CLERK  
BY: [Signature]  
DEPUTY CLERK

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. WA14747856  
DOB: [REDACTED]  
SEX: M  
RACE: B

\_\_\_\_\_  
CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

LEONDIS DAVONE BERRY

Defendant,

No. 01-1-05494-1 SEA

JUDGMENT AND SENTENCE  
(FELONY) - APPENDIX A  
ADDITIONAL CURRENT OFFENSES

2.1 The defendant is also convicted of these additional current offenses:

Count No.: X Crime: ROBBERY IN THE FIRST DEGREE  
RCW 9A.56.200 (1) (a) (b) (c) & 9A.56.190 Crime Code 02904  
Date Of Crime 05/24/2001 Incident No. \_\_\_\_\_

Count No.: XII Crime: ROBBERY IN THE FIRST DEGREE  
RCW 9A.56.200 (1) (a) (b) (c) & 9A.56.190 Crime Code 02904  
Date Of Crime 05/25/2001 Incident No. \_\_\_\_\_

Date: JUNE 7, 2002

  
\_\_\_\_\_  
JUDGE, KING COUNTY SUPERIOR COURT  
CHARLES W. MERTEL

**SUPERIOR COURT OF WASHINGTON FOR KING COUNTY**

STATE OF WASHINGTON,	)	
	)	
	Plaintiff,	No. 01-1-05494-1 SEA
	)	
vs.	)	JUDGMENT AND SENTENCE,
	)	(FELONY) - APPENDIX B,
LEONDIS DAVONE BERRY	)	CRIMINAL HISTORY
	)	
	Defendant,	
	)	

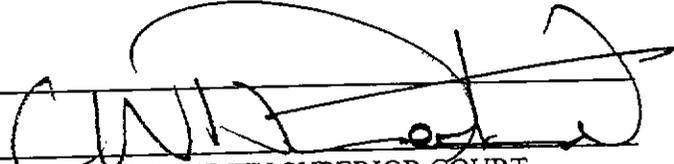
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2.2 The defendant has the following criminal history used in calculating the offender score (RCW 9.94A.360):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
VUCSA: POSSESS COCAINE	11/12/1993	ADULT	931000860	KING CO
THEFT 1	09/25/1997	ADULT	961010649	KING CO
ROBBERY 2	06/30/1995	ADULT	95C031788	KING CO

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

Date: JUNE 7, 2002

  
 JUDGE, KING COUNTY SUPERIOR COURT  
 CHARLES W. MERTEL

**SUPERIOR COURT OF WASHINGTON FOR KING COUNTY**

STATE OF WASHINGTON,

Plaintiff,

No. 01-1-05494-1 SEA

vs.

LEONDIS DAVONE BERRY

Defendant,

JUDGMENT AND SENTENCE  
(FELONY) - APPENDIX C,  
ADDITIONAL CURRENT OFFENSE(S)  
SENTENCING DATA

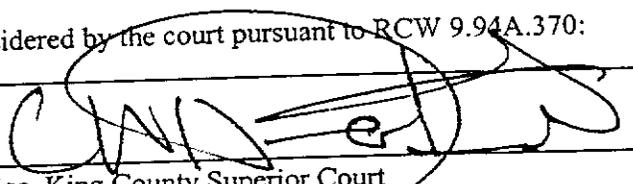
2.3 SENTENCING DATA: Additional current offense(s) sentencing information is as follows:

Count	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
X	14	IX	129 TO 171		129 TO 171 MONTHS	LIFE AND/OR \$50,000
XII	14	IX	129 TO 171		129 TO 171 MONTHS	LIFE AND/OR \$50,000

The following real and material facts were considered by the court pursuant to RCW 9.94A.370:  
[Real and Material Facts]

Date:

JUNE 7, 2002

  
Judge, King County Superior Court

CHARLES W. MERTEL

DN A

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	No. 01-1-05494-1 SEA
	)	
vs.	)	APPENDIX G
	)	ORDER FOR BLOOD TESTING
LEONDIS DAVONE BERRY	)	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.

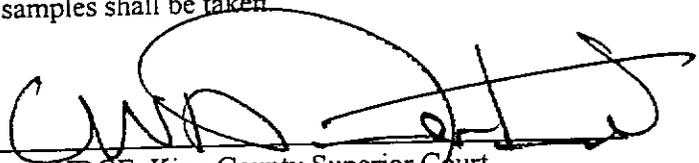
(2)  DNA IDENTIFICATION:

(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: JUNE 7, 2002



JUDGE, King County Superior Court

CHARLES W. MERTEL

**SUPERIOR COURT OF WASHINGTON FOR KING COUNTY**

STATE OF WASHINGTON,	)	
	)	
	)	No. 01-1-05494-1 SEA
	)	
vs.	)	JUDGMENT AND SENTENCE
	)	APPENDIX H
LEONDIS DAVONE BERRY	)	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: \_\_\_\_\_

NO CONTACT w/ GARY DEPKING; CATHY WEST; MATTHEWS  
 Family; JOHN UKBINA; BONG CHUNG; CHRISTIAN  
 FITZGERALD; GABRIELE ODENWALD

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: JUNE 7, 2002

  
 JUDGE  
 CHARLES W. MERTEL

PLEA AGREEMENT

Date of Crime: MAY 24<sup>B</sup> / 25<sup>B</sup>, 2001

Date: 1-8-02

Defendant: LEONDIS BERRY

Cause No: 01-1-05494-1 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, II, VI, IX, X, XII 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) I, II, VI, IX, X, XII the State moves to dismiss Count(s) III, IV, V, VII, VIII, XI AND ENHANCEMENTS ON CTS X + XII

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. — AND IN DISMISSED COUNTS  
 as set forth in \_\_\_\_\_

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 I, II, VI, IX, X, XII is not more than LIFE years and/or \$ 50,000 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) I, II, VI, IX is 60 months each. ~~These~~ 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.

[Signature]  
Defendant

[Signature]  
Attorney for Defendant 1/9/02

[Signature] 1/9/02  
Deputy Prosecuting Attorney

[Signature]  
Judge, King County Superior Court

[Signature]

**ROBBERY, FIRST DEGREE**

(RCW 9A.56.200)  
**CLASS A FELONY**  
**VIOLENT**

(If sexual motivation finding/verdict, use form on page III-33)

**I. OFFENDER SCORING (RCW 9.94A.360 (8))**

In the case of multiple prior convictions for offenses committed before July 1, 1986, for purposes of computing the offender score, count all adult convictions served concurrently as one offense and all juvenile convictions entered on the same date as one offense (RCW 9.94A.360)

**ADULT HISTORY**

Enter number of serious violent and violent felony convictions .....  
 Enter number of nonviolent felony convictions.....

$\frac{1}{2} \times 2 = 2$   
 $\frac{2}{2} \times 1 = 2$

**JUVENILE HISTORY**

Enter number of serious violent and violent felony dispositions.....  
 Enter number of nonviolent felony dispositions.....

\_\_\_\_\_  $\times 2 =$  \_\_\_\_\_  
 \_\_\_\_\_  $\times \frac{1}{2} =$  \_\_\_\_\_

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

Enter number of other serious violent and violent felony convictions 5 CTS Rob 10 .....  
 Enter number of nonviolent felony convictions.....

$\frac{5}{5} \times 2 = 10$   
 \_\_\_\_\_  $\times 1 =$  \_\_\_\_\_

**STATUS** Was the offender on community placement on the date the current offense was committed? (if yes), \_\_\_\_\_  $+ 1 =$  \_\_\_\_\_

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

14

**II. SENTENCE RANGE**

**A OFFENDER SCORE**  
**STANDARD RANGE**  
**(LEVEL IX)**

0	1	2	3	4	5	6	7	8	9 or more
31 - 41 months	36 - 48 months	41 - 54 months	46 - 61 months	51 - 68 months	57 - 75 months	77 - 102 months	87 - 116 months	108 - 144 months	129 - 171 months

- B The range for attempt, solicitation, and conspiracy is 75% of the range for the completed crime (RCW 9.94A.410)
- C If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-14 or III-15 to calculate the enhanced sentence.
- D When a court sentences an offender to the custody of the Dept of Corrections, the court shall also sentence the offender to community custody for the range of 18 to 36 months, or to the period of earned release, whichever is longer (9.94A.120)

+ 60 months on CTS I, II, VI + IX (consecutive)

APPENDIX B TO PLEA AGREEMENT  
PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY  
( SENTENCING REFORM ACT )

\*PRELIMINARY CRIMINAL HISTORY ONLY

Defendant : Leondis Davone Berry

FBI Num: 106470TA7

State ID Num WA14747856

- None Known. Recommendation and standard range assumes no prior felony convictions
- Criminal history not known and not received at this time

<input type="checkbox"/> DOSA POSSIBLE
<input type="checkbox"/> MIOSO POSSIBLE

Adult Felonies

Cause	Agency
931000860 WA King Offense Sentence 8/11/90 11/12/93 VUCSA: Possess Cocaine 8/10/94 Order Modifying Sentence	Superior Court  30 days conf; 12 mos Com Supv 20 days conf
961010649 WA King Offense Sentence 4/25/95 9/25/97 Theft 1 12/18/98 Order Modifying Sentence	Superior Court  90 days conf; 12 mos Com Supv 10 days conf
95C031788 WA King Offense Sentence 4/27/95 6/30/95 Robbery 2	Superior Court  9 mos conf; 12 mos Com Supv

Juvenile Felonies

Cause	Agency
unknown CA Modesto Offense Sentence 1/24/91 3/25/91 211 PC-Robbery 2  7/24/92 Paroled	Sheriff's Office  Committed to CA Youth Authority (no further disposition available)

Misdemeanors

Cause	Agency
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PENDIX B TO PLEA AGREEMENT  
PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY  
( SENTENCING REFORM ACT )

\*PRELIMINARY CRIMINAL HISTORY ONLY

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- Criminal history not known and not received at this time

<input type="checkbox"/> DOSA POSSIBLE
<input type="checkbox"/> MIOSO POSSIBLE

Offense      Sentence

<p>Between 1989 and 1998, approximately 22 convictions that include Vehicle Prowling 2, Hit &amp; Run Unattended, Theft 3, Negligent Driving, No Valid Operator's License, Obstruct Public Servant, Driving While License Suspended, Suspended Operator's License, Driving While License Suspended 2, Assault 4, Driving While License Suspended 3, Suspended Operator's License 2, Misdemeanor Stalking, Driving While License Suspended 1, Make False Statement to Public Servant and Possession of Drug Paraphernalia.</p>
---

\*NOTE: As the above-noted information reflects preliminary criminal history, it may be subject to revision later in the sentencing process.

Prepared by:

*SCBKCA*

Community Corrections Officer/CCA  
Department of Corrections

STATE'S SENTENCE RECOMMENDATION  
(NON-SEX OFFENSE; COMMITTED on or after 7/1/2000; SENTENCE OVER ONE YEAR)

Date of Crime: MAY 24, 25, 2001 Date: 1-8-02  
 Defendant: LEONDIS BERRY Cause No.: 01-1-05474-1 SEAKNT

State recommends that the defendant be sentenced to a term of total confinement in the Department of Corrections as follows:

Count I <del>204</del> <u>204</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">months</span>	Count IX <del>204</del> <u>204</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">months</span>
Count II <del>204</del> <u>204</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">months</span>	Count X <del>144</del> <u>144</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">months</span>
Count VI <del>204</del> <u>204</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">months</span>	Count XII <del>144</del> <u>144</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">months</span>

Terms on each count to run 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.

**WEAPONS ENHANCEMENT - RCW 9.94A.310:** The above recommended term(s) of confinement include the following weapons enhancement time. 60 months for Ct. I, 60 months for Ct. II, 60 months for Ct. VI, which is/are mandatory, served without good time and served consecutive to any other term of confinement. The total of all recommended terms of confinement in this cause is: 384 months. 60 MONTHS FOR CT IX

**WORK ETHIC CAMP - RCW 9.94A.137:** Defendant is legally eligible (range is not less than 12 months and 1 day; not more than 36 months; current offense is not VUCSA or VUCSA solicitation for crimes after 7/25/99; no current or prior violent or sex offense). Work Ethic Camp is/is not recommended. If not, why not: \_\_\_\_\_

**DRUG OFFENDER SENTENCE ALTERNATIVE - RCW 9.94A.120(6)(a)** Legal Eligibility: 1) no current or prior violent offenses, sex offenses; 2) no weapon enhancement; 3) if VUCSA "small quantity" of drugs, 4) not deportable. (If DOSA is recommended, use DOSA Recommendation form instead of this form.) Defendant is not eligible for DOSA because: \_\_\_\_\_

**EXCEPTIONAL SENTENCE: RCW 9.94A.120(2); RCW 9.94(a).390.** 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.

**NO CONTACT:** For the maximum term, defendant have no contact with VICTIMS IN ALL COUNTS INCLUDING DISMISSED COUNTS

**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.

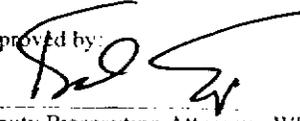
- Restitution as set forth in the "Plea Agreement" page and  Appendix C.
- Court costs; mandatory \$500 Victim Penalty Assessment, recoupment of cost for appointed counsel.
- King County Local Drug Fund \$ \_\_\_\_\_;  \$100 lab fee RCW 43.43.690.
- \$1,000, fine for VUCSA;  \$2,000, fine for subsequent VUCSA.  Fine of \$ \_\_\_\_\_;
- Costs of incarceration in K.C. Jail at \$50 per day. RCW 9.94A.145(2);  Extradition costs of \$ \_\_\_\_\_;
- Emergency Response Costs, \_\_\_\_\_, RCW 38.52.430;  Other \_\_\_\_\_

**COMMUNITY CUSTODY (RCW 9.94A.120(11):** Offenders sentenced to the custody of the Department of Corrections for certain offenses shall serve a term of community custody for the applicable period set forth below, the period of earned early release, or whichever is longer.

<input type="checkbox"/> Sex Offense	36 - 48 months	<input type="checkbox"/> Crimes Against Persons	9 - 18 months	Check box for largest applicable range
<input type="checkbox"/> Serious Violent Offense	24 - 48 months	<input type="checkbox"/> Violation of Ch. 69.50 or .52	9 - 12 months	
<input checked="" type="checkbox"/> Violent Offense	18 -- 36 months			

Discretionary conditions recommended by the state: \_\_\_\_\_

**MANDATORY CONSEQUENCES:** HIV blood testing (RCW 70.24.340) for any sex offense, prostitution related offense, or drug offense associated with needle use. DNA testing (RCW 43.43.754) for any sex offense or violent offense as defined in RCW 9.94A.030. Driver's License Revocation (RCW 46.20.285; RCW 69.50.420). Revocation of right to possess a Firearm (RCW 9.41.040).

Approved by:   
 Deputy Prosecuting Attorney WSBA No. 17322

# **EXHIBIT 3**

FILED

2018 JUL -9 PM 3: 30

SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH

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

936030  
7-10-18

STATE OF WASHINGTON,  
Plaintiff,

No. 17-1-02167-31

v.

JUDGMENT AND SENTENCE

KILL, TERRY LYNN,  
Defendant.

- Prison
- Jail One Year or Less
- First Time Offender
- Special Drug Offender Sentencing Alternative
- Clerk's action required, firearm rights revoked, ¶ 5.5a
- Clerk's action required, ¶¶ 2.1, 4.1, 4.3, 4.5, 5.2, 5.3, 5.8
- Clerk's action required, ¶ 5.7 (use of motor vehicle)
- Restitution Hearing set, ¶ 4.3
- Juvenile Decline  Mandatory  Discretionary

SID: WA13822502

If no SID, use DOB: [REDACTED]

I. HEARING

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

II. FINDINGS

2.1 **CURRENT OFFENSE(S).** The defendant was found guilty on June 21 2018 by plea of:

**COUNT: 1.**

**CRIME: RESIDENTIAL BURGLARY**

**RCW: 9A.52.025**

**CLASS: CLASS B FELONY**

**DOV: 10/17/2016**

**INCIDENT #: SSO 16164087**

**COUNT: 2.**

**CRIME: SECOND DEGREE BURGLARY**

**RCW: 9A.52.030**

**CLASS: CLASS B FELONY**

**DOV: 10/18/2016**

**INCIDENT #: SSO 16164087**

as charged in the Information.

The jury returned a special verdict or the court made a special finding with regard to the following:

See ¶ 4.1 regarding findings in relation to **Drug Offender or Parenting Sentencing Alternative.**

**GV** For the crime(s) charged in Count(s) \_\_\_\_\_, **domestic violence** as defined in RCW 10.99.020 and RCW 9A.36.041(4) was pled and proved.

**GV** For the crime(s) charged in Count(s) \_\_\_\_\_, **domestic violence** as defined in RCW 10.99.020 was pled and proved.

The defendant used a **firearm** in the commission of the offense(s) in Count(s) \_\_\_\_\_, RCW 9.41.010, 9.94A.533.

The defendant used a **deadly weapon other than a firearm** in the commission of the offense(s) in Count(s) \_\_\_\_\_, RCW 9.94A.825, 9.94A.533.

Count(s) \_\_\_\_\_ is (are) **aggravated murder in the first degree** committed while the defendant was  **under 16 years** of age  **16 or 17 years of age** when the offense was committed.

Count(s) \_\_\_\_\_ was (were) committed while the **defendant was under 18 years of age and the time of confinement is over 20 years.**

Count(s) \_\_\_\_\_ **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

In Count(s) \_\_\_\_\_ the defendant committed a **robbery of a pharmacy** as defined in RCW 18.64.011(21), 9.94A.832.

The defendant committed a crime involving the manufacture of methamphetamine including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count(s) \_\_\_\_\_, RCW 9.94A.605, 69.50.401, 69.50.440.

Count(s) \_\_\_\_\_ is (are) a **criminal street gang-related felony** offense in which the defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the commission of the offense. RCW 9.94A.833.

Count(s) \_\_\_\_\_ is (are) the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.829.

The defendant committed  **vehicular homicide**  **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.

**GY** In Count(s) \_\_\_\_\_ the defendant had (number of) \_\_\_\_\_ **passenger(s) under the age of 16** in the vehicle. *(Applies to crimes of vehicular homicide and vehicular assault committed while under the influence of intoxicating liquor or any drug, felony driving under the influence, and felony physical control under the influence.)* RCW 9.94A.533.

Count(s) \_\_\_\_\_ involve(s) **attempting to elude a police vehicle** and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.

**Findings for DUI or Physical Control, Vehicular Assault, Vehicular Homicide (ACR Information)** (check all that apply):

No BAC test result

BAC refused. The defendant refused to take a test offered pursuant to RCW 46.20.308.

- Drug Related. The defendant was under the influence of or affected by any drug.
- THC level was \_\_\_\_\_ within two hours after driving.
- Passenger under age 16. The defendant committed the offense while a passenger under the age of sixteen was in the vehicle.

Vehicle info.:  Commercial Veh.  16 Passenger Veh.  Hazmat Veh.

In Count(s) \_\_\_\_\_ the defendant has been convicted of **assaulting a law enforcement officer** or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant **intentionally** committed the assault with what appeared to be a firearm. RCW 9.94A.831, 9.94A.533.

Count(s) \_\_\_\_\_ is (are) a felony in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285.

The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.

Reasonable grounds exist to believe the defendant is a **mentally ill** person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. RCW 9.94B.080.

In Count(s) \_\_\_\_\_ **assault in the first degree** (RCW 9A.36.011) or **assault of a child in the first degree** (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of five (5) years (RCW 9.94A.540).

The offense in Count(s) \_\_\_\_\_ was (were) committed in a **county jail or state correctional facility**. RCW 9.94A.533(5).

Counts \_\_\_\_\_ encompass the **same criminal conduct** and count as one crime in determining the offender score. RCW 9.94A.589.

Count(s) \_\_\_\_\_ and \_\_\_\_\_ merge. (See ¶ 3.2 for dismissal of specific count.)

**Other current convictions** listed under different cause numbers used in calculating the offender score are (*list offense and cause number*): Residential Burglary Crime Committed While on Community Custody, Possession of a Controlled Substance Crime Committed While on Community Custody 17-1-01665-31; Second Degree Robbery Crime Committed While on Community Custody 17-1-01876-31

**2.2 CRIMINAL HISTORY.** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

	<u>CRIME</u>	<u>DATE OF SENTENCE</u>	<u>SENTENCING COURT (County &amp; State)</u>	<u>A or J (Adult or Juvenile)</u>	<u>TYPE OF CRIME</u>
1	Third Degree Assault	12/01/16	Snohomish County	A	C

The defendant committed Count(s) \_\_\_\_\_ while on community custody (adds one point to score). RCW 9.94A.525.

The court finds the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

**2.3 SENTENCING DATA.**

COUNT NO.	OFFENDER SCORE	SRA LEVEL	STANDARD RANGE (Not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (Including enhancements)	MAXIMUM TERM
1	7	IV	43-57 months		43-57 months	10 years and/or \$20,000 fine
2	7	III	33-43 months		33-43 months	10 years and/or \$20,000 fine

\*(F) Firearm, (D) Other deadly weapons, (RPh) Robbery of a Pharmacy, (VH) Vehicular Homicide, See RCW 46.61.520, (JP) Juvenile Present, (CSG) Criminal Street Gang Involving Minor, (V) VUCSA In a protected zone, (P16) Passenger(s) under age 16, (AE) Endangerment While Attempting to Elude.

**2.4**  **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence  above  below the standard range for Count(s) \_\_\_\_\_ or  within the standard range for Count(s) \_\_\_\_\_ but served consecutively to Count(s) \_\_\_\_\_.

The defendant and State stipulate that justice is best served by imposition of an exceptional sentence above the standard range and the court finds that exceptional sentence furthers and is consistent with the interests of justice and the purpose of the Sentencing Reform Act.

Aggravating factors were  stipulated by the defendant,  found by the court after the defendant waived jury trial,  found by jury by special interrogatory.  Findings of fact and conclusions of law are attached in Appendix 2.4.  The jury's interrogatory is attached. The prosecuting attorney  did  did not recommend a similar sentence.

**2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant is an adult and is not disabled and therefore the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753(5)):

The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

\_\_\_\_\_'s (name of agency) costs for its emergency response are reasonable. RCW 35.52.430 (effective August 1, 2012).

**2.6**  **FELONY FIREARM OFFENDER REGISTRATION.** The defendant committed a felony firearm offense as defined in RCW 9.41.010. The court considered the following factors:

the defendant's criminal history;

whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere;

evidence of the defendant's propensity for violence that would likely endanger persons;

the offense was committed in conjunction with an offense committed against a person under the age of 18, or a serious violent offense or offense involving sexual motivation as defined in RCW 9.94A.030 (if this factor is found, registration is required);

other: \_\_\_\_\_

The court decided the defendant  should  should not register as a felony firearm offender. (If required to register, see §15.5b.)

**2.7 PROSECUTOR'S RECOMMENDATION.** The prosecutor's recommendation was as follows:

43 months on Count I \_\_\_\_\_ months on Count IV

43 months on Count II

\_\_\_\_\_ months on Count V

\_\_\_\_\_ months on Count III

\_\_\_\_\_ months on Count VI

Terms on each count to run:

concurrently with or  consecutively to each other

concurrently with or  consecutively to the terms imposed in Cause No(s). \_\_\_\_\_

17-1-01665-31 and 17-1-01876-31

III. JUDGMENT

- 3.1 The defendant is **GUILTY** of the counts and charges listed in Paragraph 2.1.
- 3.2  The court **DISMISSES** Count(s) \_\_\_\_\_.
- 3.3  The defendant was found **NOT GUILTY** of Count(s) \_\_\_\_\_.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 **CONFINEMENT OVER ONE YEAR.** The court sentences the defendant to total confinement as follows:

(A) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

- 43 months on Count I \_\_\_\_\_ months on Count IV
- 43 months on Count II \_\_\_\_\_ months on Count V
- \_\_\_\_\_ months on Count III \_\_\_\_\_ months on Count VI

- The confinement time on Count(s) \_\_\_\_\_ contain(s) a mandatory minimum term of \_\_\_\_\_.
- The confinement time on Count(s) \_\_\_\_\_ includes \_\_\_\_\_ months as enhancement for  
 Firearm  Deadly Weapon  VUCSA in a Protected Zone  Manufacture of Methamphetamine with Juvenile Present  Impaired Driving  other \_\_\_\_\_

Actual term of total confinement ordered is 43 months.

(B) **Confinement.** RCW 10.95.030 (Aggravated murder and under age 18.) The court orders the following:

- Count \_\_\_\_\_ minimum term: \_\_\_\_\_ maximum term: Life
- Count \_\_\_\_\_ minimum term: \_\_\_\_\_ maximum term: Life

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at ¶ 2.3, and the following counts which shall be served consecutively:

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

and consecutive to any sentence which was imposed before the date of violation for the offenses in this cause number. The sentence shall run concurrently to the sentence in cause numbers 17-1-01665-31 17-1-01876-31. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_

**CREDIT FOR TIME SERVED.** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

4.2 [ ] **COMMUNITY CUSTODY.** RCW 9.94A.701 and .702, RCW 10.95.030(3).

**Prison Sentence** For offenders sentenced to the custody of Department of Corrections (DOC), the court shall order community custody under the jurisdiction of (DOC) for 36 months if the defendant is convicted of a serious violent offense; 18 months if the defendant is convicted of a violent offense; or 12 months if the defendant is convicted of a crime against a person under RCW 9.94A.411, a felony violation of Chapter 69.50 or 69.52 RCW or an attempt, conspiracy or solicitation to commit such a crime, or an offense involving the unlawful possession of a firearm by a street gang member or an associate.

**Jail Sentence** For offenders sentenced to jail, the court may order community supervision for up to 12 months if the defendant is convicted of a violent offense, a crime against a person under RCW 9.94A.411, or a felony violation of Chapter 69.50 or 69.52 RCW or an attempt, conspiracy, or solicitation to commit such a crime.

The defendant shall serve the term(s) of community custody set forth below. These terms may be adjusted to ensure the combined terms of confinement and community custody actually served do not exceed the statutory maximum.

Count I for a period of _____ months	Count IV for a period of _____ months
Count II for a period of _____ months	Count V for a period of _____ months
Count III for a period of _____ months	Count VI for a period of _____ months

Plus all accrued earned early release at the time of release and the conditions ordered are set forth below.

The defendant shall report to a DOC office located in the county where the defendant is released not later than 72 hours after release from custody.

While on community custody, the defendant shall (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in the defendant's address or employment; (4) not possess or consume controlled substances except pursuant to lawfully issued prescriptions; (5) not own, use, or possess firearms or ammunition; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts as required by DOC to confirm compliance with orders of the court; and (8) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The term of community custody begins immediately upon release from confinement or at the time of sentencing if no confinement is ordered. The defendant is subject to the conditions of community custody as of the date of sentencing unless otherwise ordered here: \_\_\_\_\_; RCW 9.904A.707.

The court orders that during the period of supervision:

- [ ] The defendant shall not possess or consume any alcohol.
- [ ] The defendant shall not possess or consume marijuana without a valid prescription.
- [ ] The defendant shall have no contact with \_\_\_\_\_ [ ] See ¶ 4.5.
- [ ] The defendant shall remain [ ] within [ ] outside of a specific geographical boundary, to wit: \_\_\_\_\_.
- [ ] The defendant shall participate in the following crime-related treatment or counseling services:  
\_\_\_\_\_  
\_\_\_\_\_

[ ] The defendant shall undergo an evaluation for the following: [ ] substance use disorder [ ] mental health [ ] anger management. The defendant shall fully comply with all recommended treatment.

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

\_\_\_\_\_.

**Court Ordered Treatment:** If any court orders mental health or substance use disorder treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

If the defendant committed the above crime(s) while under age 18 and is sentenced to more than 20 years of confinement (RCW 10.95.030):

(i) As long as the defendant's conviction is not for aggravated first degree murder or certain sex crimes, and the defendant has not been convicted of a crime committed after he or she turned 18 or committed a disqualifying serious infraction as defined by DOC in the 12 months before the petition is filed, the defendant may petition the Indeterminate Sentence Review Board (Board) for early release after the defendant has served 20 years.

(ii) If the defendant is released early because the petition was granted or by other action of the Indeterminate Sentence Review Board, the defendant may be subject to community custody under the supervision of the DOC for a period of time determined by the Board, up to the length of the court-imposed term of incarceration. The defendant will be required to comply with any conditions imposed by the Board.

(iii) If the defendant violates the conditions of community custody, the Board may return the defendant to confinement for up to the remainder of the court-imposed term of incarceration.

**4.3 LEGAL FINANCIAL OBLIGATIONS.** Defendant shall pay to the clerk of the court:

PVC	<input checked="" type="checkbox"/> \$500	Victim assessment	RCW 7.68.035
FRC	<input type="checkbox"/> \$200	Criminal filing fee (mandatory unless court finds defendant indigent)	RCW 36.18.020(2)(h) RCW 9.94A.760, .505;
ORC	\$ <input checked="" type="checkbox"/> waived	Court costs, including:	10.01.160; 10.46.190.
		Witness costs	\$ _____ WFR
		Sheriff service fees	\$ _____ SFR/SFS/SFW/WRF
		Jury demand fee	\$ _____ JFR
		Other	\$ _____
PUB	<input type="checkbox"/> \$962 <input checked="" type="checkbox"/> waived	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other costs	RCW 9.94A.760
FCM	<input type="checkbox"/> \$1,000 <input type="checkbox"/> \$2,000	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA additional fine deferred due to indigency	RCW 69.50.430
CDF/LDI/ FCD/NTF/SAD/SDI	\$ _____	Drug enforcement fund of	\$ _____ RCW 9.94A.760
CLF	<input type="checkbox"/> \$100	Crime lab fee <input type="checkbox"/> suspended due to indigency	RCW 43.43.690
EXT	\$ _____	Extradition costs	RCW 9.94A.505
RTN/RJN	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide; \$2,500 maximum, offense committed after 8/1/12).	RCW 38.52.430
	<input type="checkbox"/> \$100	Biological Sample Fee (Mandatory if no DNA sample on file)	RCW 43.43.7541
PDV	<input type="checkbox"/> \$115	Domestic Violence Penalty (for offenses committed after 7/24/15 – maximum \$115).	RCW 10.99.080
	<input type="checkbox"/> \$15	Violation of DV Protection Order (\$15 mandatory fine).	RCW 26.50.110
	\$ _____	Other costs/ fines for:	
	\$ <u>500.00</u>	TOTAL	RCW 9.94A.760

**RESTITUTION.** The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753.

- A restitution hearing shall be set for \_\_\_\_\_.
- Defendant waives any right to be present at any restitution hearing and waives any right to be present at the presentation of an agreed restitution order. (sign initials): TK
- Defendant waives any right to a restitution hearing within 6 months. RCW 9.94A.750.
- A separate Restitution Order is being entered contemporaneously with this Judgment and Sentence.
- The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here of not less than:

\$ 10 per month commencing 600 days after release. RCW 9.94A.760.

All payments shall be made within 120 months of  release of confinement;  entry of judgment;  other \_\_\_\_\_.

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

The court also finds the defendant has the means to pay for the cost of incarceration and the defendant is hereby ordered to pay for the cost of incarceration at \$100.00 per day (not to exceed \$100 per day) unless another rate

is specified here \_\_\_\_\_, RCW 9.94A.760(2). (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480).

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

**4.4**  **DNA TESTING.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

**DNA TESTING NOT REQUIRED.** The Washington State Patrol Crime Laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754.

**HIV TESTING.** The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 3020 Rucker, Suite 106, Everett, Washington 98201 within one (1) business day of entry of this order to arrange for the test. RCW 70.24.340.

**4.5 NO CONTACT.**

The defendant shall not have contact with \_\_\_\_\_ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until \_\_\_\_\_ (date) (not to exceed the maximum statutory sentence). **EVEN IF THE PERSON WHO THIS ORDER PROTECTS INVITES OR ALLOWS CONTACT, YOU CAN BE ARRESTED AND PROSECUTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU HAVE THE SOLE RESPONSIBILITY TO AVOID OR REFRAIN FROM VIOLATING THIS ORDER.**

A separate post-conviction Domestic Violence No Contact Order, Stalking No Contact Order, Anti-Harassment No Contact Order, or Sexual Assault Protection Order  was filed at the time of entry of the plea of guilty/guilty verdict  is filed contemporaneously with this Judgment and Sentence. (Entry of a separate order makes a violation of this no contact sentencing provision also punishable as a criminal offense, and the order will be entered into the law enforcement database.)

The pre-trial Domestic Violence No Contact Order, Stalking No Contact Order, Anti-Harassment No Contact Order, or Sexual Assault Protection Order entered on \_\_\_\_\_ is hereby terminated.

**4.6 OTHER.** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**4.7 OFF-LIMITS ORDER.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: \_\_\_\_\_

**4.8 SENTENCE CONDITIONS PENDING APPEAL.** Unless otherwise ordered, all conditions of this sentence shall remain in effect notwithstanding any appeal.

## V. NOTICES AND SIGNATURES

**5.1 COLLATERAL ATTACK ON JUDGMENT.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

**5.2 LENGTH OF SUPERVISION.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.753(4); RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

**5.3 NOTICE OF INCOME-WITHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606.

**5.4 VIOLATION OF JUDGMENT AND SENTENCE/COMMUNITY CUSTODY VIOLATION.**

(a) Any violation of a condition or requirement of sentence is punishable by up to 60 days confinement for each violation. RCW 9.94A.633(1).

(b) If you have not completed your maximum term of total confinement and you are subject to a violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.633(2)(a).

**5.5a FIREARMS.** You may not own, use or possess any firearm and under federal law any firearm or ammunition unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identification card, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047. (Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court.)

The defendant is ordered to forfeit any firearm he/she owns or possesses no later than \_\_\_\_\_ to \_\_\_\_\_ (name of law enforcement agency). RCW 9.41.098

**5.5b FELONY FIREARM OFFENDER REGISTRATION.** If the court decided that you are required to register as a felony firearm offender, the specific requirements are in the "Felony Firearm Offender Registration" attachment.

**5.6 Reserved.**

**5.7 MOTOR VEHICLE.** If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. Your driver's license will also be revoked if this crime involves the offenses of vehicular homicide, vehicular assault, felony hit and run, or perjury related to Title 46 RCW or any other law relating to the ownership or operation of motor vehicles. RCW 46.20.285.

**5.8 [ ] DOL Notice – Defendant under age 21 only.**

Count \_\_\_\_\_ is (a) a violation of RCW chapter 69.41 [Legend drug], 69.50 [VUCSA], or 69.52 [Imitation drugs], and the defendant was under 21 years of age at the time of the offense OR (b) a violation under RCW 9.41.040 [unlawful possession of firearm], and the defendant was under the age of 18 at the time of the offense OR (c) a violation under

RCW chapter 66.44 [Alcohol], and the defendant was under the age of 18 at the time of the offense, **AND** the court finds that the defendant previously committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

**Clerk's Action** –The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the Defendant's driver's license. RCW 46.20.265.

**5.9 CERTIFICATE OF DISCHARGE.**

(a) If you are under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received notice from Department of Corrections and clerk's office that you have completed all requirements of the sentence and satisfied all legal financial obligations. RCW 9.94A.637.

(b) If you are not under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received verification from you that you have completed all sentence conditions other than payment of legal financial obligations and the clerk's office that you have satisfied all legal financial obligations.

**5.10 RIGHT TO APPEAL.** You have a right to appeal this conviction and sentence. If you pleaded guilty, your right to appeal is limited.

This right must be exercised by filing a notice of appeal with the clerk of this court within 30 days from today. If a notice of appeal is not filed within this time, the right to appeal is IRREVOCABLY WAIVED.

If you are without counsel, the clerk will supply you with an appeal form on your request, and will file the form when you complete it.

If you are unable to pay the costs of the appeal, the court will appoint counsel to represent you, and the portions of the record necessary for the appeal will be prepared at public expense.

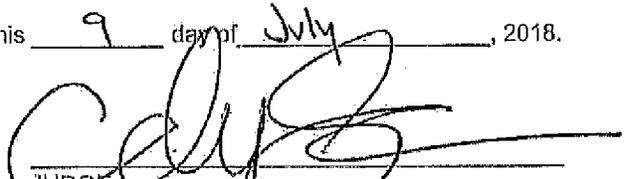
**5.11 VOTING RIGHTS STATEMENT.** I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the Indeterminate Sentence Review Board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

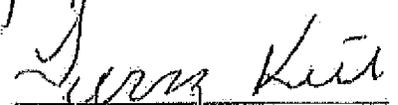
5.12. OTHER. \_\_\_\_\_

DONE in Open Court and in the presence of the defendant this 9 day of July, 2018.

  
JUDGE  
Print name: Cindy A. Larsen

 445775  
TYLER J SCOTT, WSBA #: 51096  
Deputy Prosecuting Attorney

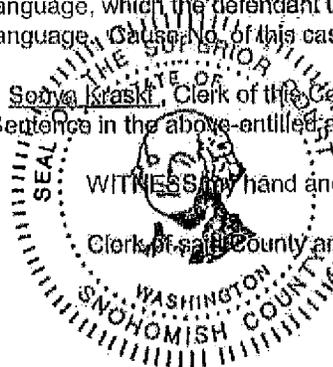
  
JENNIFER M. BARTLETT, WSBA #:  
43171  
Attorney for Defendant

  
TERRY LYNN KILL  
Defendant

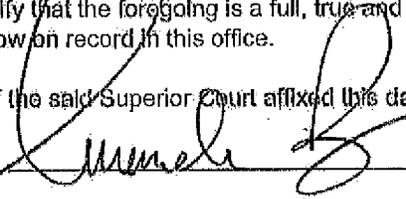
Interpreter signature/Print name: \_\_\_\_\_

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the \_\_\_\_\_ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language. Cause No. of this case: 17-1-02167-31.

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



WITNESS my hand and seal of the said Superior Court affixed this date: JUL 10 2018

Clerk of said County and State, , Deputy Clerk



ORDER OF COMMITMENT

THE STATE OF WASHINGTON to the Sheriff of the County of Snohomish; State of Washington, and to the Secretary of the Department of Corrections, and the Superintendent of the Washington Corrections Center of the State of Washington:

WHEREAS, TERRY LYNN KILL, has been duly convicted of the crime(s) of RESIDENTIAL BURGLARY , SECOND DEGREE BURGLARY , as charged in the Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her that he/she be punished therefore by imprisonment in such correctional institution under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections pursuant to RCW 72.02.210, for the term(s) as provided in the judgment which is incorporated by reference, all of which appears of record in this court; a certified copy of said judgment being endorsed hereon and made a part thereof; Now, Therefore, THIS IS TO COMMAND YOU, the said Sheriff, to detain the said defendant until called for by the officer authorized to transfer to the custody of the Superintendent for the Washington State Department of Corrections or his designee for transport to either the Washington Corrections Center at Shelton, Washington or Washington Corrections Center for Women at Purdy, Washington and this is to command you, the said Superintendent and Officers in charge of said Washington Corrections Center to receive from the said officers the said defendant for confinement, classification, and placement in such corrections facilities under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections.

And these present shall be authority for the same. HEREIN FAIL NOT.

WITNESS the Honorable Cindy A. Larsen, Judge of the said Superior Court and the seal thereof, this 7 day of July, 2018.

Sonya Kraski  
CLERK OF THE SUPERIOR COURT

By: [Signature]  
Deputy Clerk

FILED

2018 JUL -9 PM 3: 30

SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH

936030  
7-10-18

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

STATE OF WASHINGTON,  
Plaintiff,  
v.  
KILL, TERRY LYNN,  
Defendant.

SID: WA13822502  
If no SID, use DOB: [REDACTED]

No. 17-1-01876-31

JUDGMENT AND SENTENCE

- Prison
- Jail One Year or Less
- First Time Offender
- Special Drug Offender Sentencing Alternative
- Clerk's action required, firearm rights revoked, ¶ 5.5a
- Clerk's action required, ¶¶ 2.1, 4.1, 4.3, 4.5, 5.2, 5.3, 5.8
- Clerk's action required, ¶ 5.7 (use of motor vehicle)
- Restitution Hearing set, ¶ 4.3
- Juvenile Decline  Mandatory  Discretionary

I. HEARING

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

II. FINDINGS

2.1 CURRENT OFFENSE(S). The defendant was found guilty on June 21 2018 by plea of:

COUNT: 1.

CRIME: SECOND DEGREE ROBBERY (CRIME COMMITTED WHILE ON COMMUNITY CUSTODY)

RCW: 9A.56.210, 9.94A.525(19)

CLASS: CLASS B FELONY

DOV: 06/17/2017

INCIDENT #: SSO 17091568

as charged in the Information.

The jury returned a special verdict or the court made a special finding with regard to the following:

See ¶ 4.1 regarding findings in relation to **Drug Offender or Parenting Sentencing Alternative**.

**GV** For the crime(s) charged in Count(s) \_\_\_\_\_, **domestic violence** as defined in RCW 10.99.020 and RCW 9A.36.041(4) was pled and proved.

**GV** For the crime(s) charged in Count(s) \_\_\_\_\_, **domestic violence** as defined in RCW 10.99.020 was pled and proved.

The defendant used a **firearm** in the commission of the offense(s) in Count(s) \_\_\_\_\_. RCW 9.41.010, 9.94A.533.

The defendant used a **deadly weapon other than a firearm** in the commission of the offense(s) in Count(s) \_\_\_\_\_. RCW 9.94A.825, 9.94A.533.

Count(s) \_\_\_\_\_ is (are) **aggravated murder in the first degree** committed while the defendant was  **under 16 years of age**  **16 or 17 years of age** when the offense was committed.

Count(s) \_\_\_\_\_ was (were) committed while the **defendant was under 18 years of age** and the time of **confinement is over 20 years**.

Count(s) \_\_\_\_\_ **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

In Count(s) \_\_\_\_\_ the defendant committed a **robbery of a pharmacy** as defined in RCW 18.64.011(21), 9.94A.832.

The defendant committed a crime involving the manufacture of methamphetamine including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count(s) \_\_\_\_\_. RCW 9.94A.605, 69.50.401, 69.50.440.

Count(s) \_\_\_\_\_ is (are) a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the commission of the offense. RCW 9.94A.833.

Count(s) \_\_\_\_\_ is (are) the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.829.

The defendant committed  **vehicular homicide**  **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.

**GY** In Count(s) \_\_\_\_\_ the defendant had (number of) \_\_\_\_\_ **passenger(s) under the age of 16** in the vehicle. (*Applies to crimes of vehicular homicide and vehicular assault committed while under the influence of intoxicating liquor or any drug, felony driving under the influence, and felony physical control under the influence.*) RCW 9.94A.533.

Count(s) \_\_\_\_\_ involve(s) **attempting to elude a police vehicle** and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.

**Findings for DUI or Physical Control, Vehicular Assault, Vehicular Homicide (ACR Information)** (check all that apply):

No BAC test result

BAC refused. The defendant refused to take a test offered pursuant to RCW 46.20.308.

Drug Related. The defendant was under the influence of or affected by any drug.

THC level was \_\_\_\_\_ within two hours after driving.

Passenger under age 16. The defendant committed the offense while a passenger under the age of sixteen was in the vehicle.

Vehicle Info.:  Commercial Veh.  16 Passenger Veh.  Hazmat Veh.

In Count(s) \_\_\_\_\_ the defendant has been convicted of **assaulting a law enforcement officer** or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831, 9.94A.533.

Count(s) \_\_\_\_\_ is (are) a felony in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285.

The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.

Reasonable grounds exist to believe the defendant is a **mentally ill** person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. RCW 9.94B.080.

In Count(s) \_\_\_\_\_ **assault in the first degree** (RCW 9A.36.011) or **assault of a child in the first degree** (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of five (5) years (RCW 9.94A.540).

The offense in Count(s) \_\_\_\_\_ was (were) **committed in a county jail or state correctional facility**. RCW 9.94A.533(5).

Counts \_\_\_\_\_ encompass the **same criminal conduct** and count as one crime in determining the offender score. RCW 9.94A.589.

Count(s) \_\_\_\_\_ and \_\_\_\_\_ merge. (See ¶ 3.2 for dismissal of specific count.)

**Other current convictions** listed under different cause numbers used in calculating the offender score are (list offense and cause number): 17-1-02167-31 Residential Burglary, Second Degree Burglary AND 17-1-01665-31 Residential Burglary, Possession of a Controlled Substance

**2.2 CRIMINAL HISTORY.** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

<u>CRIME</u>	<u>DATE OF SENTENCE</u>	<u>SENTENCING COURT (County &amp; State)</u>	<u>A or J (Adult or Juvenile)</u>	<u>TYPE OF CRIME</u>
1 Third Degree Assault	12/01/16	Snohomish County, WA	A	C

The defendant committed Count(s) one while on community custody (adds one point to score). RCW 9.94A.525.

The court finds the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

**2.3 SENTENCING DATA.**

COUNT NO.	OFFENDER SCORE	SRA LEVEL	STANDARD RANGE (Not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (Including enhancements)	MAXIMUM TERM
1	6		33-43 months		33-43 months	10 years, \$20,000

\*(F) Firearm, (D) Other deadly weapons, (RPh) Robbery of a Pharmacy, (VH) Vehicular Homicide, See RCW 46.61.520, (JP) Juvenile Present, (CSG) Criminal Street Gang Involving Minor, (V) VUCSA in a protected zone, (P16) Passenger(s) under age 16, (AE) Endangerment While Attempting to Elude.

2.4  **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence  above  below the standard range for Count(s) \_\_\_\_\_ or  within the standard range for Count(s) \_\_\_\_\_ but served consecutively to Count(s) \_\_\_\_\_.

The defendant and State stipulate that justice is best served by imposition of an exceptional sentence above the standard range and the court finds that exceptional sentence furthers and is consistent with the interests of justice and the purpose of the Sentencing Reform Act.

Aggravating factors were  stipulated by the defendant,  found by the court after the defendant waived jury trial,  found by jury by special interrogatory.  Findings of fact and conclusions of law are attached in Appendix 2.4.  The jury's interrogatory is attached. The prosecuting attorney  did  did not recommend a similar sentence.

2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant is an adult and is not disabled and therefore the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753(5)):

The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

\_\_\_\_\_'s (name of agency) costs for its emergency response are reasonable. RCW 35.52.430 (effective August 1, 2012).

2.6  **FELONY FIREARM OFFENDER REGISTRATION.** The defendant committed a felony firearm offense as defined in RCW 9.41.010. The court considered the following factors:

the defendant's criminal history;

whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere;

evidence of the defendant's propensity for violence that would likely endanger persons;

the offense was committed in conjunction with an offense committed against a person under the age of 18, or a serious violent offense or offense involving sexual motivation as defined in RCW 9.94A.030 (if this factor is found, registration is required);

other: \_\_\_\_\_.

The court decided the defendant  should  should not register as a felony firearm offender. (If required to register, see §5.5b.)

2.7 **PROSECUTOR'S RECOMMENDATION.** The prosecutor's recommendation was as follows:

43 months on Count I \_\_\_\_\_ months on Count IV  
\_\_\_\_\_ months on Count II \_\_\_\_\_ months on Count V  
\_\_\_\_\_ months on Count III \_\_\_\_\_ months on Count VI

Terms on each count to run:

concurrently with or  consecutively to each other

concurrently with or  consecutively to the terms imposed in Cause No(s) \_\_\_\_\_

17-1-02167-31 17-1-01665-31

III. JUDGMENT

- 3.1 The defendant is **GUILTY** of the counts and charges listed in Paragraph 2.1.
- 3.2  The court **DISMISSES** Count(s) \_\_\_\_\_.
- 3.3  The defendant was found **NOT GUILTY** of Count(s) \_\_\_\_\_.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 **CONFINEMENT OVER ONE YEAR.** The court sentences the defendant to total confinement as follows:

(A) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

43 months on Count I \_\_\_\_\_ months on Count IV  
 \_\_\_\_\_ months on Count II \_\_\_\_\_ months on Count V  
 \_\_\_\_\_ months on Count III \_\_\_\_\_ months on Count VI

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

The confinement time on Count(s) \_\_\_\_\_ includes \_\_\_\_\_ months as enhancement for  
 Firearm  Deadly Weapon  VUCSA in a Protected Zone  Manufacture of Methamphetamine with Juvenile Present  Impaired Driving  other \_\_\_\_\_

Actual term of total confinement ordered is 43 months.

(B) **Confinement.** RCW 10.95.030 (Aggravated murder and under age 18.) The court orders the following:

Count \_\_\_\_\_ minimum term: \_\_\_\_\_ maximum term: Life  
 Count \_\_\_\_\_ minimum term: \_\_\_\_\_ maximum term: Life

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at ¶ 2.3, and the following counts which shall be served consecutively:

\_\_\_\_\_

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

and consecutive to any sentence which was imposed before the date of violation for the offenses in this cause number. The sentence shall run concurrently to the sentence in cause numbers 17-1-02167-31 - 17-1-01665-31 RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_

**CREDIT FOR TIME SERVED.** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

\_\_\_\_\_

4.2  **COMMUNITY CUSTODY.** RCW 9.94A.701 and .702, RCW 10.95.030(3).

**Prison Sentence** For offenders sentenced to the custody of Department of Corrections (DOC), the court shall order community custody under the jurisdiction of (DOC) for 36 months if the defendant is convicted of a serious violent offense; 18 months if the defendant is convicted of a violent offense; or 12 months if the defendant is convicted of a crime against a person under RCW 9.94A.411, a felony violation of Chapter 69.50 or 69.52 RCW or an attempt, conspiracy or solicitation to commit such a crime, or an offense involving the unlawful possession of a firearm by a street gang member or an associate.

**Jail Sentence** For offenders sentenced to jail, the court may order community supervision for up to 12 months if the defendant is convicted of a violent offense, a crime against a person under RCW 9.94A.411, or a felony violation of Chapter 69.50 or 69.52 RCW or an attempt, conspiracy, or solicitation to commit such a crime.

The defendant shall serve the term(s) of community custody set forth below. These terms may be adjusted to ensure the combined terms of confinement and community custody actually served do not exceed the statutory maximum.

Count I for a period of <u>18</u> months	Count IV for a period of _____ months
Count II for a period of _____ months	Count V for a period of _____ months
Count III for a period of _____ months	Count VI for a period of _____ months

Plus all accrued earned early release at the time of release and the conditions ordered are set forth below.

The defendant shall report to a DOC office located in the county where the defendant is released not later than 72 hours after release from custody.

While on community custody, the defendant shall (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in the defendant's address or employment; (4) not possess or consume controlled substances except pursuant to lawfully issued prescriptions; (5) not own, use, or possess firearms or ammunition; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts as required by DOC to confirm compliance with orders of the court; and (8) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The term of community custody begins immediately upon release from confinement or at the time of sentencing if no confinement is ordered. The defendant is subject to the conditions of community custody as of the date of sentencing unless otherwise ordered here: \_\_\_\_\_ RCW 9.904A.707.

The court orders that during the period of supervision:

- The defendant shall not possess or consume any alcohol.
- The defendant shall not possess or consume Controlled substances ~~marijuana~~ without a valid prescription.
- The defendant shall have no contact with Dale Dawson.  See ¶ 4.5.
- The defendant shall remain  within  outside of a specific geographical boundary, to wit: \_\_\_\_\_.
- The defendant shall participate in the following crime-related treatment or counseling services:  
\_\_\_\_\_  
\_\_\_\_\_

The defendant shall undergo an evaluation for the following:  substance use disorder  mental health  anger management. The defendant shall fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: no law violations

\_\_\_\_\_  
Court Ordered Treatment: If any court orders mental health or substance use disorder treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

If the defendant committed the above crime(s) while under age 18 and is sentenced to more than 20 years of confinement (RCW 10.95.030):

(i) As long as the defendant's conviction is not for aggravated first degree murder or certain sex crimes, and the defendant has not been convicted of a crime committed after he or she turned 18 or committed a disqualifying serious infraction as defined by DOC in the 12 months before the petition is filed, the defendant may petition the Indeterminate Sentence Review Board (Board) for early release after the defendant has served 20 years.

(ii) If the defendant is released early because the petition was granted or by other action of the Indeterminate Sentence Review Board, the defendant may be subject to community custody under the supervision of the DOC for a period of time determined by the Board, up to the length of the court-imposed term of incarceration. The defendant will be required to comply with any conditions imposed by the Board.

(iii) If the defendant violates the conditions of community custody, the Board may return the defendant to confinement for up to the remainder of the court-imposed term of incarceration.

**4.3 LEGAL FINANCIAL OBLIGATIONS.** Defendant shall pay to the clerk of the court:

PVC	<input checked="" type="checkbox"/> \$500	Victim assessment	RCW 7.68.035
FRC	<input type="checkbox"/> \$200 <u>waived</u>	Criminal filing fee (mandatory unless court finds defendant indigent)	RCW 36.18.020(2)(h) RCW 9.94A.760, .505;
ORC	\$ <input type="checkbox"/> waived	Court costs, including:	10.01.160; 10.46.190.
		Witness costs	\$ _____ WFR
		Sheriff service fees	\$ _____ SFR/SFS/SFW/WRF
		Jury demand fee	\$ _____ JFR
		Other	\$ _____
PUB	<input type="checkbox"/> \$962 <input type="checkbox"/> waived	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other costs	RCW 9.94A.760
FCM	<input type="checkbox"/> \$1,000 <input type="checkbox"/> \$2,000	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA additional fine deferred due to indigency	RCW 69.50.430
COF/LDJ/ FCD/NTF/SAD/SDI	\$ _____	Drug enforcement fund of \$ _____	RCW 9.94A.760
CLF	<input type="checkbox"/> \$100	Crime lab fee <input type="checkbox"/> suspended due to indigency	RCW 43.43.690
EXT	\$ _____	Extradition costs	RCW 9.94A.505
RTN/RJN	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide; \$2,500 maximum, offense committed after 8/1/12).	RCW 38.52.430
	<input type="checkbox"/> \$100	Biological Sample Fee (Mandatory if no DNA sample on file)	RCW 43.43.7541
PDV	<input type="checkbox"/> \$115	Domestic Violence Penalty (for offenses committed after 7/24/15 – maximum \$115).	RCW 10.99.080
	<input type="checkbox"/> \$15	Violation of DV Protection Order (\$15 mandatory fine).	RCW 26.50.110
	\$ _____	Other costs/ fines for:	
	\$ <u>500.00</u>	<b>TOTAL</b>	RCW 9.94A.760

**RESTITUTION.** The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753.

A **restitution hearing** shall be set for \_\_\_\_\_.

Defendant waives any right to be present at any **restitution hearing** and waives any right to be present at the presentation of an agreed restitution order. (*sign initials*): AK

Defendant waives any right to a restitution hearing within 6 months. RCW 9.94A.750.

A separate Restitution Order is being entered contemporaneously with this Judgment and Sentence.

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

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here of not less than:

\$ 10 per month commencing 60 days after release. RCW 9.94A.760.

All payments shall be made within 120 months of  release of confinement;  entry of judgment;  other \_\_\_\_\_.

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

The court also finds the defendant has the means to pay for the cost of incarceration and the defendant is hereby ordered to pay for the cost of incarceration at \$100.00 per day (not to exceed \$100 per day) unless another rate

is specified here \_\_\_\_\_, RCW 9.94A.760(2). (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480).

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.4 [ ] **DNA TESTING.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

**DNA TESTING NOT REQUIRED.** The Washington State Patrol Crime Laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754.

[ ] **HIV TESTING.** The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 3020 Rucker, Suite 106, Everett, Washington 98201 within one (1) business day of entry of this order to arrange for the test. RCW 70.24.340.

4.5 **NO CONTACT.**

The defendant shall not have contact with Dale Dawson  (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until July 9 2028 (date) (not to exceed the maximum statutory sentence). **EVEN IF THE PERSON WHO THIS ORDER PROTECTS INVITES OR ALLOWS CONTACT, YOU CAN BE ARRESTED AND PROSECUTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU HAVE THE SOLE RESPONSIBILITY TO AVOID OR REFRAIN FROM VIOLATING THIS ORDER.**

A separate post-conviction Domestic Violence No Contact Order, Stalking No Contact Order, Anti-Harassment No Contact Order, or Sexual Assault Protection Order [ ] was filed at the time of entry of the plea of guilty/guilty verdict [ ] is filed contemporaneously with this Judgment and Sentence. (Entry of a separate order makes a violation of this no contact sentencing provision also punishable as a criminal offense, and the order will be entered into the law enforcement database.)

[ ] The pre-trial Domestic Violence No Contact Order, Stalking No Contact Order, Anti-Harassment No Contact Order, or Sexual Assault Protection Order entered on \_\_\_\_\_ is hereby terminated.

4.6 **OTHER.** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4.7 **OFF-LIMITS ORDER.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: \_\_\_\_\_

4.8 **SENTENCE CONDITIONS PENDING APPEAL.** Unless otherwise ordered, all conditions of this sentence shall remain in effect notwithstanding any appeal.

## V. NOTICES AND SIGNATURES

**5.1 COLLATERAL ATTACK ON JUDGMENT.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

**5.2 LENGTH OF SUPERVISION.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.753(4); RCW 9.94.A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

**5.3 NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606.

**5.4 VIOLATION OF JUDGMENT AND SENTENCE/COMMUNITY CUSTODY VIOLATION.**

(a) Any violation of a condition or requirement of sentence is punishable by up to 60 days confinement for each violation. RCW 9.94A.633(1).

(b) If you have not completed your maximum term of total confinement and you are subject to a violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.633(2)(a).

**5.5a FIREARMS.** You may not own, use or possess any firearm and under federal law any firearm or ammunition unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identification card, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047. (Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court.)

The defendant is ordered to forfeit any firearm he/she owns or possesses no later than \_\_\_\_\_ to \_\_\_\_\_ (name of law enforcement agency). RCW 9.41.098

**5.5b FELONY FIREARM OFFENDER REGISTRATION.** If the court decided that you are required to register as a felony firearm offender, the specific requirements are in the "Felony Firearm Offender Registration" attachment.

**5.6 Reserved.**

**5.7 MOTOR VEHICLE.** If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. Your driver's license will also be revoked if this crime involves the offenses of vehicular homicide, vehicular assault, felony hit and run, or perjury related to Title 46 RCW or any other law relating to the ownership or operation of motor vehicles. RCW 46.20.285.

**5.8 [ ] DOL Notice – Defendant under age 21 only.**

Count \_\_\_\_\_ is (a) a violation of RCW chapter 69.41 [Legend drug], 69.50 [VUCSA], or 69.52 [Imitation drugs], and the defendant was under 21 years of age at the time of the offense OR (b) a violation under RCW 9.41.040 [unlawful possession of firearm], and the defendant was under the age of 18 at the time of the offense OR (c) a violation under

RCW chapter 66.44 [Alcohol], and the defendant was under the age of 18 at the time of the offense, **AND** the court finds that the defendant previously committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

**Clerk's Action** –The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the Defendant's driver's license. RCW 46.20.265.

**5.9 CERTIFICATE OF DISCHARGE.**

(a) If you are under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received notice from Department of Corrections and clerk's office that you have completed all requirements of the sentence and satisfied all legal financial obligations. RCW 9.94A.637.

(b) If you are not under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received verification from you that you have completed all sentence conditions other than payment of legal financial obligations and the clerk's office that you have satisfied all legal financial obligations.

**5.10 RIGHT TO APPEAL.** You have a right to appeal this conviction and sentence. If you pleaded guilty, your right to appeal is limited.

This right must be exercised by filing a notice of appeal with the clerk of this court within 30 days from today. If a notice of appeal is not filed within this time, the right to appeal is IRREVOCABLY WAIVED.

If you are without counsel, the clerk will supply you with an appeal form on your request, and will file the form when you complete it.

If you are unable to pay the costs of the appeal, the court will appoint counsel to represent you, and the portions of the record necessary for the appeal will be prepared at public expense.

**5.11 VOTING RIGHTS STATEMENT.** I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the Indeterminate Sentence Review Board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

5.12. OTHER. \_\_\_\_\_

DONE in Open Court and in the presence of the defendant this 9 day of July, 2018.

*[Handwritten signature of Judge]*

JUDGE

Print name:

Cindy A. Larsen

*[Handwritten signature of Michelle L. Rutherford]*

MICHELLE L. RUTHERFORD, WSBA #: 44377  
Deputy Prosecuting Attorney

*[Handwritten signature of Kathleen Kyle]*  
KATHLEEN KYLE, WSBA #: 28625  
Attorney for Defendant

*[Handwritten signature of Terry Lynn Kill]*  
TERRY LYNN KILL  
Defendant

Interpreter signature/Print name: \_\_\_\_\_

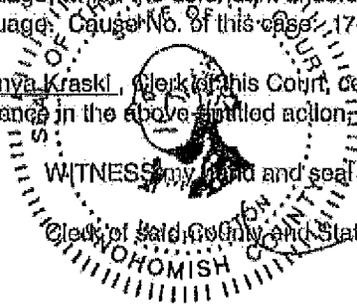
I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the \_\_\_\_\_ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language. Cause No. of this case: 17-1-01876-31.

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

JUL 10 2018

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

Clerk of said County and State, *[Handwritten signature]*, Deputy Clerk





ORDER OF COMMITMENT

THE STATE OF WASHINGTON to the Sheriff of the County of Snohomish; State of Washington, and to the Secretary of the Department of Corrections, and the Superintendent of the Washington Corrections Center of the State of Washington:

WHEREAS, TERRY LYNN KILL, has been duly convicted of the crime(s) of SECOND DEGREE ROBBERY (CRIME COMMITTED WHILE ON COMMUNITY CUSTODY), as charged in the Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her that he/she be punished therefore by imprisonment in such correctional institution under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections pursuant to RCW 72.02.210, for the term(s) as provided in the judgment which is incorporated by reference, all of which appears of record in this court; a certified copy of said judgment being endorsed hereon and made a part thereof; Now, Therefore,

THIS IS TO COMMAND YOU, the said Sheriff, to detain the said defendant until called for by the officer authorized to transfer to the custody of the Superintendent for the Washington State Department of Corrections or his designee for transport to either the Washington Corrections Center at Shelton, Washington or Washington Corrections Center for Women at Purdy, Washington and this is to command you, the said Superintendent and Officers in charge of said Washington Corrections Center to receive from the said officers the said defendant for confinement, classification, and placement in such corrections facilities under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections.

And these present shall be authority for the same. HEREIN FAIL NOT.

WITNESS the Honorable Cindy A. Larsen Judge of the said Superior Court and the seal thereof, this 9 day of July, 2018.

Sonya Kraski  
CLERK OF THE SUPERIOR COURT

By: [Signature]  
Deputy Clerk

FILED

2018 JUL -9 PM 3:30

SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH

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

STATE OF WASHINGTON,  
Plaintiff,

v.

KILL, TERRY LYNN,  
Defendant.

SID: WA13822502  
If no SID, use DOB: [REDACTED]

No. 17-1-01665-31

936030  
7-10-18

JUDGMENT AND SENTENCE

- Prison
- Jail One Year or Less
- First Time Offender
- Special Drug Offender Sentencing Alternative
- Clerk's action required, firearm rights revoked, ¶ 5.5a
- Clerk's action required, ¶¶ 2.1, 4.1, 4.3, 4.5, 5.2, 5.3, 5.8
- Clerk's action required, ¶ 5.7 (use of motor vehicle)
- Restitution Hearing set, ¶ 4.3
- Juvenile Decline  Mandatory  Discretionary

I. HEARING

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

II. FINDINGS

2.1 **CURRENT OFFENSE(S).** The defendant was found guilty on June 21 2018 by PLEA of:

**COUNT: 1.**

**CRIME:** RESIDENTIAL BURGLARY CRIME COMMITTED WHILE ON COMMUNITY CUSTODY

**RCW:** 9A.52.025, 9.94A.525(19)

**CLASS:** CLASS B FELONY

**DOV:** 07/31/2017

**INCIDENT #:** SSO 17118316

**COUNT: 2.**

**CRIME:** POSSESSION OF A CONTROLLED SUBSTANCE CRIME COMMITTED WHILE ON COMMUNITY CUSTODY

**RCW:** 69.50.4013, 9.94A.525(19)

**CLASS:** CLASS C FELONY

**DOV:** 07/31/2017

**INCIDENT #:** SSO 17118316

as charged in the Information.

The jury returned a special verdict or the court made a special finding with regard to the following:

- See ¶ 4.1 regarding findings in relation to **Drug Offender or Parenting Sentencing Alternative**.
- JGV** For the crime(s) charged in Count(s) \_\_\_\_\_, **domestic violence** as defined in RCW 10.99.020 and RCW 9A.36.041(4) was pled and proved.
- JGV** For the crime(s) charged in Count(s) \_\_\_\_\_, **domestic violence** as defined in RCW 10.99.020 was pled and proved.
- The defendant used a **firearm** in the commission of the offense(s) in Count(s) \_\_\_\_\_. RCW 9.41.010, 9.94A.533.
- The defendant used a **deadly weapon other than a firearm** in the commission of the offense(s) in Count(s) \_\_\_\_\_, RCW 9.94A.825, 9.94A.533.
- Count(s) \_\_\_\_\_ is (are) **aggravated murder in the first degree** committed while the defendant was  **under 16 years of age**  **16 or 17 years of age** when the offense was committed.
- Count(s) \_\_\_\_\_ was (were) committed while the **defendant was under 18 years of age and the time of confinement is over 20 years**.
- Count(s) \_\_\_\_\_ **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- In Count(s) \_\_\_\_\_ the defendant committed a **robbery of a pharmacy** as defined in RCW 18.64.011(21), 9.94A.832.
- The defendant committed a crime involving the manufacture of methamphetamine including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count(s) \_\_\_\_\_, RCW 9.94A.605, 69.50.401, 69.50.440.
- Count(s) \_\_\_\_\_ is (are) a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- Count(s) \_\_\_\_\_ is (are) the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.829.
- The defendant committed  **vehicular homicide**  **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- JGY** In Count(s) \_\_\_\_\_ the defendant had (number of) \_\_\_\_\_ **passenger(s) under the age of 16** in the vehicle. *(Applies to crimes of vehicular homicide and vehicular assault committed while under the influence of intoxicating liquor or any drug, felony driving under the influence, and felony physical control under the influence.)* RCW 9.94A.533.
- Count(s) \_\_\_\_\_ involve(s) **attempting to elude a police vehicle** and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- Findings for DUI or Physical Control, Vehicular Assault, Vehicular Homicide** (ACR Information) (check all that apply):
  - No BAC test result

BAC refused. The defendant refused to take a test offered pursuant to RCW 46.20.308.  
 Drug Related. The defendant was under the influence of or affected by any drug.  
 THC level was \_\_\_\_\_ within two hours after driving.  
 Passenger under age 16. The defendant committed the offense while a passenger under the age of sixteen was in the vehicle.  
 Vehicle Info.:  Commercial Veh.  16 Passenger Veh.  Hazmat Veh.

In Count(s) \_\_\_\_\_ the defendant has been convicted of **assaulting a law enforcement officer** or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831, 9.94A.533.

Count(s) \_\_\_\_\_ is (are) a felony in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285.

The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.

Reasonable grounds exist to believe the defendant is a **mentally ill** person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. RCW 9.94B.080.

In Count(s) \_\_\_\_\_ **assault in the first degree** (RCW 9A.36.011) or **assault of a child in the first degree** (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of five (5) years (RCW 9.94A.540).

The offense in Count(s) \_\_\_\_\_ was (were) **committed in a county jail or state correctional facility**. RCW 9.94A.533(5).

Counts \_\_\_\_\_ encompass the **same criminal conduct** and count as one crime in determining the offender score. RCW 9.94A.589.

Count(s) \_\_\_\_\_ and \_\_\_\_\_ merge. (See ¶ 3.2 for dismissal of specific count.)

**Other current convictions** listed under different cause numbers used in calculating the offender score are (*list offense and cause number*): Residential Burglary, Second Degree Burglary 17-1-02167-31; Second Degree Robbery Crime Committed While on Community Custody 17-1-01876-31

**2.2 CRIMINAL HISTORY.** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

	<u>CRIME</u>	<u>DATE OF SENTENCE</u>	<u>SENTENCING COURT (County &amp; State)</u>	<u>A or J (Adult or Juvenile)</u>	<u>TYPE OF CRIME</u>
1	Third Degree Assault	12/01/16	Snohomish County	A	C

The defendant committed Count(s) 1 & 2 while on community custody (adds one point to score). RCW 9.94A.525.

The court finds the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

**2.3 SENTENCING DATA.**

COUNT NO.	OFFENDER SCORE	SRA LEVEL	STANDARD RANGE (Not Including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (Including enhancements)	MAXIMUM TERM
1	8	IV	53-70 months		53-70 months	10 years and/or \$20,000 fine
2	6	I	12+-24 months		12+-24 months	5 years and/or \$10,000 fine

\*(F) Firearm, (D) Other deadly weapons, (RPh) Robbery of a Pharmacy, (VH) Vehicular Homicide, See RCW 46.61.520, (JP) Juvenile Present, (CSG) Criminal Street Gang Involving Minor, (V) VUCSA in a protected zone, (P16) Passenger(s) under age 16, (AE) Endangerment While Attempting to Elude.

**2.4**  **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence  above  below the standard range for Count(s) \_\_\_\_\_ or  within the standard range for Count(s) \_\_\_\_\_ but served consecutively to Count(s) \_\_\_\_\_.

The defendant and State stipulate that justice is best served by imposition of an exceptional sentence above the standard range and the court finds that exceptional sentence furthers and is consistent with the interests of justice and the purpose of the Sentencing Reform Act.

Aggravating factors were  stipulated by the defendant,  found by the court after the defendant waived jury trial,  found by jury by special interrogatory.  Findings of fact and conclusions of law are attached in Appendix 2.4.  The jury's interrogatory is attached. The prosecuting attorney  did  did not recommend a similar sentence.

**2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant is an adult and is not disabled and therefore the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753(5));

The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

\_\_\_\_\_'s (name of agency) costs for its emergency response are reasonable, RCW 35.52.430 (effective August 1, 2012).

**2.6**  **FELONY FIREARM OFFENDER REGISTRATION.** The defendant committed a felony firearm offense as defined in RCW 9.41.010. The court considered the following factors:

the defendant's criminal history;

whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere;

evidence of the defendant's propensity for violence that would likely endanger persons;

the offense was committed in conjunction with an offense committed against a person under the age of 18, or a serious violent offense or offense involving sexual motivation as defined in RCW 9.94A.030 (if this factor is found, registration is required);

other: \_\_\_\_\_.

The court decided the defendant  should  should not register as a felony firearm offender. (If required to register, see §5.5b.)

**2.7 PROSECUTOR'S RECOMMENDATION.** The prosecutor's recommendation was as follows:

53 months on Count I \_\_\_\_\_ months on Count IV

24 months on Count II  
\_\_\_\_\_ months on Count III

\_\_\_\_\_ months on Count V  
\_\_\_\_\_ months on Count VI

Terms on each count to run:

concurrently with or [ ] consecutively to each other

concurrently with or [ ] consecutively to the terms imposed in Cause No(s), \_\_\_\_\_

17-1-02167-31 and 17-1-01876-31

III. JUDGMENT

- 3.1 The defendant is **GUILTY** of the counts and charges listed in Paragraph 2.1.
- 3.2  The court **DISMISSES** Count(s) \_\_\_\_\_.
- 3.3  The defendant was found **NOT GUILTY** of Count(s) \_\_\_\_\_.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 **CONFINEMENT OVER ONE YEAR.** The court sentences the defendant to total confinement as follows:

(A) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

- 53 months on Count I \_\_\_\_\_ months on Count IV
- 24 months on Count II \_\_\_\_\_ months on Count V
- \_\_\_\_\_ months on Count III \_\_\_\_\_ months on Count VI

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

The confinement time on Count(s) \_\_\_\_\_ includes \_\_\_\_\_ months as enhancement for  
 Firearm  Deadly Weapon  VUCSA in a Protected Zone  Manufacture of Methamphetamine with Juvenile Present  Impaired Driving  other \_\_\_\_\_

• Actual term of total confinement ordered is 53 months.

(B) **Confinement.** RCW 10.95.030 (Aggravated murder and under age 18.) The court orders the following:

- Count \_\_\_\_\_ minimum term: \_\_\_\_\_ maximum term: Life
- Count \_\_\_\_\_ minimum term: \_\_\_\_\_ maximum term: Life

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at ¶ 2.3, and the following counts which shall be served consecutively:

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

and consecutive to any sentence which was imposed before the date of violation for the offenses in this cause number. The sentence shall run concurrently to the sentence in cause numbers 17-1-02167-31 & 17-1-01876-31. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_

**CREDIT FOR TIME SERVED.** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

4.2



**COMMUNITY CUSTODY.** RCW 9.94A.701 and .702, RCW 10.95.030(3).

**Prison Sentence** For offenders sentenced to the custody of Department of Corrections (DOC), the court shall order community custody under the jurisdiction of (DOC) for 36 months if the defendant is convicted of a serious violent offense; 18 months if the defendant is convicted of a violent offense; or 12 months if the defendant is convicted of a crime against a person under RCW 9.94A.411, a felony violation of Chapter 69.50 or 69.52 RCW or an attempt, conspiracy or solicitation to commit such a crime, or an offense involving the unlawful possession of a firearm by a street gang member or an associate.

**Jail Sentence** For offenders sentenced to jail, the court may order community supervision for up to 12 months if the defendant is convicted of a violent offense, a crime against a person under RCW 9.94A.411, or a felony violation of Chapter 69.50 or 69.52 RCW or an attempt, conspiracy, or solicitation to commit such a crime.

The defendant shall serve the term(s) of community custody set forth below. These terms may be adjusted to ensure the combined terms of confinement and community custody actually served do not exceed the statutory maximum.

Count I for a period of <u>0</u> months	Count IV for a period of _____ months
Count II for a period of <u>12</u> months	Count V for a period of _____ months
Count III for a period of _____ months	Count VI for a period of _____ months

Plus all accrued earned early release at the time of release and the conditions ordered are set forth below.

The defendant shall report to a DOC office located in the county where the defendant is released not later than 72 hours after release from custody.

While on community custody, the defendant shall (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in the defendant's address or employment; (4) not possess or consume controlled substances except pursuant to lawfully issued prescriptions; (5) not own, use, or possess firearms or ammunition; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts as required by DOC to confirm compliance with orders of the court; and (8) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The term of community custody begins immediately upon release from confinement or at the time of sentencing if no confinement is ordered. The defendant is subject to the conditions of community custody as of the date of sentencing unless otherwise ordered here: \_\_\_\_\_ RCW 9.904A.707.

The court orders that during the period of supervision:

- The defendant shall not possess or consume any alcohol.
- The defendant shall not possess or consume <sup>controlled substances</sup> ~~marijuana~~ without a valid prescription.
- The defendant shall have no contact with \_\_\_\_\_.  See ¶ 4.5.
- The defendant shall remain  within  outside of a specific geographical boundary, to wit: \_\_\_\_\_.
- The defendant shall participate in the following crime-related treatment or counseling services:

The defendant shall undergo an evaluation for the following:  substance use disorder  mental health  anger management. The defendant shall fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: No Criminal Law Violations



**4.3 LEGAL FINANCIAL OBLIGATIONS.** Defendant shall pay to the clerk of the court:

PVC	<input checked="" type="checkbox"/> \$500	Victim assessment	RCW 7.68.035
FRC	<input type="checkbox"/> \$200 <u>waived</u>	Criminal filing fee (mandatory unless court finds defendant indigent)	RCW 36.18.020(2)(h) RCW 9.94A.760, .505;
CRC	\$ <input type="checkbox"/> waived	Court costs, including:	10.01.160; 10.46.190.
		Witness costs \$ _____ WFR	
		Sheriff service fees \$ _____ SFR/SFS/SFW/WRF	
		Jury demand fee \$ _____ JFR	RCW 10.46.190
		Other \$ _____	
PUB	<input type="checkbox"/> \$962 <input type="checkbox"/> waived	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other costs	RCW 9.94A.760
FCM	<input type="checkbox"/> \$1,000 <input type="checkbox"/> \$2,000	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA additional fine deferred due to indigency	RCW 69.50.430
CDF/LDV FCD/NTF/SAD/SDI	\$ _____	Drug enforcement fund of \$ _____	RCW 9.94A.760
CLF	<input type="checkbox"/> \$100	Crime lab fee <input type="checkbox"/> suspended due to indigency	RCW 43.43.690
EXT	\$ _____	Extradition costs	RCW 9.94A.505
RTN/RJN	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide; \$2,500 maximum, offense committed after 8/1/12).	RCW 38.52.430
	<input type="checkbox"/> \$100	Biological Sample Fee (Mandatory if no DNA sample on file)	RCW 43.43.7541
PDV	<input type="checkbox"/> \$115	Domestic Violence Penalty (for offenses committed after 7/24/15 – maximum \$115).	RCW 10.99.080
	<input type="checkbox"/> \$15	Violation of DV Protection Order (\$15 mandatory fine).	RCW 26.50.110
	\$ _____	Other costs/ fines for: _____	
	<u>\$ 500.00</u>	TOTAL	RCW 9.94A.760

**RESTITUTION.** The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753.

- A restitution hearing shall be set for \_\_\_\_\_.
- Defendant waives any right to be present at any restitution hearing and waives any right to be present at the presentation of an agreed restitution order. (sign initials): [Signature]
- Defendant waives any right to a restitution hearing within 6 months. RCW 9.94A.750.
- A separate Restitution Order is being entered contemporaneously with this Judgment and Sentence.
- The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here of not less than:

\$ 10 per month commencing 60 days from release. RCW 9.94A.760.

All payments shall be made within 120 months of  release of confinement;  entry of judgment;  other \_\_\_\_\_.

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

The court also finds the defendant has the means to pay for the cost of incarceration and the defendant is hereby ordered to pay for the cost of incarceration at \$100.00 per day (not to exceed \$100 per day) unless another rate

is specified here \_\_\_\_\_, RCW 9.94A.760(2). (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480).

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.4 [ ] **DNA TESTING.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

**DNA TESTING NOT REQUIRED.** The Washington State Patrol Crime Laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754.

[ ] **HIV TESTING.** The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 3020 Rucker, Suite 106, Everett, Washington 98201 within one (1) business day of entry of this order to arrange for the test. RCW 70.24.340.

4.5 **NO CONTACT.**

[ ] The defendant shall not have contact with \_\_\_\_\_ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until \_\_\_\_\_ (date) (not to exceed the maximum statutory sentence). EVEN IF THE PERSON WHO THIS ORDER PROTECTS INVITES OR ALLOWS CONTACT, YOU CAN BE ARRESTED AND PROSECUTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU HAVE THE SOLE RESPONSIBILITY TO AVOID OR REFRAIN FROM VIOLATING THIS ORDER.

[ ] A separate post-conviction Domestic Violence No Contact Order, Stalking No Contact Order, Anti-Harassment No Contact Order, or Sexual Assault Protection Order [ ] was filed at the time of entry of the plea of guilty/guilty verdict [ ] is filed contemporaneously with this Judgment and Sentence. (Entry of a separate order makes a violation of this no contact sentencing provision also punishable as a criminal offense, and the order will be entered into the law enforcement database.)

[ ] The pre-trial Domestic Violence No Contact Order, Stalking No Contact Order, Anti-Harassment No Contact Order, or Sexual Assault Protection Order entered on \_\_\_\_\_ is hereby terminated.

4.6 **OTHER.** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4.7 **OFF-LIMITS ORDER.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: \_\_\_\_\_  
\_\_\_\_\_

4.8 **SENTENCE CONDITIONS PENDING APPEAL.** Unless otherwise ordered, all conditions of this sentence shall remain in effect notwithstanding any appeal.

## V. NOTICES AND SIGNATURES

**5.1 COLLATERAL ATTACK ON JUDGMENT.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

**5.2 LENGTH OF SUPERVISION.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.753(4); RCW 9.94.A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

**5.3 NOTICE OF INCOME-WITHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606.

**5.4 VIOLATION OF JUDGMENT AND SENTENCE/COMMUNITY CUSTODY VIOLATION.**

(a) Any violation of a condition or requirement of sentence is punishable by up to 60 days confinement for each violation. RCW 9.94A.633(1).

(b) If you have not completed your maximum term of total confinement and you are subject to a violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.633(2)(a).

**5.5a FIREARMS.** You may not own, use or possess any firearm and under federal law any firearm or ammunition unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court if required. You must immediately surrender any concealed pistol license. *(The clerk of the court shall forward a copy of the defendant's driver's license, identification card, or comparable identification to the Department of Licensing along with the date of conviction or commitment.)* RCW 9.41.040, 9.41.047. *(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court.)*

The defendant is ordered to forfeit any firearm he/she owns or possesses no later than \_\_\_\_\_ to \_\_\_\_\_ (name of law enforcement agency). RCW 9.41.098

**5.5b FELONY FIREARM OFFENDER REGISTRATION.** If the court decided that you are required to register as a felony firearm offender, the specific requirements are in the "Felony Firearm Offender Registration" attachment.

**5.6 Reserved.**

**5.7 MOTOR VEHICLE.** If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. Your driver's license will also be revoked if this crime involves the offenses of vehicular homicide, vehicular assault, felony hit and run, or perjury related to Title 46 RCW or any other law relating to the ownership or operation of motor vehicles. RCW 46.20.285.

**5.8 [ ] DOL Notice – Defendant under age 21 only.**

Count \_\_\_\_\_ is (a) a violation of RCW chapter 69.41 [Legend drug], 69.50 [VUCSA], or 69.52 [imitation drugs], and the defendant was under 21 years of age at the time of the offense OR (b) a violation under RCW 9.41.040 [unlawful possession of firearm], and the defendant was under the age of 18 at the time of the offense OR (c) a violation under

RCW chapter 66.44 [Alcohol], and the defendant was under the age of 18 at the time of the offense, **AND** the court finds that the defendant previously committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

**Clerk's Action** –The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the Defendant's driver's license. RCW 46.20.265.

**5.9 CERTIFICATE OF DISCHARGE.**

(a) If you are under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received notice from Department of Corrections and clerk's office that you have completed all requirements of the sentence and satisfied all legal financial obligations. RCW 9.94A.637.

(b) If you are not under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received verification from you that you have completed all sentence conditions other than payment of legal financial obligations and the clerk's office that you have satisfied all legal financial obligations.

**5.10 RIGHT TO APPEAL.** You have a right to appeal this conviction and sentence. If you pleaded guilty, your right to appeal is limited.

This right must be exercised by filing a notice of appeal with the clerk of this court within 30 days from today. If a notice of appeal is not filed within this time, the right to appeal is IRREVOCABLY WAIVED.

If you are without counsel, the clerk will supply you with an appeal form on your request, and will file the form when you complete it.

If you are unable to pay the costs of the appeal, the court will appoint counsel to represent you, and the portions of the record necessary for the appeal will be prepared at public expense.

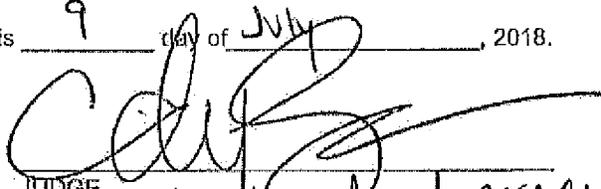
**5.11 VOTING RIGHTS STATEMENT.** I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the Indeterminate Sentence Review Board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

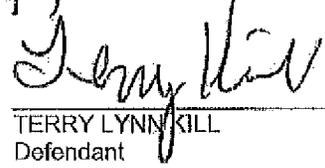
5.12. OTHER \_\_\_\_\_

DONE In Open Court and in the presence of the defendant this 9 day of July, 2018.

  
JUDGE  
Print name: Cindy A. Larsen

  
44377 R  
TYLER J. SCOTT, WSBA #: 51096  
Deputy Prosecuting Attorney

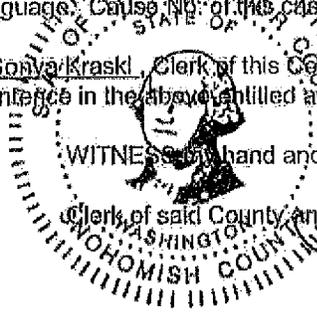
  
JENNIFER M. BARTLETT, WSBA #:  
V3171  
Attorney for Defendant

  
TERRY LYNN KILL  
Defendant

Interpreter signature/Print name: \_\_\_\_\_

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the \_\_\_\_\_ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language. Cause No. of the case: 17-1-01665-31.

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



WITNESS my hand and seal of the said Superior Court affixed this date, JUL 10 2018  
\_\_\_\_\_  
Clerk of said County and State, Mona, Deputy Clerk



ORDER OF COMMITMENT

THE STATE OF WASHINGTON to the Sheriff of the County of Snohomish; State of Washington, and to the Secretary of the Department of Corrections, and the Superintendent of the Washington Corrections Center of the State of Washington:

WHEREAS, TERRY LYNN KILL, has been duly convicted of the crime(s) of RESIDENTIAL BURGLARY CRIME COMMITTED WHILE ON COMMUNITY CUSTODY , POSSESSION OF A CONTROLLED SUBSTANCE CRIME COMMITTED WHILE ON COMMUNITY CUSTODY , as charged in the Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her that he/she be punished therefore by imprisonment in such correctional institution under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections pursuant to RCW 72.02.210, for the term(s) as provided in the judgment which is incorporated by reference, all of which appears of record in this court; a certified copy of said judgment being endorsed hereon and made a part thereof; Now, Therefore,

THIS IS TO COMMAND YOU, the said Sheriff, to detain the said defendant until called for by the officer authorized to transfer to the custody of the Superintendent for the Washington State Department of Corrections or his designee for transport to either the Washington Corrections Center at Shelton, Washington or Washington Corrections Center for Women at Purdy, Washington and this is to command you, the said Superintendent and Officers in charge of said Washington Corrections Center to receive from the said officers the said defendant for confinement, classification, and placement in such corrections facilities under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections.

And these presence shall be authority for the same. HEREIN FAIL NOT.

WITNESS the Honorable Cindy A. Jansen, Judge of the said Superior Court and the seal thereof, this 9 day of July, 2018.

Sonya Kraski  
CLERK OF THE SUPERIOR COURT

By: [Signature]  
Deputy Clerk

# CORRECTIONS DIVISION ATTORNEY GENERAL'S OFFICE

April 16, 2020 - 4:20 PM

## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 98317-8  
**Appellate Court Case Title:** Shyanne Colvin et al. v. Jay Inslee et al.

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- sbuergel@paulweiss.com
- talner@aclu-wa.org
- tdavis@aclu-wa.org
- teresa.chen@piercecountywa.gov

**Comments:**

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