

**THE SUPREME COURT OF THE STATE OF
WASHINGTON**

State of Washington,)	No. 102602-1
Respondent,)	
v.)	MOTION FOR
)	JUDICIAL
Dennis Giancoli,)	NOTICE
Appellant.)	
_____)	

I. IDENTITY OF MOVING PARTY AND RELIEF SOUGHT

The petitioner Dennis Giancoli requests this Court take judicial notice of his co-defendant’s amended judgment and sentence, entered on February 2, 2024 (attached to this motion), as well as the current Department of Corrections inmate roster.

II. GROUNDS FOR RELIEF SOUGHT & ARGUMENT

As outlined in the petition for review, Mr. Giancoli and his co-defendant, Christopher Conklin, were tried together and convicted of overlapping crimes. Pet. for Rev. 15-17 (filed Nov. 30. 2023). Mr. Giancoli received a three-strikes sentence

of life without the opportunity for parole, while Mr. Conklin received a de facto life sentence of 704 months (over 58 years). *Id.*; see also Br. of Resp., *State v. Conklin*, No. 84634-5-I, 2022 WL 16836736 at *5 (Sept 7, 2022). Both Mr. Giancoli and Mr. Conklin raised the same arguments challenging their strike convictions on appeal. See Br. of Appellant, *State v. Giancoli*, No. 56287-I-II (Sept. 21, 2022); Supp. Br. of Appellant, *State v. Conklin*, No. 84634-5-I, 2022 WL 16836728 (Oct. 3, 2022).¹

Mr. Conklin's appeal was transferred from Division II to Division I and decided first. *State v. Conklin*, No. 84634-5-II, Order Transferring Cases (Oct. 21, 2022). Division I reversed all of Mr. Conklin's strike convictions based on the arguments raised and the State's concessions. *State v. Conklin*, No. 84634-

¹ Mr. Conklin filed an opening brief May 16, 2022. Mr. Giancoli filed his opening brief on September 21, 2022. Mr. Conklin then filed a supplemental opening brief on October 6, 2022, adopting many of the arguments from Mr. Giancoli's opening brief. It was these supplemental arguments that ultimately led to Division I reversing all of Mr. Conklin's strike convictions.

5-I (May 8, 2023) (unpublished).

However, Division II refused to provide Mr. Giancoli with the same relief on the basis that the State had “clarified its position at oral argument.” Op. at 22. It affirmed Mr. Giancoli’s three-strikes death-in-prison sentence. *Id.* at 21-22.

The mandate in Mr. Conklin’s case issued on December 1, 2023, and Mr. Conklin was resentenced on his remaining Class C felony on February 2, 2024. *See* App’x. He received a standard-range sentence of 43 months and no community custody. *Id.* at pg. 6, 9. Given credit for time served, Mr. Conklin became eligible for immediate release. He no longer appears on the Department of Corrections inmate roster, indicating he has been released into the community.²

In his petition for review, Mr. Giancoli argues that the disparate outcomes between his and Mr. Conklin’s appeals violate equal protection. Pet. for Rev. at 17-20. And, as noted

² <https://www.doc.wa.gov/information/inmate-search/>.

by amici, the fact that Mr. Giancoli, an Indigenous, mixed-race man, is currently sentenced to die in prison while his white co-defendant walks free underscores the merits of Mr. Giancoli's article I, section 14 challenge to three-strikes sentencing on racial disparity grounds. Memo. of Amici Curiae ACLU of Washington, *et. al.*, In Support of Review 2-3 (filed Jan. 29, 2024).

This Court may take judicial notice of facts that are “not subject to reasonable dispute” in that they are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” ER 201(b). This includes court and other government records. *State v. Perkins*, 32 Wn.2d 810, 872, 204 P.2d 207 (1949) (“Courts may take judicial notice of their own records.”); *Matter of Dep. of R.L.L.*, ___ Wn. App. 2d ___, 540 P.3d 135, 139 (2023) (“Under ER 201, a court may take judicial notice of court records.”); *Estate of McCartney by and through McCartney v. Pierce County*, 22

Wn. App. 2d 665, 676-77, 513 P.3d 119 (2022) (taking judicial notice of online county records); *State v. Crandall*, 117 Wn. App. 448, 450, 71 P.3d 701 (2003) (taking judicial notice of a judgment and sentence in a prior case); accord *State v. Moimoi*, 119 Wn. App. 1035, 2003 WL 22839805 at *1 (Dec. 1, 2023) (unpublished) (cited pursuant to GR 14.1).

Here, it is appropriate to take judicial notice of Mr. Conklin's amended judgment and sentence and the Department of Corrections inmate roster, which together indicate Mr. Conklin was recently released from State custody. See ER 201(b). Mr. Conklin and Mr. Giancoli were tried together and Mr. Conklin's amended sentence and release from custody bears on the issues presented in the petition for review.

III. CONCLUSION

Pursuant to ER 201, the petitioner Mr. Giancoli requests that this Court take judicial notice of the attached amended judgment and sentence as well as the current Department of

Corrections inmate roster.

CERTIFICATE OF COMPLIANCE

In compliance with RAP 18.17(b), counsel certifies that this motion contains 747 words (word count by Microsoft Word).

Respectfully submitted this 14th day of February, 2024.

/s Jessica Wolfe

Jessica Wolfe

Attorney for Appellant

State Bar Number 52068

Washington Appellate Project (91052)

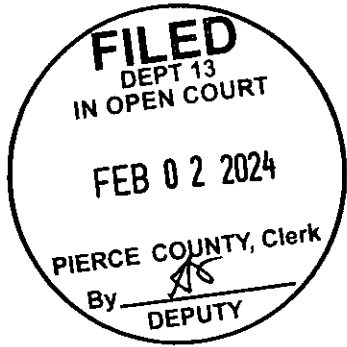
1511 Third Ave, Suite 610

Seattle, WA 98101

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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 19-1-04525-8

vs.

CHRISTOPHER HOWARD CONKLIN,

Defendant.

WARRANT OF COMMITMENT

- 1) County Jail
- 2) Dept. of Corrections
- 3) Dept. of Children, Youth & Families
- 4) Other Custody

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

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

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

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

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

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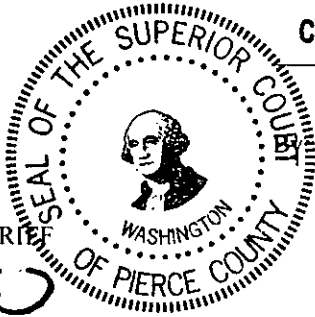
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[] 3. YOU, THE DIRECTOR of DEPARTMENT OF CHILDREN, YOUTH & FAMILIES are to take custody of the defendant who was convicted as an adult for a felony committed under the age of 18 for placement consistent with RCW 72.01.410 until the person reaches the age of 25.

[] 4. 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).

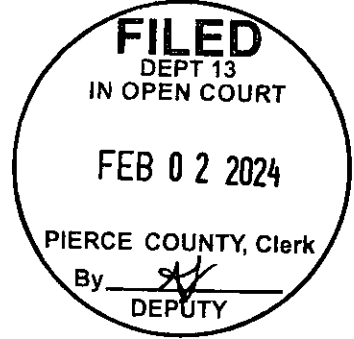
Dated: February 2, 2024

By direction of the Honorable
[Signature]
JUDGE Matthew H. Thomas
CONSTANCE R. WHITE



CLERK
[Signature]
DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF
Date FEB 05 2024 By [Signature]



STATE OF WASHINGTON
County of Pierce
I, Constance R. White, 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 _____, _____.

CONSTANCE R. WHITE, Clerk
By: _____ Deputy

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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 19-1-04525-8

vs.

Amended
JUDGMENT AND SENTENCE (FJS)

CHRISTOPHER HOWARD CONKLIN

Defendant.

- Prison
- RCW 9.94A.712\9.94A.507 Prison Confinement
- Jail One Year or Less
- First-Time Offender
- Sex Offense
- Special Sexual Offender Sentencing Alternative
- Special Drug Offender Sentencing Alternative
- Mental Health Sentencing Alternative
- Parenting Alternative
- Alternative to Confinement (ATC)
- Persistent Offender
- Juvenile Decline Mandatory Discretionary
- Clerk's Action Required, para 2.1, 4.1, 4.3, 4.8, 5.2, 5.3, 5.5, 5.7 and 5.8

SID: 12963155
 DOB: 03/13/1970
 PCN: WA2700000103754421

I. HEARING

1.1 The Court conducted a sentencing hearing this date; 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: 8/6/2021
based upon guilty plea jury-verdict bench trial of:

COUNT	CRIME	CLASS	RCW (with Subsections)	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO
10	UNLAWFUL POSSESSION OF A FIREARM IN THE SECOND DEGREE (GGG104)	C	9.41.040(2)(a)	NONE	11/22/2019	PCSD 1932600247 PCSD 2030001005

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

*Enhancement: (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (RPh) Robbery of a pharmacy, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude, (ALF) Assault law enforcement with firearm, RCW

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9.94A.533(12), (P16) Passenger(s) under age 16. (SM) Sexual Motivation, (SCF) Sexual Conduct with a Child for a Fee. See RCW 9.94A.533(8).
 (If the crime is a drug offense, include the type of drug in the second column.)

as charged in the AMENDED Information

Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):

2.1b **Other current convictions** listed under different cause numbers used in calculating the offender score are (list offense and cause number):

*DV: Domestic Violence was pled and proved.

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

COUNT NO.	CRIME	DATE OF SENTENCE	SENTENCING COURT	DATE OF CRIME	A OR J ADULT OR JUV	TYPE OF CRIME	DV* YES
1	NO VOL	05-13-1987	LEWIS COUNTY DISTRICT CT	05-02-1987	A		
2	NO VOL	08-15-1988	LEWIS COUNTY DISTRICT CT	12-06-1987	A		
3	NO VOL	07-31-1990	CENTRALIA MUNICIPAL COURT	12-02-1989	A		
4	NO VOL	07-31-1990	CENTRALIA MUNICIPAL COURT	12-04-1989	A		
5	FTR AFTER WRITTEN PROMISE	07-31-1990	CENTRALIA MUNICIPAL COURT	12-04-1989	A		
6	NEGLIGENT DRIVING	02-08-1991	LEWIS COUNTY DISTRICT CT	12-05-1990	A		
7	FAILURE TO COMPLY	01-03-1992	LEWIS COUNTY DISTRICT CT	11-09-1991	A		
8	LITTERING	01-03-1992	LEWIS COUNTY DISTRICT CT	11-09-1991	A		
9	DISORDERLY CONDUCT	03-22-1992	CENTRALIA MUNICIPAL COURT	01-17-1992	A		
10	FTR AFTER WRITTEN PROMISE	11-10-1993	LEWIS COUNTY DISTRICT CT	01-26-1993	A		
11	NEGLIGENT DRIVING	12-15-1993	LEWIS COUNTY DISTRICT CT	12-01-1993	A		
12	FAIL TO TRANSFER TITLE	12-15-1993	LEWIS COUNTY DISTRICT CT	12-01-1993	A		
13	DWLS 3	08-25-1994	LEWIS COUNTY DISTRICT CT	08-24-1994	A		
14	DWLS 3	07-25-1995	LEWIS COUNTY DISTRICT CT	11-14-1994	A		
15	DWLS 3	03-07-1995	DISTRICT CT - PIERCE COUNTY	12-12-1994	A		
16	RESTRAINING ORDER VIOLATION	12-27-1994	CENTRALIA MUNICIPAL COURT	12-26-1994	A		
17	DWLS 3	10-23-1995	LEWIS COUNTY DISTRICT CT	07-06-1995	A		
18	NEGLIGENT DRIVING	08-28-1995	DISTRICT CT - PIERCE COUNTY	08-05-1995	A		
19	DWLS 3	02-06-1997	SEATAC MUNICIPAL COURT	08-09-1995	A		
20	DWLS 3	01-26-1996	LEWIS COUNTY DISTRICT CT	09-20-1995	A		
21	RECKLESS DRIVING	01-26-1996	LEWIS COUNTY DISTRICT CT	09-20-1995	A		
22	DWLS 3	01-26-1996	CHEHALIS MUNICIPAL COURT	11-20-1995	A		
23	DWLS 3	09-08-1998	FEDERAL WAY MUNICIPAL	01-27-1998	A		
24	DWLS 3	09-03-1999	FEDERAL WAY MUNICIPAL	05-20-1998	A		
25	DWLS 3	09-08-1999	FEDERAL WAY MUNICIPAL	12-03-1998	A		
26	DWLS 3	09-02-1999	BELLEVUE DISTRICT COURT	12-15-1998	A		
27	ASLT 4-CHILD ABUSE	10-29-1999	SOUTHWEST DIV, KCDC	04-09-1999	A		
28	ASLT 4-CHILD ABUSE	10-29-1999	SOUTHWEST DIV, KCDC	04-09-1999	A		
29	ATT UPCS	10-10-2001	KING CO. SUPERIOR COURT	09-03-2000	A		
30	DWLS 3	01-17-2001	RENTON MUNICIPAL	11-29-2000	A		
31	DWLS 3	03-29-2002	SHORELINE DIV, KCDC	04-23-2001	A		
32	PATRONIZING PROSTITUTION	09-17-2001	TUKWILA MUNICIPAL	07-31-2001	A		
33	DWLS 3	09-17-2001	TUKWILA MUNICIPAL	07-31-2001	A		
34	ATT UPCS	09-12-2003	KING CO. SUPERIOR COURT	08-23-2002	A		
35	THEFT 3	08-26-2003	THURSTON CO. SUPERIOR COURT	12-24-2002	A		

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36	RECREATIONAL FISHING 2ND	07-09-2003	AUKEEN DIV KING CTY DIST CT	01-07-2003	A		
37	DWLS 3	02-14-2008	FEDERAL WAY MUNICIPAL	06-24-2007	A		
38	DWLS 3	02-14-2008	FEDERAL WAY MUNICIPAL	06-28-2007	A		
39	CRIMINAL ATTEMPT	06-06-2008	KING CO DISTRICT	02-21-2008	A		
40	THEFT 3	06-11-2008	KENT MUNICIPAL COURT	03-12-2008	A		
41	DWLS 3	08-12-2008	ENUMCLAW MUNICIPAL COURT	07-24-2008	A		
42	RECKLESS DRIVING	08-12-2008	ENUMCLAW MUNICIPAL COURT	07-24-2008	A		
43	DWLS 3	12-10-2008	AUBURN MUNICIPAL COURT	10-03-2008	A		
44	VEH THEFT TOOL MAKE/USE/POSS	12-10-2008	AUBURN MUNICIPAL COURT	12-07-2008	A		
45	POSS OF BURGLARY TOOLS	02-20-2009	FEDERAL WAY MUNICIPAL	12-31-2008	A		
46	VEHICLE PROWLING 2	05-22-2009	KING CO. SUPERIOR COURT	02-05-2009	A		
47	BAIL JUMPING	03-31-2011	LYNNWOOD MUNICIPAL COURT	03-21-2011	A		
48	DWLS 3	08-08-2013	DES MOINES MUNICIPAL CT	04-27-2013	A		
49	DWLS 3	04-21-2014	FEDERAL WAY MUNICIPAL	06-19-2013	A		
50	DWLS 3	02-13-2017	ISLAND COUNTY DIST CT	12-12-2016	A		
51	THEFT 2	11-02-1995	LEWIS COUNTY SUPERIOR	12-17-1994	A		
52	ATT TO ELUDE	02-14-1996	LEWIS COUNTY SUPERIOR	11-13-1995	A		
53	UPOF	02-14-1996	LEWIS COUNTY SUPERIOR	11-29-1995	A		
54	TAKE MOTOR VEHICLE W/O PERMISSION	10-11-2002	KING CO. SUPERIOR COURT	05-16-2002	A		
55	UPOF 2	09-12-2003	KING CO. SUPERIOR COURT	08-23-2002	A		
56	THEFT OF MOTOR VEHICLE	05-22-2009	KING CO. SUPERIOR COURT	05-10-2008	A		
57	UPCS	05-22-2009	KING CO. SUPERIOR COURT	02-11-2009	A		
58	TAKE VEHICLE W/O PERMISSION	04-21-2014	KING CO. SUPERIOR COURT	02-01-2014	A		
59	ATMPT UPCS	11-07-2019	SUPERIOR CT - PIERCE CTY	07-07-2019	A		

*DV: Domestic Violence was pled and proved.

[] Additional current convictions listed under different cause numbers used in calculating the offender score are listed in the Stipulation on Prior Record and Offender Score filed herein.

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
10	7		33-43 MONTHS	NONE	33-43 MONTHS	5 YEARS/\$10,000

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

2.4 ~~WARRANT~~ EXCEPTIONAL SENTENCE. The court finds substantial and compelling reasons that justify an exceptional sentence:

[] within [] below the standard range for Count(s) _____.

[] above the standard range for Count(s) _____.

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

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

[] within the standard range for Count(s) _____, but served consecutively to Count(s) _____.

Findings of fact and conclusions of law are attached in Appendix 2.4. [] Jury's special interrogatory is attached. The Prosecuting Attorney [] did [] did not recommend a similar sentence.

2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court makes the following specific findings:

- The defendant is indigent as defined in RCW 10.101.010(3)(a)-(d) because the defendant:
 - receives public assistance counsel
 - is involuntarily committed to a public mental health facility
 - receives an annual income, after taxes, of 125 percent or less of the current federal poverty level, or
 - is unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.
- The defendant is ~~not~~ indigent as defined in ~~RCW 10.101.010(3)(a)-(d)~~.
- The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): _____
- The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.
- (Name of Agency) _____'s costs for its emergency response are reasonable. RCW 38.52.430 (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.
- other: _____
- based on this consideration, defendant should should not register as a felony firearm offender.
- the defendant must register as a felony firearm offender because 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.

III. JUDGMENT

- 3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1, and if present, Stipulation on Prior Record and Offender Score filed herein.
- 3.2 The court DISMISSES Counts _____ in the charging document. The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 **LEGAL FINANCIAL OBLIGATIONS:** Defendant shall pay to the Clerk of this Court: Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402

JASS CODE

MANDATORY LFOs

RTN/RJN 3801 \$ _____ 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 (unless collected in the past. RCW 43.43.7541)

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COSTS OF PROSECUTION UNDER RCW 10.01.160 – cannot be imposed on indigent defendants

1 *PUB* \$ _____ Court-Appointed Attorney Fees and Defense Costs
 2 *FRC* \$ ~~200.00~~ Criminal Filing Fee
 3 *EXT* \$ _____ Extradition Costs
 4 *WFR* \$ _____ Witness Costs
 5 *JFR* \$ _____ Jury Fee
 6 *WRF* \$ _____ Warrant Costs
 7 *SFW/SFM/WRF* \$ _____ Service of Process
 8 *OTHER LFOs*
 9 *FCM* \$ _____ Fine
 10 *RTN/RJN* \$ _____ Emergency response costs (Veh Aslt, Veh Homicide only, \$1000 maximum)
 11 *CLF* \$ _____ Crime Lab Fee [] deferred due to indigency
 12 *CDF/DFA-DFZ* \$ _____ Drug Investigation Fund for _____ (agency)
 13 *MTH* \$ _____ Methamphetamine Cleanup (\$3,000 minimum)

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

14 \$ _____ Other Costs for: _____
 15 \$ _____ Other Costs for: _____
 16 \$ 0 TOTAL

[] 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 _____

[] **RESTITUTION.** Order Attached

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

[X] All payments shall be made in accordance with the policies of the clerk, 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.

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

[] **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.

[] **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.

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[] The court consciously and intentionally imposes this order.

INTEREST The restitution 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. No interest shall accrue on non-restitution obligations imposed in this judgment. RCW 10.82.090.

COSTS ON APPEAL An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW. 10.73.160.

4.1b **ELECTRONIC MONITORING REIMBURSEMENT.** The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____ for the cost of pretrial electronic monitoring in the amount of \$ _____.

4.2 **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. This paragraph does not apply if it is established that 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. RCW 70.24.340.

4.3 **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 for _____ years (not to exceed the maximum statutory sentence).

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

4.4 **OTHER:** Property may have been taken into custody in conjunction with this case. Property may be returned to the rightful owner. Any claim for return of such property must be made within 90 days unless forfeited by agreement in which case no claim may be made. After 90 days, if you do not make a claim, property may be disposed of according to law.

4.4a **OFF-LIMITS ORDER:** (Known drug trafficker). RCW 10.66.010. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

4.4b **EXONERATED:** The Court hereby exonerates any bail, bond, and/or personal recognizance conditions.

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

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

43 months on Count 10 months on Count _____
_____ months on Count _____ months on Count

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_____ 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:

_____ 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

Actual number of months of total confinement ordered is: 43 months

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

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

(b) CONFINEMENT (Sex Offense). RCW 9.94A.507. Defendant is sentenced to the following term of confinement in the custody of the Department of Corrections (DOC):

Count _____ Minimum Term: _____ Months Maximum Term: _____

Count _____ Minimum Term _____ Months Maximum Term: _____

The Indeterminate Sentencing Review Board may increase the minimum term of confinement.

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

The sentence herein shall run consecutively to all felony sentences in other cause numbers imposed prior to the commission of the crime(s) being sentenced. The sentence herein shall run concurrently with felony sentences in other cause numbers imposed after the commission of the crime(s) being sentenced except for the following cause numbers. RCW 9.94A.589: _____

Confinement shall commence immediately unless otherwise set forth here: _____

(c) Credit for Time Served. The defendant shall receive credit for eligible time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The defendant shall receive 1533 days credit for time served, subject to DOC recalculation.

4.6 (a) **COMMUNITY CUSTODY/PLACEMENT (Non-Sex Offense)**

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

Count _____ for _____ months;

Count _____ for _____ months;

Count _____ for _____ months;

COMMUNITY CUSTODY (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

The defendant shall be on community custody for:

Count(s) _____ 36 months for Serious Violent Offenses

Count(s) _____ 18 months for Violent Offenses

Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

Note: combined term of confinement and community custody for any particular offense cannot exceed the statutory maximum. RCW 9.94A.701.

The court orders that during the period of supervision the defendant shall:

consume no alcohol.

have no contact with: _____

remain within outside of a specified geographical boundary, to wit: _____

not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age

participate in the following crime-related treatment or counseling services: _____

undergo an evaluation for treatment for domestic violence substance abuse

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

comply with the following crime-related prohibitions: _____

Other conditions: _____

For sentences imposed under RCW 9.94A.702, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

Court Ordered Treatment: If any court orders mental health or chemical dependency 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.

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(b) COMMUNITY CUSTODY (Sex Offense) is Ordered for counts sentenced under RCW 9.94A.507, from time of release from total confinement until the expiration of the maximum sentence:

Count ____ until ____ years from today's date [] for the remainder of the Defendant's life.

Count ____ until ____ years from today's date [] for the remainder of the Defendant's life.

Count ____ until ____ years from today's date [] for the remainder of the Defendant's life.

(B) While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) not own, use, or possess firearms or ammunition; (7) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (8) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706 and (9) for sex offenses, submit to electronic monitoring if imposed by DOC. The defendant's residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.507 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.

[] Other conditions:

PROVIDED: That under no circumstances shall the total term of confinement plus the term of community custody actually served exceed the statutory maximum for each offense

4.7 [] **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

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

V. NOTICES AND SIGNATURES

5.1 **COLLATERAL ATTACK ON JUDGMENT.** If you wish to 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.** If you committed your offense 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. The clerk of the court has authority to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

5.4 **RESTITUTION HEARING.**

Defendant waives any right to be present at any restitution hearing (sign initials): _____.

5.5 **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.

5.6 **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, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

5.6a **Felony firearm Offender Registration.** The defendant is required to register as a felony firearm offender. The specific registration requirements are in the "Felony Firearm Offender Registration" attachment.

5.7 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200.

N/A

5.8 **Department of Licensing Notice:** The court finds that Count _____ is a felony in the commission of which a motor vehicle was used in a manner that endangered persons or property. RCW 46.20.285. **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 46.20.285.

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Findings for DUI, Physical Control, Felony DUI or Physical Control, Vehicular Assault, or Vehicular Homicide (ACR information) (Check all that apply):

Within two hours after driving or being in physical control of a vehicle, the defendant had an alcohol concentration of breath or blood (BAC) of _____.

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.

5.9 Department of Licensing 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

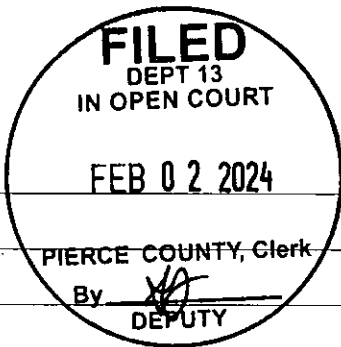
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19-1-04525-8

5.10 OTHER: _____

DONE IN OPEN COURT and in the presence of the defendant this date: February 2, 2024

[Signature]
Deputy Prosecuting Attorney
Print name: Bert Nelson
WSB # 51094

JUDGE
Print name: Matthew H. Thomas
[Signature]
Attorney for Defendant
Print name: STEPHEN G. JOHNSON
WSB # 24214

Defendant
Print name: Christopher A. Conklin

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

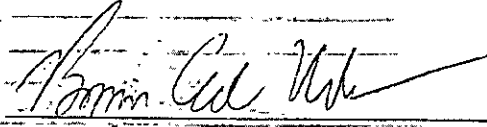
My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the 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.

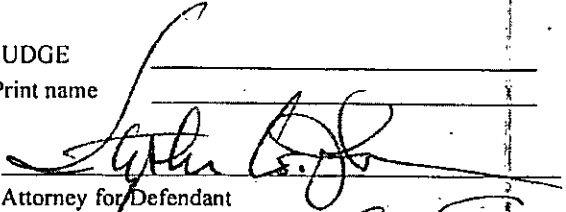
Defendant's signature: _____

5.10 OTHER: _____

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DONE IN OPEN COURT and in the presence of the defendant this date: _____


Deputy Prosecuting Attorney
Print name: Ben Nelson
WSB # 51094


JUDGE
Print name _____

Attorney for Defendant
Print name: STEPHEN G. JOHNSON
WSB # 24214

Defendant
Print name: Christopher A. Conklin

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Defendant's signature: 

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CERTIFICATE OF CLERK

1 CAUSE NUMBER of this case: 19-1-04525-8

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

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

5 Clerk of said County and State, by: _____, Deputy Clerk
6

7
8 **IDENTIFICATION OF COURT REPORTER**

9 Kim O'Neill
10 Court Reporter
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DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original of the document to which this declaration is affixed/attached, was filed in the **Washington State Supreme Court** under **Case No. 102602-1**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office or residence address as listed on ACORDS:

respondent Theodore Cropley, DPA
[Theodore.Cropley@piercecountywa.gov]
[PCpatcecf@co.pierce.wa.us]
Pierce County Prosecutor's Office

petitioner

Attorneys for amicus



MARIA ANA ARRANZA RILEY, Paralegal
Washington Appellate Project

Date: February 14, 2024

WASHINGTON APPELLATE PROJECT

February 14, 2024 - 3:13 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 102,602-1
Appellate Court Case Title: State of Washington v. Dennis Ray Giancoli
Superior Court Case Number: 19-1-04526-6

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