NO. 45392-4

COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

STATE OF WASHINGTON, RESPONDENT

v.

JAMES JOHN CHAMBERS, APPELLANT

Appeal from the Superior Court of Pierce County
The Honorable Thomas Felnagle

No. 99-1-00817-2, 99-1-02235-3

BRIEF OF RESPONDENT

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A. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR.

1. Whether defendant fails to show that his guilty plea was not knowing, intelligent, and voluntary?

2. Would withdrawal of defendant's plea work an injustice to the State where the State has relied on the bargain and lost essential evidence to convict defendant of crimes to which he pleaded guilty more than 15 years ago?

B. STATEMENT OF THE CASE.

On July 7, 1999, the defendant pleaded guilty under cause number 99-1-00817-2 to the following four counts, arising from conduct occurring in February 1999:

Count[1]	Charge (Cause #: 99-1-00817-2)
I	Unlawful possession of a controlled substance with intent to deliver (methamphetamine)
II	Unlawful manufacture of a controlled substance (methamphetamine)
III	Unlawful possession of a firearm in the first degree
IV	Unlawful possession of a firearm in the first degree

CP 6–17.

[1] Counts I and II included deadly weapon enhancements.

On the same day, defendant also pleaded guilty under cause number 99-1-02235-3 to the following count, arising from conduct occurring in May 1999:

Count	Charge (Cause #: 99-1-02235-3)
I	Unlawful possession of a controlled substance (methamphetamine)

CP 63–72.

Sentencing was scheduled for a later date and defendant was released. While sentencing was pending, defendant fatally injured a pedestrian while driving a stolen vehicle. ***State v. Chambers***, 176 Wn.2d 573, 578, 293 P.3d 1185 (2013). Facing a murder prosecution for the pedestrian he hit, defendant agreed to plead guilty as originally charged under cause numbers 99-1-00817-2 and 99-1-02235-3, and also to the following five charges related to the pedestrian incident:

Count	Charge (Cause #: 99-1-05307-1)
I	Failure to remain at an injury accident
II	Possessing stolen property in the first degree
III	Possessing stolen property in the first degree
IV	Unlawful possession of a firearm
V	Unlawful manufacturing of a controlled substance (methamphetamine)

CP 73–79. In return, defendant would avoid facing the felony murder prosecution. The prosecutor recommended a total sentence of 240 months for cause number 99-1-05307-1, all counts concurrent to each other, but

consecutive to sentences in cause numbers 99-1-00817-2 (221 months) and 99-1-02235-3 (29 months).[2] CP 73–79.

Defendant's first Personal Restraint Petition on cause number 99-1-00817-2 (No. 35454-3) was dismissed because it was filed more than a year after the Judgment and Sentence was entered and defendant failed to show that any exception applied to the one-year time ban. Defendant's July 6, 2007, motion for discretionary review to the Washington Supreme Court was denied on November 29, 2007. ***In re Chambers***, No. 80331-5.

On July 7, 2008, defendant filed his second personal restraint petition in the Court of Appeals, challenging the validity of his sentence on all four counts under cause number 99-1-00817-2. ***In re Chambers***, No. 38074-9. The court granted him partial relief, holding that his convictions for Counts III and IV were not lawful because he had not previously been convicted of a serious offense as was required to elevate them to the first degree. ***In re Chambers***, No. 38074-9. Both parties filed motions for reconsideration that were denied.

Defendant petitioned for review in the Supreme Court, which was granted. ***In re Chambers***, No. 82681-1. The court remanded the matter back to the trial court so that defendant's motion to withdraw his plea could be considered as to Counts I and II together with the court of appeals remand as to Counts III and IV. ***In re Chambers***, No 82681-1.

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[2] Sentences in cause numbers 99-1-00817-2 and 99-1-02235-3 run concurrent to each other.

In the trial court on remand, defendant filed a motion to vacate judgment, motion to withdraw guilty plea, and a motion for specific performance. CP 80 (motion); CP 81–87 (briefing). On May 28, 2010, the court entered an order granting defendant's motion to withdraw his plea in cause number 99-1-00817-2, and then dismissed the case because the State's evidence had been destroyed. CP 88–89. The State appealed, arguing that the trial court should have considered defendant's plea on cause number 99-1-00817-2 as part of a "global plea agreement" that encompassed the other two cause numbers, and that defendant was not allowed to withdraw only part of his plea. *See **State v. Chambers***, 163 Wn. App. 54, 256 P.3d 1283 (2011) (appellate opinion discussing arguments below).[3]

This Court reversed the trial court and held that defendant's plea agreement was indivisible. ***State v. Chambers***, 163 Wn. App. 54, 61-62, 256 P.3d 1283 (2011). It "reverse[d] the trial court's order allowing [defendant] to withdraw only counts I to IV and remand[ed] for further proceedings, in which [defendant] may seek to withdraw his indivisible guilty plea on all nine counts under cause numbers 99-1-00817-2 and 99-1-05307-1." ***Chambers***, 163 Wn. App. at 62.

Defendant appealed to the Supreme Court, which agreed that defendant's plea agreement was indivisible. ***State v. Chambers***, 176

[3] The State also argued that the trial court erred by dismissing the case due to loss of evidence over time. Division Two did not reach that issue. *Id.*

Wn.2d 573, 583, 293 P.3d 1185 (2013). The court also addressed the legality of defendant's sentence and ruled that:

> [T]he [trial court] judge was authorized to impose an exceptional sentence, both because [defendant] had multiple offenses that would go unpunished and because [defendant] stipulated to the sentence in his agreement. [...] The sentence of 240 months he received on count V did not exceed the statutory maximum, only the standard range. Either reason for the sentence is substantial and compelling, and so [defendant's] argument that the sentence was illegal fails.

Id. at 586. The court also found that defendant "received the precise sentence he stipulated to in the plea agreement" and that "in essence, [defendant] got the benefit of the bargain he made." *Id.* at 586–87, 589. The Supreme Court did not remand for further action in the trial court.

Having lost on the issue of whether his plea agreement was divisible, defendant moved the trial court to withdraw his plea in its entirety on March 29, 2013. CP 35–36 (motion); CP 37–40 (briefing). Defendant argued that "*where the defendant's sentence is invalid,* it is the defendant's choice to seek either specific enforcement of the plea agreement or withdrawal of the guilty plea" (emphasis added). CP 37–40 at 39. In the same motion, defendant elected to withdraw his guilty plea. CP 37–40 at 39.

The State responded that, in light of the Supreme Court's opinion, res judicata applied and defendant was collaterally estopped from bringing his motion to withdraw. CP 47–58 (briefing).[4]

On May 10, 2013, the trial court heard oral argument on the matter and agreed with the State. RP 30–31. The court's oral ruling is as follows:

> My reading of what the Supreme Court has done and said goes back to what I was saying earlier, which is the touchstone of all this is: Did Mr. Chambers get a fair shake in this whole process? If he didn't, how do we go about rectifying it without giving him a gift in the process? I, therefore, see this as two critical issues, one, is this a package deal, even though these pleas took place sequentially and not all at one time, and is there a just result in the end.
>
> In the end, regardless of whether the State can or can't prove its case on the homicide, if they were to ultimately need to bring it or the evidence has been lost or whatever else, the deal that was contemplated during the course of this case, what has been the incentive for Mr. Chambers to plead, has remained the same the whole time.
>
> To suggest now that he ought to be able to get something better than he bargained for is simply a denial of justice in this circumstance.
>
> I know you can argue that he is not getting something that he didn't deserve, but in the Court' s mind, the result from the Supreme Court is a unified package, and they haven't identified for me any injustice, even though arguably they are only referring to some of the counts, one would have liked to have believed if there was some injustice perceived

[4] The State's response also addressed the injustice that would result if defendant withdrew his plea as well as the fact that defendant may stipulate to an invalid charge as part of a plea agreement. CP 47–58.

> somewhere up or down the line, they would have remanded to the Court of Appeals or given me the benefit of their wisdom to show me how Mr. Chambers is disadvantaged.
>
> I just don't see him as disadvantaged, is the bottom line to me. I am going to deny the request.

RP 30–31.

The court's written order on September 27, 2013, indicates as follows:

> The court finds persuasive the arguments presented by the state in its response to these motions and for the reasons stated on the record at the May 10, 2013, hearing[.] [...] The defendant pled guilty to all of the charges under all of the cause numbers in these cases under an indivisible plea agreement and has not sufficiently shown that he is or should be entitled to relief where his sentence does not result in a complete miscarriage of justice.

CP 59–60.

Defendant timely appealed on September 30, 2013, and the trial court's denial of defendant's motion to withdraw is now before this Court. CP 90–93.

C. ARGUMENT.

1. DEFENDANT FAILS TO SHOW THAT HIS GUILTY PLEA WAS NOT KNOWING, INTELLIGENT, AND VOLUNTARY.

"Due process requires that a defendant's guilty plea be knowing, intelligent, and voluntary." ***State v. Codiga***, 162 Wn.2d 912, 921, 175 P.3d 1082 (2008); ***Boykin v. Alabama***, 395 U.S. 238, 89 S. Ct. 1709, 23

L.Ed.2d 274 (1969). Although Criminal Rule 4.2 sets forth procedure regarding a court's acceptance of a guilty plea, *see* CrR 4.2(d), it "is not the embodiment of a constitutionally valid plea" and "strict adherence to the rule is 'not a constitutionally mandated procedure." ***Matter of Hilyard***, 39 Wn. App. 723, 727, 695 P.2d 596 (1985). Rather, "[t]he constitutionally required ingredients of a voluntary plea are these: The defendant's awareness that he is waiving his rights (1) to remain silent, (2) to confront his accusers, and (3) to jury trial; (4) his awareness of the essential elements of the offense with which he is charged; and (5) his awareness of the direct consequences of pleading guilty." *Id.* at 727.

With respect to ingredient (5), both the Washington State Supreme Court and federal courts have "distinguished direct from collateral consequences by 'whether the result represents a definite, immediate and largely automatic effect on the range of the defendant's punishment." ***State v. Ross***, 129 Wn.2d 279, 284, 916 P.2d 405 (1996)(*citing* ***State v. Barton***, 93 Wn.2d 301, 304, 609 P.2d 1353 (1980)(*quoting* ***Cuthrell v. Director, Patuxent Inst.***, 475 F.2d 1364, 1366 (4th Cir.), *cert. denied.*, 414 U.S. 1005, 94 S. Ct. 362, 38 L. Ed. 2d 241 (1973)). *See*, *e.g.*, ***U.S. v. Amador-Leal***, 276 F.3d 511, 514 (9th Cir. 2002). There is "no due process requirement that the court orally question the defendant to ascertain whether he or she understands the consequences of the plea and the nature of the offense." ***Codiga***, 162 Wn.2d 912, 922, 175 P.3d 1082 (2008)(*citing* ***In Re Personal Restraint of Keene***, 95 Wn.2d 203, 207, 622

P.2d 360 (1980)). Rather, "[k]nowledge of the direct consequences of the plea can be satisfied by the plea documents." *Id.* (*citing* ***In re Pers. Restraint of Stoudmire***, 145 Wn.2d 258, 266, 36 P.3d 1005 (2001)).

a. A challenge to the voluntariness of defendant's plea must be read in light of the Supreme Court's 2013 opinion which unequivocally established that defendant received "the precise sentence he stipulated to" in a universal plea agreement.

The Supreme Court's opinion that defendant received the precise benefit of his own stipulation reflects that his plea was knowing, voluntary and intelligent. In February, 2013, the Supreme Court reviewed defendant's "global plea agreement" and plainly stated that defendant knew what he was contracting for (and received it) when he entered into his plea agreement with the State. ***State v. Chambers***, 176 Wn.2d 573 586–87, 293 P.3d 1185 (2013) (defendant "got the benefit of the bargain he made" and that he "received the precise sentence he stipulated to in the [indivisible] plea agreement.").

Nevertheless, defendant challenges the same plea agreement that was just before the Supreme Court; this time alleging that his plea was not voluntary. Br.App. at 13. The basis for defendant's claim is that, in 2009, Division 2 of this Court found that defendant's "judgment and sentence is invalid on its face as to Counts III and IV [regarding cause number 99-1-00817-2]." ***In re Chambers***, No. 38074-9. Although the court only remanded to the trial court for "further proceedings consistent with this order," defendant has repeatedly interpreted this 2009 ruling as a grant of permission to withdraw his plea. At the May 10, 2013, hearing in which defendant attempted to withdraw his indivisible plea agreement, he informed the court that that "The Court of Appeals [...] said [he]could withdraw his plea as to Counts III and IV." RP 3. But the Court of Appeals never said this. In fact, neither the Court of Appeals nor the Supreme Court has ever informed defendant that he could withdraw his plea, and most recently the trial court expressly denied such a request. [5]

What the Court of Appeals stated in 2009 (which pertained to the one year time bar on timely filing a Personal Restraint Petition) must be read in light of what the Supreme Court stated in 2013, which is that defendant received *precisely* what he bargained for. ***Chambers***, 176 Wn.2d 573 at 586–87. The Supreme Court made this determination with full knowledge of the 2009 ruling that considered two counts of the 99-1-00817-2 cause number facially invalid. ***Chambers***, 176 Wn.2d 573 at 579–80. Despite its awareness of the facial invalidity of two counts, the Supreme Court was undeterred from concluding that defendant received the benefit of his bargain. Indeed, the Court emphasized that "there is a strong public interest in enforcing the terms of voluntary and intelligently

[5] ***State v. Chambers***, 176 Wn.2d 573, 580, 293 P.3d 1185 (2013) (Supreme Court observing that "The Court of Appeals remanded, noting that [defendant] may *seek* to withdraw his pleas to the February [99-1-00817-2] and November [99-1-05307-1] charges" (emphasis added)).

made plea agreements." ***Chambers***, 176 Wn.2d 573 at 586–87. The Supreme Court did not remand for further proceedings.

b. The pleadings support that defendant's plea was knowing, voluntary, and intelligent.

Each of defendant's statements of guilt indicate, in relevant part, as follows:

> I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:
>
> (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed.
>
> (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
>
> (c) The right at trial to hear and question the witnesses who testify against me[.]

CP 6–17 at 7 (cause number 99-1-00817-2); CP 63–72 at 64 (cause number 99-1-02235-3); CP 73–79 at 74 (cause number 99-1-05307-1); subparts (d)–(f) omitted from each, (emphasis in original).

Defendant was aware of each of the essential elements of each offense with which he was charged. CP 6–17 at 6–9; CP 63–72 at 63; CP 73–79 at 73–75.

Defendant also knew of the direct consequences of pleading guilty. Defendant does not dispute that he was aware of the maximum sentence for each count.[6] Defendant does not claim he is subject to a sentence that exceeds the statutory maximum.

Rather, defendant presents an argument nearly identical to one rejected by the Supreme Court: that his sentence as to counts III and IV of cause number 99-1-00817-2 is invalid because it falls outside of the standard range.[7]

The Supreme Court addressed a similar issue with regard to Count V of cause number 99-1-05307-1, where defendant was sentenced to 240 months confinement, outside of the standard range of 149–198 months. The Court determined that defendant's sentence was valid because it was supported by substantial and compelling reasons–one of which was that defendant stipulated to the sentence in his (indivisible) plea agreement. ***State v. Chambers***, 176 Wn.2d 573 at 586.[8] Indeed, defendant stipulated to his sentence in not only one cause number, but all three cause numbers as part of one global agreement. Each judgment and sentence contemplates the existence of the other.

Moreover, defendant was sentenced *within* the standard range on all other counts. *See* "Appendix A."

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[6] "Appendix A" lists the standard range, maximum sentence, state's recommendation, and actual sentence for each count to which defendant pleaded guilty.

[7] Defendant takes the argument one step further than he presented to the Supreme Court and argues that this sentencing "error" renders his plea involuntary. It is puzzling how defendant can argue that he was erroneously sentenced when the Supreme Court recently considered his entire plea agreement, held that he received the precise sentence to which he stipulated, and did not remand the matter to the trial court.

[8] The other reason being that defendant had multiple offenses that would go unpunished. ***State v. Chambers***, 176 Wn.2d 573 at 586.

It may be possible to construe defendant's argument as challenging his plea agreement as based on a mutual mistake as to whether there was a factual basis for the first degree unlawful possession of a firearm plea. When a plea agreement rests on a mutual mistake as to the direct consequences of a plea, the plea is involuntary and the defendant may be entitled to withdrawal of the plea. ***State v. Barber***, 170 Wn.2d 854, 872-73, 248 P.3d 494 (2011). However, the factual basis requirement of CrR 4.2 is not a direct consequence of a plea, and not "constitutionally mandated." ***State v. Branch***, 129 Wn.2d 635, 919 P.2d 1228 (1996). While the factual basis of a plea may be constitutionally significant "insofar as it relates to the defendant's understanding of his or her plea," ***State v. Hews***, 108 Wn.2d 579, 591-92, 741 P.2d 983 (1987), the defendant here has never argued that he did not understand his plea because of a lack of factual basis for the unlawful possession of a firearm counts. Indeed, the Supreme Court seems to have found the opposite. ***Chambers***, 176 Wn.2d at 586-7.

Defendant's standard range on offenses in cause numbers 99-1-00817-2 and 99-1-02235-3 increased because, after pleading guilty but before sentencing, he committed additional offenses in cause number 99-1-05307-1. Defendant was aware that if he committed new offenses before sentencing, his standard range would increase on the charges he already pleaded guilty to. Defendant's plea indicates that:

> If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.

CP 6–17 at 10 (section 6(d)); CP 63–72 at 65.

In sum, the pleading documents support that defendant knowingly, voluntarily, and intelligently, entered his guilty plea to receive the benefit of foregoing a murder prosecution.

2. WITHDRAWAL OF DEFENDANT'S PLEA WORKS AN INJUSTICE TO THE STATE WHICH HAS RELIED ON THE BARGAIN AND LOST ESSENTIAL EVIDENCE TO CONVICT DEFENDANT OF CRIMES TO WHICH HE PLEADED GUILTY MORE THAN 15 YEARS AGO.

Where a plea is involuntary because of a mutual mistake of the parties, the defendant may ordinarily withdraw his or her guilty plea, unless there are compelling reasons not to allow this. ***State v. Barber***, 170 Wn.2d 854, 248 P.3d 494 (2011). Our Supreme Court has addressed when this remedy can be limited:

> *[T]he choice of plea withdrawal may be unfair if the prosecutor has detrimentally relied on the bargain and has lost essential witnesses or evidence. See* ***United States v. Jerry***, 487 F.2d 600 (3d Cir.1973) (loss of physical evidence and difficulty in relocating key witnesses);

> ***Farnsworth v. Sanford***, 115 F.2d 375 (5th Cir.1940) (52 witnesses dismissed after plea).

State v. Miller, 110 Wn.2d 528, 535, 756 P.2d 122 (1988), *overruled on other grounds by* ***State v. Barber***, 170 Wn.2d 854, 873–74, 248 P.3d 494 (2011)(emphasis added).

Even were this Court to consider defendant's plea as involuntary, compelling reasons support that he should not be allowed to withdraw it. More than 15 years have passed since the State charged defendant under the 99-1-00817-2 cause number. The State no longer has access to evidence that would support the offenses defendant pleaded guilty to in that cause number. The circumstances of this case place it squarely within the injustice limitation of ***Miller*** (*see above*).[9]

Defendant argues that "the Respondent State of Washington did not present any evidence or argument that the Appellant's chosen remedy was unjust to the respondent, let alone compelling reasons to deny his sought after remedy." Br.App. at 14. The State *did* present such argument, several times, in briefing and at oral argument. *See, e.g.*, CP 47–58 at pp. 6–7 ("[T]he question of injustice has also been answered by the Supreme Court. That court reviewed the defendant's sentence and [concluded] that the defendant received exactly what he bargained for.

[9] Other manifestations of injustice were discussed in briefing to the trial court, and are incorporated by reference below.

There should be little argument now that there is something unjust about a sentence that did not shock the conscience of the Supreme Court"); CP 47–58 at pp. 7–9 (entire section titled "Injustice"); CP 47–58 at pp. 8–9 (State addressing three specific forms of injustice as follows:

> First there is the injustice of the state being unable to prosecute the defendant for the offenses under one of the cause numbers that were part of the indivisible plea agreement [because the State's evidence had been destroyed].
>
> A second form of injustice is the effect of dismantling the plea agreement on the potential murder prosecution. The injustice in this case is palpable. The defendant was not prosecuted in 1999 for the murder of 90 year old Margaret Hill. The plea agreement was entered into in large part because the defendant was willing to plead guilty and be sentenced for a combination of offenses that would approximate the sentence he could have faced for potential homicide charges. To now allow the defendant to back out of the plea agreement is to do irreparable damage to the state's ability to obtain a full measure of justice. The defendant committed the murder while on pretrial release for the other two cause numbers. That injustice should not be compounded by requiring the state to prosecute the defendant for a murder that is now thirteen years old.
>
> Finally, there is the injustice in the defendant's choice of remedies. As was pointed out above, the defendant seeks to withdraw all of his pleas to all of the ten counts on the pretext that there was a defect in two of them. This too by itself is an injustice.

RP 11–12 ("The injustice that attends to doing this 13 years later is apparent"); and RP 12 ("The injustice to undoing eight counts for the purpose of what the defense claims was an improper conviction on only two of the counts is also an injustice that should not attend and should not be given effect by granting these motions").

The trial court agreed with the State that it would be unfair for defendant to withdraw his plea; doing so, would be to "giv[e] him a gift in the process." RP 30–31. The trial court, like the Supreme Court, emphasized that defendant received what he bargained for. RP 30–31. Defendant avoided a murder prosecution by entering into his guilty plea with the State. Allowing defendant to withdraw his guilty plea 15 years after entering it, after the State has lost essential evidence on one of the cause numbers, is an affront to the justice contemplated by both parties at the time of the agreement.

D. CONCLUSION.

For the reasons stated above, the State respectfully asks this Court to affirm the trial court's denial of defendant's motion to withdraw his indivisible guilty plea.

DATED: August 27, 2014.

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Certificate of Service:
The undersigned certifies that on this day she delivered by ~~U.S.~~ mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

8.27.14

Date Signature

Appendix A

Cause #	Count	Charge	Standard Range (at time of plea, in months)	Standard Range (at sentencing, in months)	Maximum Sentence (at time of plea)	Maximum Sentence (at sentencing)	State's Recommendation	Actual Sentence (in months)
99-1-00817-2	1	Unlawful possession of a controlled substance with intent to deliver (methamphetamine)	108-144	149-198 +36	10 years	20 years	Open	149
	2	Unlawful manufacture of a controlled substance (methamphetamine)	149-198	108-144 +36	10 years	20 years	Open	144
	3[10]	Unlawful possession of a firearm in the first degree	41-54	87-116	10 years	10 years	Open	116
	4[11]	Unlawful possession of a firearm in the first degree	41-54	87-116	10 years	10 years	Open	116

[10] Counts 3 and 4 were considered facially invalid in a January 15, 2009, PRP. ***In re Chambers***, No. 38074-9. From this, the court only concluded that defendant's petition was not time barred by RCW 10.73.090(1). The court remanded to the trial court for "further proceedings consistent with this order." *Id.*

[11] See previous footnote.

Cause #	Count	Charge	Standard Range (at time of plea, in months)	Standard Range (at sentencing, in months)	Maximum Sentence (at time of plea)	Maximum Sentence (at sentencing)	State's Recommendation	Actual Sentence (in months)
99-1-02235-3	1	Unlawful possession of a controlled substance (methamphetamine)	4-12	4-12[12]	5 years	5 years	Open	29

[12] Section 2.2 "Criminal History" section of defendant's Judgment and Sentence contains the following hand written note: "plus criminal history on 99-1-05307-1 + 99-1-00817-2." Section 2.3 "Sentencing Data" has an old offender score scribbled out, a new offender score of 10 entered, but the standard range was never updated to reflect the additional charge. This is a scrivener's error and is not the product of judicial reasoning. The standard range for an offense with a seriousness level of I and an offender score of 10, committed between July 26, 1997, and before July 25, 1999 is 22–29 months.

Cause #	Count	Charge	Standard Range (at time of plea, in months)	Standard Range (at sentencing, in months)	Maximum Sentence (at time of plea)	Maximum Sentence (at sentencing)	State's Recommendation	Actual Sentence (in months)
99-1-05307-1	1	Failure to remain at an injury accident	60	60	5 years	5 years	60	60
	2	Possessing stolen property in the first degree	43-57	43-57	10 years	10 years	57	57
	3	Possessing stolen property in the first degree	43-57	43-57	10 years	10 years	57	57
	4	Unlawful possession of a firearm	87-116	87-116	10 years	10 years	116	116
	5	Unlawful manufacturing of a controlled substance, methamphetamine	240	240[13]	20 years	20 years	240	240

[13] The correct standard range for this count is actually 149–198 months. That defendant was sentenced to 240 months was directly addressed by the Supreme Court in its 2013 opinion. ***State v. Chambers***, 176 Wn.2d 573 at 583–589.

PIERCE COUNTY PROSECUTOR

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