

62290-1

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No. 62290-1

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION I

IN RE THE PERSONAL RESTRAINT PETITION OF:

JACQUELINE MARIE FLETCHER,

PETITIONER.

PERSONAL RESTRAINT PETITION

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COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
2008 AUG 27 PM 12:52

9-18-08
PETITIONER MAY FILE PETITION
WITHOUT PAYMENT OF FILING FEE



COURT ADMINISTRATOR/CLERK

A. STATUS OF PETITIONER

Jacqueline Marie Fletcher (Fletcher) challenges her 1993 King County convictions for two counts of Robbery in the Second Degree (93-1-06867-7). Ms. Fletcher is currently not in custody as a result of these convictions. However, she is serving a life sentence as a result of a subsequent multiple-count robbery conviction (Snohomish County Case No. 96-1-00379-9) and a subsequent persistent offender finding, which was predicated, in part, on this conviction. Further, she remains under several additional disabilities from this judgment.

B. FACTS

On December 20, 1993, Ms. Fletcher pleaded guilty to two counts of Robbery in the Second Degree. A copy of the *Statement of Defendant on Plea of Guilty* is attached as Appendix A. In her plea statement, Ms. Fletcher was told that the “crime (*sic*) with which I am charged carries a maximum sentence of 10 years imprisonment and a \$25,000 fine.” Appendix A, § 6. In fact, the maximum fine, for each crime, was \$20,000. RCW 9A.20.021.

When Ms. Fletcher was sentenced, the *Judgment & Sentence* (Appendix B), like the plea, misstated the maximum fine, although the Judgment provided a different, but equally erroneous amount. The Judgment, states that the maximum term is “10 YRS AND [/] OR \$10,000.” *Id.* at § 2.4.

This is Ms. Fletcher's first collateral attack on this judgment.

C. ARGUMENT

1. INTRODUCTION

This petition is timely for two reasons. First, Ms. Fletcher's Judgment is invalid on its face because it contains an incorrect maximum term. Second, Ms. Fletcher was not given notice of the one-year time bar when she was sentenced.

Turning from the Judgment to the guilty plea, Ms. Fletcher's guilty plea is invalid because she was misinformed of a direct consequence of the plea—the maximum fine. A plea is voluntary only if the defendant made it with knowledge of the direct consequences of the plea. CrR 4.2(d); *State v. Ross*, 129 Wn.2d 279, 284, 916 P.2d 405 (1996). The maximum sentence, including any fine, is a direct consequence of a guilty plea.

Ms. Fletcher seeks to withdraw her guilty plea. Only if the State objects and makes a sufficient showing in response to this PRP, should this Court remand for a hearing where the State must show compelling reasons not to allow Ms. Fletcher's choice of remedy. Otherwise, this Court should grant this petition and remand with instructions that Ms. Fletcher be permitted to withdraw her guilty plea.

2. FACIAL INVALIDITY AND NOTICE OF THE TIME BAR

RCW 10.73.090 establishes a one-year time limit for collateral attack on a judgment. More than one has elapsed since this conviction was final. However, the one-year time limit does not apply if a judgment is invalid on its face. RCW 10.73.090. It also does not apply where no notice of the “time bar” is given. Both exceptions apply in this case.

A judgment is “invalid on its face” if that document alone reveals an infirmity. *In re Pers. Restraint of LaChapelle*, 153 Wn.2d 1, 100 P.2d 805 (2004) (an improperly calculated sentence is invalid on its face). A judgment and sentence is invalid on its face if the alleged defect is evident on the face of the document without further elaboration. *See In re Pers. Restraint of Hemenway*, 147 Wn.2d 529, 532, 55 P.3d 615 (2002); *In re Pers. Restraint of Goodwin*, 146 Wn.2d 861, 866, 50 P.3d 618 (2002); *In re Pers. Restraint of Thompson*, 141 Wn.2d 712, 718-19, 10 P.3d 380 (2000).

As the *Goodwin* court explained:

We have never held, however, that RCW 10.73.090 requires, merely by use of the words ‘valid on its face,’ that the only type of invalidity that will prevent operation of the one-year bar to filing a personal restraint petition is constitutional infirmity. By its plain language, the statute does not state that ‘valid’ means ‘constitutionally valid.’ As we reasoned in *Stoudmire* and *Thompson*, under RCW 10.73.090(1), ‘invalid on its face’ means the judgment and sentence evidences the invalidity without further elaboration.

146 Wn.2d at 866 (holding that judgment was invalid on its face because offender score included convictions that washed out).

When a judgment reveals an infirmity “on its face” the reviewing court can then look to other documents. Collateral documents, signed as part of a plea agreement, may be considered when those documents are relevant in assessing the validity of the judgment and sentence. *Hemenway*, 147 Wn.2d at 532. However, this Court does not need to look to other documents to discern the invalidity in this case.

In this case, Ms. Fletcher’s *Judgment*, viewed alone, unambiguously reveals the infirmity. The *Judgment* clearly states an incorrect maximum fine. All that is required to discern the error is to look at the judgment and compare it with the applicable law. Thus, Ms. Fletcher’s judgment is invalid on its face.

However, a second exception to the time bar applies.

Any discussion regarding the expiration of the time bar presumes that the one year, post-conviction clock started in the first place. In order to start the one-year limit, a defendant must be given notice. *State v. Schwab*, 141 Wn. App. 85, 167 P.3d 1225 (2007).

Under RCW 10.73.110, the trial court *must* advise a defendant of the one-year statute of limitations *when* it pronounces judgment and sentence (“the court shall advise the defendant of the time limit specified in RCW 10.73.090 and 10.73.100”). See *In re Pers. Restraint of Vega*, 118 Wn.2d

449, 823 P.2d 1111 (1992) (we held that where the State made no attempt to give petitioner notice of the amended one-year limitation on filing a personal restraint petition, as required by statute, petitioner was not bound by the one-year limitation). The statute provides that a Court must advise the defendant of both the time limit as it is defined in RCW 10.73.090 and the applicable exceptions set forth in RCW 10.73.100. In other words, the statute requires the Court to advise a defendant of the definition of a collateral attack (RCW 10.73.090), the existence of the one-year limitation (*Id.*), when the one-year period begins (*id.*), as well as the six instances where the one-year limit does not apply (RCW 10.73.100). This advice *must* be given in every case. See *In re Restraint of Runyan*, 121 Wn.2d 432, 452-53, 853 P.2d 424 (1993) (finding that Dept. of Corrections did not need to prove actual notice to every prisoner, but noting that notice would not be a problem for prisoners sentenced after effective date of statute because Courts are required to provide notice in every case).

Washington courts have required strict compliance with the statute, including the notice requirements, because “the very purpose of RCW 10.73.090 ... is to encourage prisoners to bring their collateral attacks promptly.” *In re Restraint of Runyan*, 121 Wn.2d at 450. It logically follows that strict compliance applies with equal force to the requirement of notice. *Schwab, supra*. When notice is not properly given, this omission creates an exemption to the time bar and a court, therefore, must treat the

defendant's petition for collateral review as timely. *Schwab, supra*. See also *In re Restraint of Vega*, 118 Wn.2d at 450-51 (applying rule to RCW 10.73.120); *State v. Golden*, 112 Wn.App. 68, 78, 47 P.3d 587 (2002) (applying *Vega* rule to RCW 10.73.110), *review denied*, 148 Wn.2d 1005, 60 P.3d 1212 (2003).

Here, a search of her court file reveals that Ms. Fletcher was not given notice of the collateral attack limitations. Unless the State can show that Ms. Fletcher was informed of the time bar provisions as required by RCW 10.73.110, the one-year time clock never started.

In either event, Ms. Fletcher's petition is timely.

3. INVOLUNTARY PLEA

Having established that the time bar does not apply, Ms. Fletcher turns to the merits of her claim: her guilty plea was invalid because Ms. Fletcher was misinformed regarding the maximum fine. When she entered a guilty plea, Ms. Fletcher was told that the maximum fine was \$25,000, not \$20,000.

It is elemental that punishment for a crime includes incarceration and/or fines. See RCW 9A.20.010. The Eighth Amendment, a limitation on punishment for crimes, provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." The United States Supreme Court has explained that, at the time the

Constitution was adopted, “the word ‘fine’ was understood to mean a payment to a sovereign as punishment for some offense.” *Browning-Ferris Indus. of Vt., Inc. v. Kelco Disposal, Inc.*, 492 U.S. 257, 265, 109 S.Ct. 2909, 2915, 106 L.Ed.2d 219 (1989). The Excessive Fines Clause thus “limits the government's power to extract payments, whether in cash or in kind, ‘as punishment for some offense.’” *Austin v. United States*, 509 U.S. 602, 609-610, 113 S.Ct. 2801, 2805, 125 L.Ed.2d 488 (1993) (emphasis deleted).

“Due process requires that a defendant's guilty plea be knowing, voluntary, and intelligent.” *In re Pers. Restraint of Isadore*, 151 Wn.2d 294, 297, 88 P.3d 390 (2004) (citing *Boykin v. Alabama*, 395 U.S. 238, 242, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969)). Whether a plea satisfies this standard depends primarily on whether the defendant correctly understood its consequences. *State v. Walsh*, 143 Wn.2d 1, 8, 17 P.3d 591 (2001); *State v. Miller*, 110 Wn.2d 528, 531, 756 P.2d 122 (1988). This standard is reflected in CrR 4.2(d), which mandates that the trial court “shall not accept a plea of guilty, without first determining that it is made voluntarily, competently and with an understanding of the nature of the charge and the consequences of the plea.” Under this rule, once a guilty plea is accepted, the trial court must allow withdrawal of the plea “to correct a manifest injustice.” CrR 4.2(f).

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STATE OF WASHINGTON

“A defendant must understand the sentencing consequences for a guilty plea to be valid.” *State v. Miller*, 110 Wn.2d 528, 531, 756 P.2d 122 (1988). A defendant may challenge the voluntariness of a guilty plea when the defendant receives misinformation about sentencing consequences. *See Miller*, 110 Wn. at 531. As this Court recently reaffirmed in *State v. Kennar*, 135 Wn. App. 68, 143 P.3d 326 (2006), “CrR 4.2 requires the trial court to inform a defendant of both the applicable standard sentence range and the maximum sentence for the charged offense as determined by the legislature.” *Kennar*, 135 Wn.App. at 75 (emphasis supplied). *See also* CrR 4.2(d); *In re Vensel*, 88 Wn.2d 552, 555, 564 P.2d 326 (1977) (“We believe it is important at the time a plea of guilty is entered, whether in justice or superior court, that the record show on its face the plea was entered voluntarily and intelligently, and affirmatively show the defendant understands the maximum term which may be imposed.”); *State v. Knotek*, 136 Wn. App. 412, 149 P.3d 676 (2006) (maximum sentence is among the direct consequences of a plea).

Because a potential fine is part of the maximum possible punishment and because a fine enhances a defendant's sentence, it is a direct consequence of a guilty plea. *See Ross*, 129 Wn.2d at 285 (to qualify as a direct consequence of a guilty plea, the effect must either enhance the defendant's sentence or alter the standard of punishment). Further, unlike a term of imprisonment which is cabined by a “standard range,” there are no

corresponding ranges for fines. Thus, it is beyond dispute that Ms. Fletcher was misinformed about a direct consequence of her guilty plea.

In order to show that her plea was involuntary, Ms. Fletcher need only establish that she was given misinformation about a direct consequence, not that she would have chosen differently, if she had been properly advised. Recently, in *Isadore*, our Supreme Court held that, generally, defendants need not establish the materiality of the sentencing consequence to their decision to plead guilty. The Court reasoned that “[a] reviewing court cannot determine with certainty how a defendant arrived at his personal decision to plead guilty, nor discern what weight a defendant gave to each factor relating to the decision.” *Isadore*, 151 Wn.2d at 302.

Likewise, according to *Isadore*, a defendant “need not make a special showing of materiality” in order for misinformation to render a guilty plea invalid, but instead must show that the misinformation concerned “a *direct* consequence of [the] guilty plea.” 151 Wn.2d at 296 (emphasis added). *See also State v. Ross*, 129 Wn.2d 279, 285, 916 P.2d 405 (1996); *State v. Barton*, 93 Wn.2d 301, 305, 609 P.2d 1353(1980) (“Defendant must be informed of all the direct consequences of his plea prior to acceptance of a guilty plea.”).

The State will likely argue in response that information regarding the true maximum fine could not have been material to Ms. Fletcher’s decision to plead guilty—that it strains credulity to argue that Ms. Fletcher would

have changed her mind if she had been told that her true maximum fine was \$5000 lower than she was told at the time of her guilty plea. However, if the State makes such an argument, caselaw makes it inapposite. Materiality is not judged in the manner set forth above. *Isadore, supra; State v. Mendoza*, 157 Wn.2d 582, 141 P.3d 49 (2006) (“We have also declined to adopt an analysis that focuses on the materiality of the sentencing consequence to the defendant's subjective decision to plead guilty.”). Until and unless the Washington Supreme Court overrules *Mendoza* and *Isadore*, the relevant inquiry is only whether the mandatory fine was a direct, not a collateral, consequence of Ms. Fletcher’ plea. The answer to that question is obviously, “yes.”

Thus, Ms. Fletcher’s plea was invalid because she was misinformed regarding a direct consequence.

4. WITHDRAWAL OF PLEA

A defendant may withdraw his guilty plea if it was invalidly entered or if its enforcement would result in a manifest injustice. *Isadore, supra; CrR 4.2(f)*. “An involuntary plea produces a manifest injustice.” *Isadore*, 151 Wn.2d at 298.

Where a plea agreement is based on misinformation, the defendant may choose specific enforcement of the agreement or withdrawal of the guilty plea.” *Walsh*, 143 Wn.2d at 8-9. *See also In re Pers. Restraint of Hoisington*, 99 Wn. App. 423, 993 P.2d 296 (2000). The defendant's

choice of remedy controls, unless there are compelling reasons not to allow that remedy. *Miller*, 110 Wn.2d at 535.

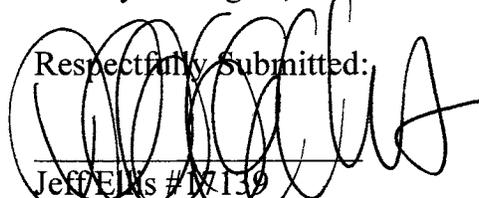
As noted above, Ms. Fletcher chooses withdrawal of her plea. If the State objects, then this Court should require the State to make a *prima facie* showing of any compelling reason not to allow this remedy. If the State cannot do so, then this Court should vacate the judgment and remand to King County Superior Court to allow Ms. Fletcher to withdraw her plea. If the State makes a *prima facie* showing, then the Court should remand for a hearing on Ms. Fletcher's choice of remedy.

D. CONCLUSION AND PRAYER FOR RELIEF

Based on the above, this Court should vacate Ms. Fletcher's judgment and remand this case to King County Superior Court to permit her to withdraw her guilty plea. In the alternative, this Court should remand for an evidentiary hearing on Ms. Fletcher's choice of remedy.

DATED this 27th day of August, 2008.

Respectfully Submitted:



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Appendix A~
Statement of Defendant on Plea of Guilty

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

FILED

DEC 21 PM 2:32

Accelerate *10/07/93 DOJ report*
 Non Accelerated
 DPA Defense

STATE OF WASHINGTON,

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.
Plaintiff,

NO. 93-1-06867-7 L.T.
93-1-07985-5

v.

JACQUELINE FLETCHER

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY
(Felony)

Defendant.

1. My true name is Jacqueline Marie Fletcher
2. My age is 28 Date of Birth 1-08-65
3. I went through the 12th grade.
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is Leana Thomas

(b) I am charged with the crime(s) of 2 counts Robbery 1st

The elements of this crime(s) are see attached information

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

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (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;

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - 1 of 7

SC FORM CLD 100 Rev. 7/2/193



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

(e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;

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

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

(a) The crime with which I am charged carries a maximum sentence of 10 years imprisonment and a \$ 25,000 fine. The standard sentence range is from 22 (days) months to 29 (days) months confinement, based on the prosecuting attorney's understanding of my criminal history.

(b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also includes convictions in juvenile court for felonies or serious traffic offenses that were committed when I was 15 years of age or older. Juvenile convictions, except those for class A felonies, count only if I was less than 23 years old when I committed the crime to which I am now pleading guilty.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete.

If I have attached my own statement, I assert that it is correct and complete. ~~If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.~~

(d) If I am convicted of any new crimes before sentencing, or if 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.

(e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay \$ 100 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damages to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and attorney fees. Furthermore, the judge may place me on community supervision, impose restrictions on my activities, and order me to perform community service.

(f) The prosecuting attorney will make the following recommendation to the judge: To be served concurrently on each count
32
months confinement, Court costs, Attorney fees, Restitution
No contact with victims, for maximum term, \$100 Victim
Penalty Assessment

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

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

(i) The sentence imposed on counts I and II will run concurrently unless the judge finds substantial and compelling reason to do otherwise. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(j) In addition to confinement, the judge will sentence me to community placement for at least 1 year. During the period of community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

DF
MS
(k) The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030(20). This sentence could include as much as 90 days' confinement plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

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

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

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

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

DF
MS
(p) If this crime involves a sex offense, I will be required to register with the sheriff of the county in this state where I reside. I must register immediately upon completion of being sentenced if I am not sentenced to begin serving a term of confinement immediately upon completion of being sentenced. Otherwise, I must register within 24 hours of the time of my release if I am sentenced to the custody of the Department of Corrections, Department of Social and Health Services, a local division of youth services, a local jail, or a juvenile detention facility.

If I do not now reside in Washington, but I subsequently move to this state, I must register within 24 hours of the time I begin to reside in this state, if at the time of my move I am under the jurisdiction of the Department of Corrections, the Indeterminate Sentence Review Board, or the Department of Social and Health Services. If at the time I move to this state I am not under the jurisdiction of one of those agencies, then I must register within 30 days of the time I begin to reside in this state.

If I subsequently change residences within a county in this state, I must notify the county sheriff of that change of residence in writing within 10 days of my change of residence. If I subsequently move to a new county within this state, I must register all over again with the sheriff of my new county, and I must notify my former county sheriff (i.e. the county sheriff of my former residence) of that change of residence in writing, and I must complete both acts within 10 days of my change of residence. [If none of the above three paragraphs is applicable, they should all be stricken and initialed by the defendant and the judge.]

7. I plead Guilty to the crime of robbery in the second degree, count I as charged in the original information. I have received a copy of that information. *and guilty to count II as amended to read October 4, 1993 as date of crime*

8. I make this plea freely and voluntarily. *for robbery in the second degree*

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

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

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this (these) crime(s). This is my statement: *Count I: On or about October 2, 1993, in King County I unlawfully and with intent to commit theft took cash and clothing belonging to Stephanie Bjorstad at the Modern Woman store, against Ms Bjorstad's will and by the threat of use of immediate force, violence or fear of injury to Ms Bjorstad.*

Count II: On or about October 4, 1993, in King County, I stole property at 7-14 at 1232 N. 185th when I grabbed cash out of the hand of cashier Theresa Lamb and threatened the use of immediate force, violence or fear of injury to Ms. Lamb and other people in the store.

These acts occurred in King County, Washington
STATEMENT OF DEFENDANT ON PLEA OF GUILTY - 5 of 7 SC FORM CLD 100 Rev. 7/23/93

W.S.

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

Jackie Fletcher
DEFENDANT

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

Jim Smith 91002
PROSECUTING ATTORNEY

Thomas A. Thomas
DEFENDANT'S LAWYER 16449

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

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

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this 20th day of December, 19 93

[Signature]
JUDGE

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

Dated this _____ day of _____, 19_____.

INTERPRETER

Appendix B~
Judgment and Sentence

FILED

SE: JAN 18 AM 7:45
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

JAN 18 1994
0076

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

1-20-94

Plaintiff,

JACQUELINE MARIE FLETCHER

Defendant.

No. 93-1-06867-7

JUDGMENT AND SENTENCE

710 56d

COMMITMENT ISSUED

JAN 18 1994
COPY TO SENTENCING GUIDELINES COMMISSION

I. HEARING

1.1 The defendant, the defendant's lawyer, LEONA THOMAS and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: MICHELE SHAW
NOT APPLICABLE

1.2 The state has moved for dismissal of count(s) _____

II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report(s) and case record to date, and there being no reason why judgment should not be pronounced, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on (date): 12-20-93 by plea of:

Count No.: I Crime: ROBBERY SECOND DEGREE
RCW 9A.56.210 Crime Code 02924
Date of Crime 10-2-93 Incident No. 93331633

Count No.: II Crime: ROBBERY SECOND DEGREE
RCW 9A.56.210 Crime Code 02924
Date of Crime 10-4-93 Incident No. 93331633

Count No.: _____ Crime: _____
RCW _____ Crime Code _____
Date of Crime _____ Incident No. _____

Additional current offenses are attached in Appendix A.

SPECIAL VERDICT/FINDING(S):

- (a) A special verdict/finding for being armed with a deadly weapon was rendered on Count(s): _____
- (b) A special verdict/finding was rendered that the defendant committed the crimes(s) with a sexual motivation in Count(s): _____
- (c) A special verdict/finding was rendered for Violation of the Uniform Controlled Substances Act offense taking place in a school zone in a school on a school bus in a school bus route stop zone in a public park in public transit vehicle in a public transit stop shelter in Count(s): _____
- (d) Vehicular Homicide Violent Offense (D.W.I. and/or reckless) or Nonviolent (disregard safety of others)
- (e) Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score (RCW 9.94A.400(1)(a)) are: _____

2.2 OTHER CURRENT CONVICTION(S): Other current convictions listed under different cause numbers used in

PRESENTING STATEMENT & INFORMATION ATTACHED

calculating the offender score are (list offense and cause number): 931075380 FORGERY
(Current offenses not listed here are not encompassed)

00077

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

00078
Location

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
(a) ROBB 2	8-6-93	ADULT	931039855	KIGN CO
(b)				
(c)				
(d)				

- Additional criminal history is attached in Appendix B.
- Prior convictions (offenses committed before July 1, 1986) served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(6)(c)): _____
- One point added for offense(s) committed while under community placement for count(s) _____

2.4 SENTENCING DATA:

OFFENDER SCORE	SERIOUSNESS LEVEL	RANGE	MAXIMUM TERM
Count I : 5	IV	22 TO 27 MONTHS	10 YRS AND OR \$10,000
Count II : 5	IV	22 TO 27 MONTHS	10 YRS AND OR \$10,000
Count _____ :			

Additional current offense sentencing data is attached in Appendix C.

2.4 EXCEPTIONAL SENTENCE:
 Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) _____
 Findings of fact and conclusion(s) are attached in Appendix D.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.
 The Court DISMISSES Count(s) _____

IV. ORDER

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

4.1 RESTITUTION AND VICTIM ASSESSMENT: *TO BE DETERMINED * [redacted] to be contacted if rest. hrg. is set.*

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

Defendant shall pay \$100 Victim Assessment, pursuant to RCW 7.68.035.

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) \$ WAIVED, Court costs; Court costs are waived;
- (b) \$ WAIVED, Recoupment for attorney's fees to King County Public Defense Programs, 2015 Smith Tower, Seattle, WA 98104; Recoupment is waived (RCW 10.01.160);
- (c) \$ _____, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA; VUCSA fine waived (RCW 69.50.430);
- (d) \$ _____, King County Interlocal Drug Fund; Drug Fund payment is waived;
- (e) \$ _____, State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);
- (f) \$ _____, Incarceration costs; Incarceration costs waived (9.94A.145(2));
- (g) \$ _____, Other cost for: _____

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

4.2 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.

25 months/days on Count No. I 0007.9

25 months/days on Count No. II

_____ months/days on Count No. _____

The terms in Count(s) No. I, II are concurrent/consecutive
The sentence herein shall run ~~concurrently~~/consecutively with the sentence in cause number(s) _____
93-107538-0 but consecutive to any other cause not referred to in this Judgment.

Credit is given for 101 days served days as determined by the King County Jail solely for conviction under this cause number pursuant to RCW 9.94A.120(13). 108 JT 54 GT

4.3 NO CONTACT: For the maximum term of _____ years, defendant shall have no contact with _____

Violation of this no contact order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.

4.4 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.

4.5 COMMUNITY PLACEMENT: Community Placement is ordered for sex offense, serious violent offense, second degree assault, deadly weapon finding, Chapter 69.50 or 69.52 RCW offense, and standard mandatory conditions are ordered. Community placement is ordered for the maximum period of time provided by law. Appendix H (for additional conditions) is attached and incorporated by reference in this Judgment and Sentence.

4.6 WORK ETHIC CAMP: The court finds that the defendant is eligible for work ethic camp and is likely to qualify under Sec. 4(3), Chap. 338, Laws of 1993 and the Court recommends that the defendant serve the sentence at a work ethic camp. If the defendant successfully completes the program, the Department of Corrections shall convert the period of work ethic camp confinement at the rate of one day of work ethic camp confinement to three days of total standard confinement. Upon completion of the work ethic camp program, the defendant shall be released on community custody for any remaining time of total confinement.

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

4.8 OTHER: _____

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

Date: 1/14/94

Presented by: Michele Shaw
Deputy Prosecuting Attorney,
Office WSBA ID #91002

Robert S. Heck
Judge, King County Superior Court
Approved as to form:
Rona A. Manna
Attorney for Defendant, WSBA # 16449

00080



RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE: Jackie Fletcher
DEFENDANT'S ADDRESS: 14514 176th St. S-W # F-3
Lynnwood Wa. 98037

JACQUELINE MARIE FLETCHER

DATED: 11/14/94
Robert H. Heck
JUDGE, KING COUNTY SUPERIOR COURT

ATTESTED BY:
M. JANICE MICHELS, SUPERIOR COURT CLERK
BY: _____
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: _____

CLERK

BY: _____
DEPUTY CLERK

OFFENDER IDENTIFICATION

S.I.D. NO. WA13179013
DATE OF BIRTH: JANUARY 8, 1965
SEX: F
RACE: WHITE

VERIFICATION BY PETITIONER

I, Jacqueline M. Fletcher, declare that I have received a copy of the petition prepared by my attorney and that I consent to the petition being filed on my behalf.

7/28/08 // W.C.C.W
Date and Place

Jackie Fletcher
Jacqueline M. Fletcher

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7 **IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON FOR**
8 **DIVISION I**

9 In re Personal Restraint Petition of
10 JACQUELINE FLETCHER,
11
12 Petitioner.

NO. _____
PETITIONER'S MOTION TO
PROCEED IN FORMA PAUPERIS

13
14
15 I. IDENTITY OF MOVING PARTY

16 Jacqueline Marie Fletcher, Petitioner, seeks the relief designated in Part II.

17
18 II. STATEMENT OF RELIEF SOUGHT

19 Waive the filing fee associated with Petitioner's *Personal Restraint Petition*. A
20
21 copy of Petitioner's *Statement of Finances* is attached.

22 III. FACTS

23
24 Petitioner is an indigent defendant who seeks to file the attached PRP. Due to her
25 indigence, Petitioner seeks to have the filing fee waived.

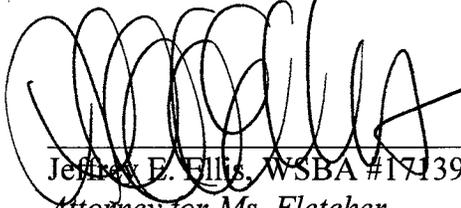
26
27 III. ARGUMENT

28 Pursuant to RAP 16.8, Petitioner respectfully requests that this Court waive the
29 filing fee associated with his *Personal Restraint Petition*.
30

1 IV. CONCLUSION

2 This Court should waive the filing fee in this case.
3

4 DATED this 27th day of August, 2008.

5 
6
7 Jeffrey E. Ellis, WSBA #17139
8 *Attorney for Ms. Fletcher*

9
10 Law Offices of Ellis, Holmes
11 & Witchley, PLLC
12 705 Second Avenue, Suite 401
13 Seattle, WA 98104
14 (206) 262-0300
15 (206) 262-0335 (fax)
16 ellis_jeff@hotmail.com
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CERTIFICATE SUPPORTING MOTION TO PROCEED IN FORMA PAUPERIS

I, Jacqueline M. Fletcher, certify as follows:

1. That I am the petitioner and I wish to file a PRP in the above-entitled cause.
2. That I own:
 - a. No real property
 - b. Real property valued at \$_____.
3. That I own:
 - a. No personal property other than my personal effects
 - b. Personal property (automobile, money, inmate account, motors, tools, etc.) valued at \$_____.
4. That I have the following income:
 - a. No income from any source.
 - b. Income from employment, disability payments, SSI, insurance, annuities, stocks, bonds, interests, etc., in the amount of \$55.00 on an average monthly basis. I received \$52.25 after taxes over the past year.
5. That I have:
 - a. Undischarged debts in the amount of \$2.
 - b. No debts.
6. That I am without other means to prosecute said PRP and desire that public funds be expended for that purpose.
7. That I can contribute the following amount toward the expense of review:
\$ 0.
8. The following is a brief statement of the nature of the case and the issues sought to be reviewed: See attached brief.
9. I ask the court to provide the following at public expense, the following: all filing fees, preparation, reproduction, and distribution of briefs, preparation of verbatim report of proceedings, and preparation of necessary clerk's papers.
10. I authorize the court to obtain verification information regarding my financial status from banks, employers, or other individuals or institutions, if appropriate.
11. I certify that I will immediately report any change in my financial status to the court.
12. I certify that this PRP is being filed in good faith.

I, Jacqueline M. Fletcher, certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

7/28/08 // W.C.CW
Date and Place

Jackie Fletcher
Signature of Petitioner

THE STATE OF WASHINGTON) CERTIFICATE OF INDIGENCY
COUNTY OF PIERCE) ss. CR 44 (a)

I certify that Jackie Fletcher #710561, named below
has the sum of \$0.24 - spendable - savings, on account to her credit at the Washington
Correctional Center for Women, in Gig Harbor, where she is currently confined.

I further certify that JACKIE FLETCHER #710561,
also has the following securities to her credit according to her W.C.C.W.
records.

NONE

I finally certify that during her period of incarceration at this facility from
02/01/2008 to 07/31/2008 that JACKIE FLETCHER #710561
_____ had an average balance of \$ 29.57 in her
account.

Dated: 8/05/08

Doyle Coleman
Authorized Officers for the Washington
Correctional Center for Women

FILED
COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
2008 AUG 27 PM 12:53

Presented By:
Jackie Fletcher
Washington Correctional Center for Women
9601 Bujacich Road Northwest
Gig Harbor, Washington 98332-8300

CERTIFICATE OF INDIGENCY

08/05/2008
DELEWIS1

DEPARTMENT OF CORRECTIONS
WASHINGTON CORR CENTER FOR WOMEN

Page 1 of 1
OIRPLRAR
6.03.1.0.1.2

PLRA IN FORMA PAUPERIS STATUS REPORT
FOR DEFINED PERIOD : 02/01/2008 TO 07/31/2008

DOC : 0000710561
DOB : 01/08/1965

NAME : FLETCHER JACQUELINE

ADMIT DATE :08/01/1996
ADMIT TIME :00:00

AVERAGE MONTHLY RECEIPTS	20% OF RECEIPTS	AVERAGE SPENDABLE BALANCE	20% OF SPENDABLE
298.38	59.68	29.57	5.91
