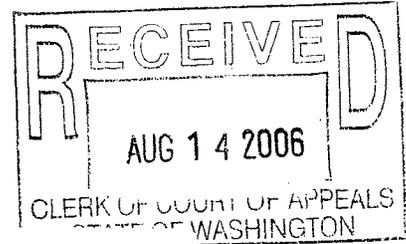


PETITIONER MAY FILE THE
PETITION WITHOUT PAYMENT OF
A FILING FEE

CT.

David S. [Signature]
COURT CLERK *8/12/06* IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II



In the matter of the
personal restraint
petition of

CHARLES K. MAYFIELD

Petitioner.

)
) Case No. **-35257-5-**
) PRO SE
) PERSONAL
) RESTRAINT PETITION

33734-7
Consol.

I. IDENTITY OF PARTY:

Comes now, Petitioner Charles K. Mayfield.

II. STATUS OF PETITIONER:

Petitioner (Mayfield) was sentenced on August 12, 2005 in the Superior court for Pierce County to fifty one (51) months incarceration. Mayfield is held in custody at W.C.C. in Shelton WA. See attached judgment and sentence.

Mayfield has only filed the current corresponding statement of additional grounds with this P.R.P. to be joined with his direct appeal. Mayfield has not filed any other briefs in this case in chief.

III. STATEMENT OF FINANCES:

Mayfield request for waiver of filing fees and appointment of counsel at public expense under RAP rule 15.4, 16.7(a)(3), & 16.15(h). See attached statement of finances.

IV. GROUND FOR RELIEF:

Other remedies may be inadequate for Mayfield to bring before this court evidence that is not a part of the record.

Petitioner/Mayfield's restraint is unlawful under RAP rule 16.4(c)(2), (3),(5),&(7), for the following reasons, and seeks relief in part VIII

1
2
3
4 v. QUESTIONS OF ERROR PRESENTED:

5 GROUND ONE:

6 1). WHETHER OR NOT PETITIONER'S (MAYFIELD) sixth and four-
7 TEENTH AMENDMENT'S TO THE U.S. CONST. ART. 1 § 22 OF
8 THE WASH. CONST. WERE VIOLATED BY INEFFECTIVE ASSISTANCE
9 OF COUNSEL?

10 a) Was Mayfield's counsel ineffective; when counsel allowed Mayfield
11 to be misled, even encouraged him into pleading guilty to bail
12 jumping. In addition failed to object to violations of due process
13 when, the trial court exceeded its statutory authority and lacked
14 jurisdiction under R.C.W. 9A.04.030 (1), state criminal
15 jurisdiction, to punish Mayfield for bail jumping under R.C.W.
16 9A.76.170 for failing to appear on June 2, 2004 at 8:30 a.m. as a
17 result of the superseding order of continuance that Mayfield signed
18 at a prior proceeding?

19 b). When counsel failed to make a preliminary showing of ineffective
20 assistance of Mayfield's earlier counsel, under violations of the 6th
21 amendment of the United States constitution and article 1 section 22
22 of the Washington State constitution, when that counsel misled
23 Mayfield as to whether he was required to appear in court. And, when
24 counsel failed to argue against violations of due process and equal
25 protection of the 14th amendment of the United States constitution

1 that the trial court exceeded its statutory authority and lacked
2 jurisdiction to punish Mayfield, Because he was compliance with the
3 affirmative defense portion of the statute, relied upon to prosecute
4 him?

5
6 **c)** When counsel failed to argue under due process violations that the
7 court exceeded its statutory authority and lacked jurisdiction to
8 punish Mayfield as a result of the final disposition of the quash
9 proceedings held in open court?

10
11 **d) 1)** When counsel failed to argue trial courts abuse of discretion
12 or misapplication of the law or both by arbitrarily counting
13 separately Mayfield's five (5) counts of bail jumping convictions
14 Mayfield received at sentencing for failing to appear on more than
15 one occasion without engaging in a same criminal conduct analysis,
16 for purposes of sentencing?

17
18
19 **d) 2)** When counsel failed to argue that Mayfield's five (5) counts of
20 conviction for bail jumping that Mayfield received at sentencing
21 encompass same criminal conduct under R.C.W. 9.94A.589 (1)(a), for
22 sentencing purposes. Because Mayfield satisfied all three (3)
23
24
25

1 elements required in accordance with the plain meaning of the langu-
2 age in R.C.W. §9.94A.589 same criminal conduct?

3 Or, in the alternative;

4 d) 3) When counsel failed to object to violations of the due process
5 clause. That the R.C.W. §9.94A.589 same criminal conduct statute
6 be struck down, void for vagueness and ambiguity? In addition,
7 the court applies the rule of lenity to the defendant Mayfield?

8 GROUND TWO

9 (2). WHETHER THE COURT ABUSED ITS DISCRETION WHEN IT DENIED
10 MAYFIELD SAME CRIMINAL CONDUCT FOR SENTENCING PURPOSES?

11 a). Did the trial court abuse its discretion or misapply the law
12 or both by arbitrarily counting separately Mayfield's two counts
13 of bail jumping convictions that he received for failing to appear
14 on SEPTEMBER 9, 2004, without engaging in a same criminal conduct
15 analysis?

16 b) Did the court abuse its discretion or misapply the law or both
17 by arbitrarily counting separately, Mayfield's two counts of bail
18 jumping convictions that he received for failing to appear on
19 NOVEMBER 3, 2004, without engaging in a same criminal conduct analy-
20 sis?

21 GROUND THREE

22 (3). WHETHER THE COURT LACKED JURISDICTION TO PUNISH MAYFIELD
23 WHEN HE WAS NO LONGER LIABLE?

24 a). Did the trial court err by erroneously prosecuting Mayfield
25 for bail jumping on June 2, 2004 when it lacked jurisdiction because
Mayfield was no longer liable for punishment as a result of a super-
seding order of continuance?

VI. STATEMENT OF FACTS:

1 On May 13, 2004 at 8:30 a.m., Mayfield, met with his attorney for a
2 pre-trial conference to discuss his charge of possession of stolen
3 property,

4 First degree, (PSP 1). It was commonplace for Mayfield, and his
5 attorney to hold conference in the center hallway between courtrooms
6 550, and 560, (CD1 & CD2), on the fifth floor of the county-city
7 building at 930 Tacoma AVE. S. Tacoma, WA. 98402.

8 At which time Mayfield's, attorney informed him that his next
9 scheduled court date was set for June 2, 2004 at 8:30 a.m.

10 Mayfield's attorney then had him sign a continuance order and
11 informed him that his new scheduled court date was changed now to
12 June 10, 2004, 8:30 a.m., to disregard the June 2, 2004 hearing.

13 On May 30, 2004, Mayfield, moved to just outside of Ellensburg, WA.
14 Of which Mayfield's attorney was aware.

15 On the afternoon of June 2, 2004 Mayfield received a call at his
16 home near Ellensburg, from his attorney to inform him that he had
17 missed court at 8:30 a.m. that morning.

18 Mayfield's attorney advised him to come to Tacoma as soon as
19 possible to schedule a quash hearing. Mayfield, then called his bail
20 bonding company, who also advised him to come to Tacoma right away
21 to schedule a quash hearing and to bring them a copy of the new
22 court date. Mayfield immediately drove the one hundred (100) miles
23 from Ellensburg to Tacoma. Mayfield first entered the clerk's office
24 on the fifth floor of the courthouse in Tacoma, that same day,
25 before 4:00 p.m.

1 The clerk advised Mayfield to leave the building because a warrant
2 had been issued for his, (Mayfield's) arrest. Mayfield left the
3 building and immediately drove to the department of assigned counsel
4 (DAC) and entered their office before 5:00 p.m. of the same day :
5 he failed to appear and scheduled a quash hearing which normally
6 takes about two (2) weeks to take place.

7 Consequently, the June 10, 2004 proceedings were canceled. On June
8 11, 2004 at 8:30 a.m. Mayfield, appeared in open court and the
9 matter of Mayfield's, Failure to Appear, was resolved, pursuant to
10 the quash proceedings. On a later date the state amended information
11 and charged Mayfield with bail jumping. Mayfield's court appointed
12 attorney was taken off the case for purposes of testifying against
13 Mayfield.

14 On May 24, 2004, Mayfield was charged with UPCS & UPFA 2, cause
15 number #04-1-0255609, (COA# 33740-1-II). On July 1, 2004, the court
16 began scheduling Mayfield, to appear simultaneously for both cases.
17 Mayfield continued in his obligations to the court, appearing for
18 both cases simultaneously. On two separate occasions, August 3, 2004
19 at 8:30 a.m., and again on August 23, 2004 at 8:30 a.m., after
20 Mayfield had driven the one hundred miles from Ellensburg to court,
21 Upon arrival, Mayfield met with his attorney who informed him that
22 court had been canceled that day. Then, as a result of a
23 misunderstanding, between Mayfield and his newly appointed counsel,
24 when Mayfield's counsel advised him that he was not required to
25 appear to the Sep. 9, 2004 8:30 a.m. proceedings, Mayfield failed to
appear, and he was charged with bail jumping for both cases.

1 On the afternoon of Sep. 9, 2004, Mayfield received a phone call at
2 his home near Ellensburg, from his attorney to inform him that he
3 had missed court at 8:30 a.m. that morning.

4 Mayfield immediately called his bail bond company. Then at the
5 advice of both his attorney and his bail bond agent he immediately
6 drove the one hundred miles to Tacoma, and scheduled a quash hearing
7 before 5:00 p.m. that same day. On Sep. 28, 2004, Mayfield appeared
8 in open court and the matter of Mayfield's failure to appear was
9 resolved, for both cases, pursuant to the quash proceedings. On a
10 later date the state amended the information and charge Mayfield
11 with bail jumping for both cases. Mayfield's court appointed
12 attorney was taken off the case for purposes of testifying against
13 Mayfield.

14 On Oct. 27, 2004, Mayfield did not appear at 8:30 a.m. as required,
15 resulting in a failure to appear, for both cases. Mayfield did
16 appear at the 1:30 p.m. proceedings that same day. The matter was
17 resolved; pursuant to an administrative quash proceeding. As a
18 result, Mayfield was not charged with bail jumping.

19 On Nov. 3, 2004, in the early a.m. hours, Mayfield's vehicle was out
20 of commission, due to heavy snow conditions.

21 As a result, Mayfield failed to appear simultaneously at 8:30 a.m.
22 for both cases.

23 At his earliest opportunity Mayfield, made contact with his attorney
24 and bail bond company. Upon their instructions, Mayfield drove to
25 Tacoma to schedule a quash hearing.

On Nov. 19, 2004 Mayfield appeared in open court and the matter of
Mayfield's failure to appear was resolved pursuant to the quash

1 proceedings. On a later date the state amended information, and
2 charged Mayfield with bail jumping for both cases. While still out
3 on bail, Mayfield continued to fulfill his obligations to the court,
4 appearing to several more proceedings. On April 25, 2004 Mayfield
5 began trial for cause no. #04-1-02556-9, (COA#33740-1-II). Mayfield
6 was found guilty of all charges except intent to deliver. Mayfield's
7 sentencing hearing was on August 12, 2005. At which time Mayfield
8 also plead guilty to the current case on review. The court ran all
9 of Mayfield's convictions concurrent with an offender score of
10 twelve (12) points, four (4) prior criminal history points, and
11 eight (8) current offense points. Five (5) of which are for bail
12 jumping, with a standard sentencing range of 51 to 60 months.
13
14 Mayfield received the low-end range of 51 months of confinement and
15 nine (9) months community custody.

16 **VII. CONSIDERATIONS OF ETHICAL JURISPRUDENCE:**

17 Mayfield humbly reminds the court that he is a layman. A member of
18 the brotherhood of carpenters union; lath and plaster; local 1144.
19 He has a limited education; a high school diploma, and a few credits
20 shy of an associate's degree. Mayfield respectfully requests the
21 court to recognize that he is not adept at the general inner-
22 workings of the law and the artful skill of pleading. Moreover, his
23 endeavors are without the assistance of even a jailhouse lawyer.
24 Mayfield has pursued with painstaking effort to rise to a higher
25 level of understanding of the law in an attempt to present his cause
in a suitable manner of expression and format that he believes best
conveys his prayer for relief from a manifestation of injustice.

1 Mayfield asks the court to apply liberal interpretation to his
2 cause; RAP 1.2(a).

3 However, inartfully pleaded, his pro se complaint be held to less
4 stringent standards than a formal pleading drafted by lawyers.

5 HAINES V. KERNER, 404 U.S. 519, 92 S. Ct.
6 594, 30 L.Ed 2d 652 (1972).

7
8 In addition, Mayfield respectfully urges the court to interject "Sua
9 Sponte" any grounds that might prove beneficial to his case.

10 This court has authority to determine
11 whether a matter is properly before the
12 court to perform those acts which are
13 proper to secure fair and orderly review
14 and waive the rules of appellate
15 procedure when necessary to "serve the
16 ends of justice" R.A.P. 1.2(c).

17 STATE V. AHO, 137 wn.2d 736, 741, 975
18 P.2d 512 (1999).

19
20 **VIII. GROUND FOR RELIEF AND ARGUMENT:**

21 **(1). Ineffective assistance of counsel:**

22 The provisions of the sixth amendment of the United States
23 Constitution and article 1 section 22 of the Washington State
24 Constitution guarantee effective assistance of counsel to an
25 accused.

26 STATE V. HENDRICKSON, 129 wn.2d 61, 75,
27 917 P.2d 563 (1996);

28 STRICKLAND V. WASHINGTON, 466 U.S. 668,
29 689, 104 S Ct. 2052, 80 L. Ed. 2d 674
30 (1984).

1 To show ineffective assistance of counsel, the defendant must show
2 both deficient performance and prejudice;

3 Deficient performance occurs when counsel's performance falls below
4 an objective standard of reasonableness.

5 Prejudice occurs when, but for the deficient performance, there is a
6 reasonable probability the outcome of the proceedings would have
7 been different.

8 STATE V. ROBERTS, NO.25727-1-II (2000);
9 STATE V. STENSON, 132 wn.2d 668, 705, 940
10 P.2d 1239 (1997);
11 STATE V. LORD, 117 wn.2d 829, 883-84, 822
12 P.2d 177 (1991);
13 STRICKLAND V. WASHINGTON, SUPRA.

14 (a). On may 13, 2004 during a pretrial conference, Mayfield's
15 counsel had him, Mayfield sign an order of continuance, and told
16 Mayfield to disregard the hearing set for June 2, 2004 at 8:30
17 a.m... To instead appear on June 10, 2004 at 8:30 a.m. since May-
18 field was living so far away in Ellensburg. Even counsel did not,
19 appear on June 2. SEE EX. (1a,b,c).

20 Mayfield had a constitutional right of reasonable expectations to
21 rely on his attorney, and to believe that in following the advice of
22 his attorney would be appropriate conduct.

23 Under the provisions of the sixth
24 amendment of the United States
25 constitution and article 1 section 22 of
the Washington State constitution,
guarantee effective assistance of counsel
to an accused.

STATE V. HENDRICKSON, 129 wn.2d 61, 75,
917 P.2d 563 (1996)

1 STRICKLAND V. WASHINGTON, 466 U.S. 668,
2 689, 104 S. Ct. 2052, 80 L. Ed. 2d 674
 (1984).

3 CONTINUANCE: the adjournment or postponement of a trial or other proceedings to a future date.

4 BLACKS LAW DICTIONARY

5 Due process requires that a defendant be sentenced on the basis of accurate information.

6 U.S. V. NAPPI, 243 F.3d 758 (3rd cir. 2001)

7 U.S. V. ESCHMAN, 227 F.3d 886 (7th cir. 2000).

8
9 The court lacked jurisdiction and exceed its statutory authority to punish Mayfield, because Mayfield could not however be convicted of failing to appear for his continuance hearing "as required" on June 2, 2004 when his continuance hearing had been continued to June 10, 2004. He simply was not "required" to appear on June 2, 2004.

10
11
12
13 R.C.W. § 9A.040.030 (1) Establishes personal jurisdiction over individuals who commit crimes in this state.

14 STATE V. B.P.M., NO. 43144-II at [35] (1999).

15
16 The following persons are liable to punishment (1) a person who commits in this state any crime, whole or in part...

17 R.C.W. § 9A.04.030 (1) STATE CRIMINAL JURISDICTION.

18
19 Fisher could not however be convicted of failing to appear for trial "as required" on May 31 when trial had been continued to June 27. He simply was not "required" to appear on May 31.

20 U.S. V. FISHER, 137 F.3d 1158, at 1162 (9th cir. 1998).

21
22
23 If petitioner's sentence is not authorized by statute. Failure to correct the defect could result in a denial of petitioner's due process rights.

1 HILL V. ESTELLE, 653 F.2d 202, 204, (5th
2 cir.) citing
3 HICKS V. OKLAHOMA, 447 US 343, 65 L.Ed2d
4 175 100 S. ct. 2227 (1980)

5 Since the sentencing court exceeded its
6 statutory authority it is necessary to
7 consider the appropriate remedy. It is
8 well established that the imposition of
9 an unauthorized sentence does not require
10 vacation of the entire judgment or
11 granting of a new trial.

12 IN RE CARLE, 93 wn.2d 31, 604 P.2d 1293
13 (1980);

14 The error is grounds for reversing only
15 the erroneous portion of the sentence
16 imposed.

17 STATE V. EILTS, 94 wn.2d 496, 617 P.2d
18 993 (1980).

19
20
21 Mayfield did not know at the time he pleaded guilty that the court
22 lacked jurisdiction.

23 A defendant's plea of guilty does not
24 waive claim that offense is one which
25 state may not constitutionally prosecute.
26 MATTER OF BUTTLER, 24 wash. App. 175, 599
27 P.2d 1311 (1979)

28 We have held that a guilty plea in
29 Washington does not usually preclude a
30 defendant from raising collateral
31 questions such as ... sufficiency of the
32 information, and jurisdiction of the
33 court... A defendant also may challenge his
34 sentence if the court exceeded its
35 statutory sentencing authority.

36 STATE V. PHELPS, NO. 26076-0-II at [23]
37 (2002)

38 STATE V. MAJORS, 94 wn.2d 354, 356, 616
39 P.2d 1237 (1980)

40 Mayfield's counsel's performance was deficient and fell below a
41 minimum objective standard of reasonable attorney conduct when
42 counsel allowed Mayfield to be misled, even encouraged him on

1 several occasions, to accept a guilty plea for bail jumping, when
2 Mayfield failed to appear in court on June 2, 2004 at 8:30 a.m.
3 Also, failed to argue in a preliminary showing the ineffective
4 assistance of Mayfield's earlier counsel when that counsel told
5 Mayfield that he was not required to appear on June 2, 2004, and
6 allowed the court without argument under violations against due
7 process when the court exceeded its statutory authority that
8 requires a defendant to be sentenced on the basis of accurate
9 information, to prosecute Mayfield for bail jumping because the
10 information relied upon to substantiate Mayfield's failure to appear
11 in court on June 2, 2004 at 8:30 a.m. had been superseded by the
12 court order of continuance document signed by Mayfield at a prior
13 pre-trial conference on May 13, 2004 ordering Mayfield to disregard
14 scheduled subsequent proceedings. No longer requiring him to appear
15 on the date in question of June 2, 2004 at 8:30 a.m. and ordering
16 Mayfield to instead, appear on June 10, 2004 at 8:30 a.m. and as a
17 result the court lacked jurisdiction to punish Mayfield because he
18 was no longer liable.

19 Prejudice occurred when, had Mayfield's first counsel NOT lead
20 Mayfield to believe the continuance order Mayfield signed on May
21 13, was in fact a superseding order directing Mayfield to disregard
22 the June 2 hearing, Mayfield would have appeared on June 2, 04
23 and would not have been charged with bail jumping. In addition,
24 if Mayfield's trial counsel would have objected to the court and
25 pointed out to Mayfield the courts lack of jurisdiction as a result
of the ambiguous "continuance order" in combination with Mayfield's
first counsel ineffectiveness, Mayfield would NOT have pleaded
guilty to bail jumping.

22 Conclusion:

23 Wherefore, in light of the above, Mayfield respectfully requests
24 that the court dismiss Mayfield's one count for bail jumping on June

1 2, 2004 and reverse the erroneous portion of Mayfield's sentence,
2 remand for resentencing, or whatever action the court deems
3 appropriate.
4

5 (b). On two separate occasions, either intentionally or
6 recklessly Mayfield's attorney misled him in regards to whether he
7 was required to appear in court.

8 The first being when Mayfield's attorney had him sign the order of
9 continuance at the May 13, 2004 pre-trial conference. Indicating to
10 Mayfield to disregard the subsequent June 2, 2004 proceedings.

11 The second being when Mayfield's attorney stated that he, Mayfield
12 was not required to appear at the Sep. 9, 2004 proceedings.

13 SEE EXHIBIT: (1)

14 SEE EXHIBIT: (2)

15 R.C.W. 9A.176.70 BAIL JUMPING

16 (1) Any person having been released by
17 court order or admitted to bail with
18 knowledge of the requirement of a
19 subsequent personal appearance before any
20 court of this state, or of the
21 requirement to report to a correctional
22 facility for service, and who fails to
23 appear or who fails to surrender for
24 service of sentence as required is guilty
25 of bail jumping.

(2) It is an affirmative defense to a
prosecution under this section that
uncontrollable circumstances prevented
the person from appearing or
surrendering, and that the person did not
contribute to the creation of such
circumstances in reckless disregard of
the requirement to appear or surrender,
and that the person appeared or

1 surrendered as soon as such circumstance
2 ceased to exist.

3 Mayfield had a constitutional right of reasonable expectations to
4 rely on his attorney, and to believe that in following the advice of
5 his attorney would be appropriate conduct.

6 Under the provisions of the sixth
7 amendment of the United States
8 constitution and article 1 section 22 of
9 the Washington State constitution,
10 guarantee effective assistance of counsel
11 to an accused.

12 STATE V. HENDRICKSON, 129 wn.2d 61, 75,
13 917 P.2d 563 (1996)
14 STRICKLAND V. WASHINGTON, 466 U.S. 668,
15 689, 104 S. Ct. 2052, 80 L.Ed2d 674
16 (1984).

17 Next, Mayfield's home is approximately fifteen miles outside of
18 Ellensburg city limits.³ Located in the foothills of the Wenatchee
19 National forest, at a much higher elevation and therefore subjected
20 to much more severe weather conditions. On the morning of Nov. 3,
21 2004 Mayfield's car was out of commission due to heavy snow
22 conditions; SEE EX. (3) [REDACTED]

23 Mayfield drives a rear wheel drive, two wheel drive Datsun 280z,
24 sport-car. It is not designed for heavy snow conditions.

25 A person of reasonable understanding could logically infer that,
26 Mayfield's actions were in accordance with the provisions of the
27 affirmative defense portion of R.C.W. 9A.76.170 (2) where, first;

28 Mayfield's circumstances were uncontrollable. And second, from
29 Mayfield's actions such as appearing to 45 out of 48 scheduled court
30 proceedings over the span of a year, traveling two hundred (200)
31 miles round trip between Ellensburg, WA. And Tacoma, WA. And

32 ³Mayfield's address is
33 431 upper green canyon
34 Ellensburg, WA. 98926

1 immediately appeared or surrendered as soon as Mayfield's
2 uncontrollable circumstances allowed, or ceased to exist by
3 immediately contacting his attorney and bail bonding company and
4 upon their instructions immediately scheduled a quash hearing and
5 appeared as required, that Mayfield held his obligations to the
6 court in high regard? And should enjoy reasonable expectations of
7 due process and equal protection of the law. To suggest otherwise,
8 would create a fundamental defect which would inherently result
9 in a complete miscarriage of justice.

10 SEE EX. (5a,b),(7)

11 The defense provided in the statute
12 relates to the defendant's inability to
13 attend ...

14 STATE V. FREDRICK, 123 Wn. App. 347, at
15 353, 97 P.3d 47 (2004).

16 The phrase uncontrollable circumstances, could imply to a reasonable
17 mind to be an unknown factor in a given act, event, or condition not
18 clearly defined, with unknown limits or boundaries that may arise
19 that are unfamiliar to that person. Not necessarily life
20 threatening.

21 Moreover, would it not depend on how that person were capable of
22 dealing with a given circumstance that would determine whether that
23 circumstance was in fact controllable or uncontrollable?

24 For the government to punish a person
25 because he had done what the law plainly
allows him to do is a due process
violation of the most basic sort.

U.S. V. ANDERS, 211 F.3d 711, (2d cir.
2000).

1 According to the provisions of R.C.W. 9A.76.170(2) Mayfield did not
2 commit a crime of bail jumping in this state.
3 On the contrary, Mayfield was in compliance with the law. Under the
4 provisions of R.C.W. 9A.04.030 (1) the court had no jurisdiction to
5 punish Mayfield, and exceeded its statutory authority in doing so.

6 R.C.W. 9A.04.030 (1) establishes personal
7 jurisdiction over individuals who commit
8 crimes in this state.
9 STATE V. B.P.M., NO.43144-1-I at [35]
10 (1999).

11 The following persons are liable to
12 punishment (1) A person who commits in
13 the state any crime, whole or in part..
14 R.C.W. 9A.04.030 (1).

15 If petitioner's sentence is not
16 authorized by statute, failure to correct
17 the defect could result in denial of
18 petitioners due process rights.
19 HILL V. ESTELLE, 653 F.2d 202, 204, (5th
20 cir.) citing;
21 HICKS V. OKLAHOMA, 447 U.S. 343, 65 L.Ed2
22 175 100 S. Ct. 2227 (1980).

23 Since the sentencing court exceeded its
24 statutory it is necessary to consider the
25 appropriate remedy. It is well
established that the imposition of an
unauthorized sentence does not require
vacation of the entire judgment or
granting of a new trial.
IN RE CARLE, 93 wn.2d 31, 604 P.2d 1293
(1980).

26 The error is grounds for reversing only
27 the erroneous portion of the sentence
28 imposed.
29 STATE V. EILTS, 94 wn.2d 496, 617 P.2d
30 993 (1980).

1 We have held that a guilty plea in
2 Washington does not usually preclude a
3 defendant from raising collateral
4 questions such as... sufficiency of the
5 information and jurisdiction of the
6 court... A defendant also may challenge his
7 sentence if the court exceeded its
8 statutory sentencing authority.

9 STATE V. PHELPS, NO.26076-0-II at [23]
10 (2002);
11 STATE V. MAJORS, 94 wn.2d 354, 356, 616
12 P.2d 1237 (1980).

13 A defendant's plea of guilty does not
14 waive claim that offense is one which
15 state may not constitutionally prosecute.
16 MATTER OF BUTTER, 24 wash. App. 175, 599
17 P.2d 1311 (1979).

18 A plea bargaining agreement cannot exceed
19 the statutory authority given to the
20 courts.

21 "There can be no restitution without a
22 conviction."

23 IN RE GARDNER, 94 wn.2d 504, at 507, 617
24 P.2d 1001 (1980).

25 Mayfield's counsel's performance was deficient and fell below a
minimum objective standard of reasonable attorney conduct when
counsel failed to point out the ineffective assistance of Mayfield's
earlier counsel. And to make a preliminary showing that the court
lacked jurisdiction and exceeded its statutory authority to punish
Mayfield because he was in complete compliance with the affirmative
defense portion of the bail jumping statute, and therefore no longer
liable to punishment. To do so would violate Mayfield's due process
and equal protection rights guaranteed under the 14th amendment of
the United States constitution.

1 Therefore, Mayfield's counsel's performance was deficient when
2 counsel allowed Mayfield to be misled into pleading guilty to bail
3 jumping.

4 Prejudice occurred when, but for the deficient performance there is
5 a reasonable probability that if counsel would have argued that
6 because Mayfield relied on his earlier counsel for accurate and
7 proper guidance in regards to his required court appearance. And had
8 done what the law had plainly allowed him to do, in accordance with
9 the affirmative defense portion of the statute/law. And if counsel
10 would have made all parties aware that the court exceeded its
11 statutory authority and lacked jurisdiction to punish Mayfield under
12 R.C.W. 94A.04.030 (1). And that in doing so would violate Mayfield's
13 due process and equal protection rights under the 14th amendment of
14 the United States constitution. The court would not have prosecuted
15 Mayfield for failing to appear in court on June 2, 2004, Sep. 9,
16 2004, and Nov. 3, 2004.

17 Furthermore, Mayfield certainly would not have pleaded guilty to
18 bail jumping.

19 Conclusion:

20 Wherefore, in light of the above, Mayfield, respectfully requests
21 the court to dismiss Mayfield's three (3) counts of bail jumping
22 convictions and reverse the trial court by reversing the erroneous
23 portion of Mayfield's sentence and remand for resentencing, or
24 whatever the court deems appropriate.

1 (c). Because the act of failing to appear is the essential
2 beginning element of the warrant for failing to appear; to quash a
3 warrant for failing to appear is to deprive it of all force and
4 operation from its beginning or future transaction, in effect
5 quashing the underlying offense, i.e., "failure to appear."

6 The prosecutor quashed several warrants
7 for Davis in exchange for information.
8 STATE V. DAVIS, 93 wash. App. 648, 970
9 P.2d 336 (1999).

10 The implication here is that quashing the warrants in effect quashed
11 Davis's underlying offenses. i.e., the beginning essential elements
12 of the warrants. Depriving the obligation of Davis for the
13 underlying offense of all force and operation, from the beginning or
14 future transaction.

15 QUASH: To annul; to annul a judgment or
16 judicial proceeding is to deprive it of
17 all force and operation either ab initio
18 (from the beginning) or prospectively as
19 to future transaction.
20 BLACKS LAW DICTIONARY

21 Mayfield failed to appear at 8:30 a.m. on Oct. 27, 2004. The court
22 issued a warrant for Mayfield. Mayfield appeared in court that
23 afternoon at 1:30 p.m. An administrative quash hearing was held and
24 the matter was resolved. Mayfield was not charged for bail jumping.
25 Here Mayfield's court recognized the full force and finality of the
quash proceedings. As a result Mayfield was not charged with bail
jumping.

SEE EX. (5)

1 Each case of Mayfield's bail jumping convictions were identical in
2 fact and in law as the Oct. 27, 2004 case.

3 (Mayfield failed to appear, a warrant was issued, Mayfield appeared
4 or surrendered as soon as circumstances allowed or ceased to exist.
5 The matter was resolved pursuant to a quash proceeding, Mayfield was
6 not charged with bail jumping.)

7 Was the difference of a few hours the deciding factor in determining
8 whether Mayfield be charged with bail jumping? Such as he was for
9 June 2, 2004 when Mayfield appeared before 4:00 p.m., And had
10 scheduled a quash hearing before 5:00 p.m.? And on Sep. 9, 2004 when
11 he had scheduled a quash hearing before 5:00 p.m.? Or, even on Nov.
12 3, 2004, when Mayfield's circumstances did not allow him to appear
13 for a few days?

14 The statute does not mention as an affirmative defense any sort of
15 time bar, with the exception of the phrase "as soon as." Which seems
16 rather vague.

17 Based on the outcome of Mayfield's failure to appear on Oct. 27,
18 2004, when in this particular case the court recognized the finality
19 and force of the quash proceedings, the court should adhere to that
20 well established jurisprudence for each failure to appear that
21 Mayfield was ultimately charged and convicted for bail jumping.

22 **The court lacked** jurisdiction and exceed its statutory authority
23 to punish Mayfield for bail jumping, **because** the essential
24 element and underlying offense of failure to appear had been
25 deprived of all force and operation as to future transaction i.e.,
where there is no longer a crime as a result of the quash
proceedings, making Mayfield no longer liable.

1 "There can be no restitution without a conviction."

2 IN RE GARDNER, 94 wn.2d 504, at 507, 617 P.2d 1001 (1980).

3 The following persons are liable to
4 punishment (1) A person who commits in
5 the state any crime, whole or in part...
6 R.C.W. 9A.04.030 (1).

7 If petitioner's sentence is not
8 authorized by statute, failure to correct
9 the defect could result in denial of
10 petitioners due process rights.

11 HILL V. ESTELLE, 653 F.2d 202, 204, (5th
12 cir.) citing;

13 HICKS V. OKLAHOMA, 447 U.S. 343, 65 L.Ed2
14 175 100 S. Ct. 2227 (1980).

15 Since the sentencing court exceeded its
16 statutory it is necessary to consider the
17 appropriate remedy. It is well
18 established that the imposition of an
19 unauthorized sentence does not require
20 vacation of the entire judgment or
21 granting of a new trial.

22 IN RE CARLE, 93 wn.2d 31, 604 P.2d 1293
23 (1980).

24 The error is grounds for reversing only
25 the erroneous portion of the sentence
imposed.

STATE V. EILTS, 94 wn.2d 496, 617 P.2d
993 (1980).

We have held that a guilty plea in
Washington does not usually preclude a
defendant from raising collateral
questions such as... sufficiency of the
information and jurisdiction of the
court... A defendant also may challenge his
sentence if the court exceeded its
statutory sentencing authority.

STATE V. PHELPS, NO.26076-0-II at [23]
(2002);

STATE V. MAJORS, 94 wn.2d 354, 356, 616
P.2d 1237 (1980).

1 A defendant's plea of guilty does not
2 waive claim that offense is one which
3 state may not constitutionally prosecute.
4 MATTER OF BUTTER, 24 wash. App. 175, 599
5 P.2d 1311 (1979).

6 A plea bargaining agreement cannot exceed
7 the statutory authority given to the
8 courts.

9 "There can be no restitution without a
10 conviction."

11 IN RE GARDNER, 94 wn.2d 504, at 507, 617
12 P.2d 1001 (1980).

13 Mayfield's counsel's performance was deficient and fell below a
14 minimum objective standard of reasonable attorney conduct when
15 counsel allowed, even encouraged Mayfield to plead guilty for bail
16 jumping. In addition, failed to make a preliminary showing that the
17 court lacked jurisdiction and exceeded its statutory authority to
18 punish Mayfield for bail jumping because he was no longer liable to
19 punishment as a result of the quash proceedings. **doing so** would
20 violate Mayfield's due process and equal protection rights
21 guaranteed under the 14th amendment of the United States
22 constitution.

23 Prejudice occurred when, but for the deficient performance there is
24 a reasonable probability that if counsel would have made all parties
25 aware that the court lacked jurisdiction and exceeded its statutory
authority to punish Mayfield under R.C.W. 94A.04.030 (1), pursuant
to the quash proceedings. That in doing so would violate Mayfield's
due process and equal protection rights under the 14th amendment of
the United States constitution. The court would not have prosecuted
Mayfield for failing to appear in court on June 2, 2004, Sep. 9,
2004, and Nov. 3, 2004.

1 Furthermore, Mayfield certainly would not have pleaded guilty to
2 bail jumping.

3 Conclusion:

4
5 Wherefore, in light of the above, Mayfield, respectfully requests
6 the court to dismiss Mayfield's three (3) counts of bail jumping
7 convictions and reverse the trial court by reversing the erroneous
8 portion of Mayfield's sentence and remand for resentencing, or
9 whatever the court deems appropriate.

10 (d) (1) (2) (3). Mayfield failed to appear for court on June 2,
11 2004 at 8:30 a.m. for cause no.04-1-01851-1 (COA #33734-7-II).
12 Mayfield also failed to appear on Sep. 9, 2004 at 8:30 a.m.
13 simultaneously for cause no's. COA #33734-7-II and 04-1-02556-9 (COA
14 #33740-1-II). And again on Nov. 3, 2004 at 8:30 a.m. he failed to
15 appear simultaneously for the same as above two cause numbers. SEE
16 EXHIBITS: (5)

17 R.C.W. 9.94A.589 (1) (a): provides that
18 two (2) or more crimes encompass the same
19 criminal conduct for sentencing purposes
20 if the crimes (1) involve the same
21 criminal intent, (2) are committed at the
22 same time and place, and (3) involve the
23 same victim.

24 Mayfield and his attorney always met in the center hallway on the
25 fifth (5th) floor of the Tacoma county-city building, located at 930
Tacoma AVE. S. Tacoma, WA. 98402.

1 Where he, Mayfield, and his attorney would hold conference and
2 discuss both cases.

3 At Mayfield's sentencing, the court arbitrarily counted Mayfield's
4 five counts of convictions for bail jumping separately without
5 engaging in a same criminal conduct analysis. Resulting in a much
6 higher sentencing range for Mayfield.

7 If the court arbitrarily counted the
8 convictions separately, it abused its
9 discretion.

10 STATE V. HADDOCK, 141 wn.2d 103; 3 P.3d
11 733 at [3] (2000);

12 RABON V. CITY OF SEATTLE, 135 wn.2d 278,
13 284, 957 P.2d 621 (1998).

14 (1) Same criminal intent;

15 The court said the jury, could infer from
16 Espey's flight from the sheriff, he
17 knowingly failed to appear.

18 STATE V. ESPEY, NO. #22561-1-II (1999).

19 The court said Fredrick fails to provide
20 substantial evidence to prove the
21 affirmative defense to bail jumping
22 because the scheduling order shows that
23 Fredrick did not appear or surrender
24 until 21 days after Fredrick's original
25 court date. She also knew she failed to
appear because she called her attorney
two days after missing her court date.

STATE V. FREDRICK, 123 WA. App. 347, 353-
55, 97 P.3d 47 (2004).

26 From Mayfield's appearance to 45 out of 48 scheduled court
27 appearances over the course of a year; SEE EXHIBIT:

28 Traveling 200 miles round trip between Ellensburg, WA. And Tacoma,
29 WA. Each time. Together with Mayfield's compliance with the

1 affirmative defense portion of the bail jumping statute, When after
2 his attorney called him and informed him that he had failed to
3 appear, he immediately made contact with his bail bonding company
4 and immediately appeared, a person of reasonable understanding could
5 logically infer that Mayfield's criminal intent be regarded as
6 unintentional. And objectively viewed, it could be inferred that
7 Mayfield did poses the same intent for each offense. And therefore
8 satisfied the first required element; SEE EX. (5a,b),(7)

(2) Same time and place;

9 As required, like clock work, Mayfield appeared to 45 out of 48
10 scheduled court proceedings at the same time and place, 8:30 a.m.,
11 Tacoma county-city building, 930 Tacoma AVE. S. Tacoma, WA. 98402,
12 for over the span of a year.

13 Moreover, Mayfield was in compliance as it applies to him, within
14 the plain meaning of the statutory language of the law when he
15 failed to appear at the same time and place, 8:30 a.m., Tacoma
16 county-city building, 930 Tacoma AVE. S. Tacoma, WA. 98402, on more
17 than one occasion.

18 Plain and unambiguous statutory language
19 must be accepted on its face.

20 STATE V. JOHNSON, 66 wash. App. 297, 301,
21 831 P.2d 1137 (1992);

22 STATE V. ROBERTS, 117 wash. App. 576,
23 584, 817 P.2d 855 (1991).

24 Given the nature of the circumstances as they apply to
25 Mayfield, could a reasonable mind infer the word time to mean "TIME"
and not, "DATE?" To suggest otherwise, would imply a congruous double-
ness of meaning, to signify both "DATE" & "TIME."

1 Thereby rendering the statute unconstitutionally vague and
2 ambiguous. Allowing the court to act within double standards in
3 which to arbitrarily enforce punishment, ending in inappropriate
4 results for the defendant Mayfield.

5 When a statute does not define a term the
6 court may ascertain its plain and
7 ordinary meaning from a standard
8 dictionary.

9 STATE V. RUSSELL, NO. #69334-0 at [74]
10 (2001).

11 TIME: a specific hour, day, season, year,
12 etc.

13 FUNK & WAGNALLS STANDARD DICTIONARY.

14 AMBIGUITY: doubleness of meaning; and
15 uncertainty of meaning or intention; as
16 in a statutory provision.

17 BLACKS LAW DICTIONARY.

18 VAGUE: Imprecise; not sharply outlined;
19 indistinct; not clearly or concretely
20 expressed.

21 BLACKS;

22 VAGUENESS: Uncertain breadth of meaning;
23 (the phrase "within a reasonable time" is
24 plagued by vagueness- What is
25 reasonable?)

BLACKS;

 VOID FOR VAGUENESS: (of a penal statute)
 Establishing a requirement or punishment
 without specifying what is required or
 what conduct is punishable and therefore
 void because volative of Due Process.

BLACKS;

 VAGUENESS DOCTRINE: Constitutional law;
 The doctrine - based on the due process
 clause - requiring that criminal statute
 state explicitly and definitely what acts
 are prohibited so as to provide fair
 warning and preclude arbitrary
 enforcement.

BLACKS;

1 The doctrine of vagueness involves two
2 due process concepts (1) Notice of
3 conduct required and; (2) The right of a
4 citizen not to be the subject of
5 arbitrary enforcement of laws regulating
6 his or her conduct.

7 STATE V. WILSON, 96 Wash. App. 382, 980
8 P.2d (1999); citing -
9 STATE V. MYLES, 127 wn.2d 807, 812, 903
10 P. 2d 979 (1995).

11 The following is a list of R.C.W. Statutes that do use the word
12 "DATE" in the phrase "SAME DATE, TIME AND PLACE" as a distinction
13 between "DATE" and "TIME."

14 R.C.W. 7.80.080; same date time and place
15 R.C.W. 7.84.060; same date time and place
16 R.C.W. 9.73.230; same date time and place
17 R.C.W. 9.73.260; same date time and place
18 R.C.W. 9.73.30; same date time and place
19 R.C.W. 9.41.090; same date time and place
20 R.C.W. 9A.82.120; same date time and place
21 R.C.W. 9A.44.130; same date time and place
22 R.C.W. 10.79.080; same date time and place
23 R.C.W. 10.79.150. same date time and place

24 In light of the above, could a person of reasonable understanding
25 infer that if legislature had intended the phrase SAME TIME AND
PLACE to mean SAME DATE TIME and PLACE, they would have included
the word "DATE" in the statutory language, of R.C.W. § 9.94A.589?

Under the due process clause, a statute
which criminalizes conduct may not be
impermissibly vague in any of its
applications.

FORBES V. NAPOLITANO, 236 F.3d 1009 (9th
cir. 2000).

The Washington Supreme court emphasized
that the "touch stone" of the rule of
lenity is statutory ambiguity.

WASHINGTON V. FARMER, 100 wn.2d 334, 669
P.2d 1240 (1983).

1 Under the rule of lenity, ambiguous
2 criminal statutes must be strictly and
liberally construed in favor of the
defendant.

3 STATE V. JOHNSON, 66 wash. App. 297, 301,
831 P.2d 1137 (1992);
4 Eg STATE V. WILBUR, 110 wn.2d 16, 19, 749
P.2d 1295 (1988).

5 (3) Same victim;

6 Whether the victim in each case is the general public, or Mayfield's
7 bail bonding company, with whom Mayfield has remained in good
8 standing at all times. Or if the offense could be deduced a strict
9 liability crime, **a reasonable mind could** logically infer that the
10 victim in all counts are the same.

11 Mayfield sustained financial injury; i.e., court fees incurred;
12 additional raise in bail; an additional \$2,000.00 filing fees with the
bail bond company; additional prison time; emotional stress.

13 SEE EXHIBIT: (6)

14
15 Definition of "victim" according to the
16 sentencing reform act of 1981 (SRA): "Any
17 person who has sustained emotional,
psychological, physical or financial
18 injury to person or property as a direct
result of the crime charged."
R.C.W. 9.94A.030 (40).

19 Mayfield's attorney allowed, even encouraged him to plead guilty. At
20 the time Mayfield did not know the statute was vague and ambiguous.

21
22 We have held that a guilty plea in
Washington does not usually preclude a
23 defendant from raising collateral
questions such as... the validity of the
24 statute...

1 STATE V. PHELPS, NO.26076-0-II at [23]
2 (2002);
3 STATE V. MAJORS, 94 wn.2d 354, 356, 616
4 P.2d 1237 (1980).

5 Mayfield's counsel's performance was deficient and fell below a
6 minimum objective standard of reasonable attorney conduct. when
7 counsel failed to argue that the trial court abused its discretion
8 or misapplied the law or both by arbitrarily counting separately
9 Mayfield's five (5) counts of bail jumping convictions that he
10 received at sentencing without the court engaging in a same criminal
11 conduct analysis. And that in accordance with the plain language of
12 R.C.W. 9.94A.589 same criminal conduct, Mayfield satisfied all three
13 (3) required elements under the provisions of the statute for
14 purposes of determining whether two or more crimes encompass the
15 same criminal conduct for sentencing purposes.

16 Or in the alternative, the statute be struck down for its congruous
17 doubleness of meaning. Allowing the court to act erroneously within
18 double standards in which to arbitrarily enforce punishment. And
19 should be void for being unconstitutionally vague and ambiguous. And
20 that the court should apply the rule of lenity in favor of the
21 defendant Mayfield.

22 Prejudice occurred when, but for the deficient performance of
23 Mayfield's counsel there is a reasonable probability that the trial
24 court would have engaged in a same criminal conduct analysis to
25 determine whether Mayfield's conduct satisfied all three (3)
 elements as required by the plain meaning in the language of the

1 statute to encompass same criminal conduct. and would have applied
2 R.C.W. 9.94A.589 to Mayfield to encompass Mayfield's five (5) counts
3 of bail jumping as same criminal conduct. To reflect only one (1)
4 additional current offense point, rather than five (5) additional
5 points, for sentencing purposes.

6 Or, in the alternative:

7 In light of fundamental Due Process violations of "NOTICE" and the
8 right of Mayfield not to be the subject of arbitrary enforcement, in
9 the absence of an explicit and sufficiently definite warning and
10 concretely expressed, plain and unambiguous statutory language, The
11 court strike down and void R.C.W. 9.94A.589 same criminal conduct
12 for being unconstitutionally vague and ambiguous. And under the rule
13 of lenity would have applied a more liberal application of same
14 criminal conduct to Mayfield for purposes of sentencing, to resolve
15 the matter strictly in favor of the defendant Mayfield.

16 Finding that within a reasonable understanding of the language in
17 the statute, Mayfield did satisfy all three (3) elements of the
18 statute to produce congruous results. Therefore Mayfield would have
19 been sentenced with only eight (8) total offender points, rather
20 than twelve (12) points to reflect a standard sentencing range of 43
21 - 57 months. Sentencing Mayfield to a low end of 43 months rather
22 than 51 months.

23 Conclusion:

24 Wherefore, in light of the above, Mayfield respectfully requests
25 that the court apply R.C.W. 9.94A.589 same criminal conduct to

1 Mayfield to encompass Mayfield's five (5) counts of bail jumping
2 convictions as same criminal conduct and reverse the trial court and
3 remand Mayfield for resentencing based on a new offender score of
4 eight (8) points.

5 Or, in the alternative:

6 The R.C.W. 9.94A.589 statute be struck down and void for being
7 unconstitutionally vague and ambiguous and apply the rule of lenity
8 strictly and liberally in favor of the defendant Mayfield. To
9 encompass Mayfield's five (5) counts of bail jumping convictions as
10 same criminal conduct, reverse the trial court, and remand Mayfield
11 for resentencing based on a new offender score of eight (8), or
12 whatever action the court deems appropriate.

13 **(2). ABUSE OF DISCRETION:**

14 **(a).** The trial court abused its discretion or misapplied the law
15 or both by arbitrarily counting separately Mayfield's two counts of
16 bail jumping convictions without engaging in a same criminal conduct
17 analysis.

18 Mayfield failed to appear in court on September 9, 2004 at 8:30 a.m.
19 at 930, Tacoma AVE. S. Tacoma, WA. 98402. Simultaneously for cause
20 No. #04-1-01851-1, (COA #33734-7-II) and cause No. #04-1-02556-9,
21 (COA #33740-1-II). As a result Mayfield was ultimately prosecuted
22 for bail jumping for both cases. Mayfield received one (1)
23 additional current offense point for each cause number and therefore
24 sentenced with two (2) additional current offender points.

25 SEE EX. (5a), (7)

1 At sentencing, Mayfield's counsel pointed out to the court, and
2 the State also recognized in part, that several counts of Mayfield's
3 bail jumps doubled because hearings were set on the same day [simul-
4 aneously] for each of the cause numbers.

5 The court arbitrarily counted the convictions separately.
6 SEE EX. (8a,b5-16,c21-25,d1-7); Sentencing transcripts.

7 If the court arbitrarily counted the
8 convictions separately, it abused its
9 discretion.

10 STATE V. HADDOCK, 141 wn.2d 103; 3P.3d
11 733; (2000).

12 RAVON V. CITY OF SEATTLE, 135 wn.2d 278,
13 284, 957 P.2d 621 (1998).

14 R.C.W. 9.94A.589 (1) (a) provides that
15 two or more crimes encompass the same
16 criminal conduct for sentencing purposes
17 if the crimes (1) involve the same
18 criminal intent, (2) are committed at the
19 same time and place, and (3) involve the
20 same victim.

21 (1) Same criminal intent;

22 Both Mayfield's bail jumping convictions are literally a result of
23 one overall purpose, identical, one, and the same offense. That,
24 together, with Mayfield's efforts to comply with the affirmative
25 defense portion of the bail jumping statute, when he appeared or
surrendered as soon as his uncontrollable circumstances allowed, or
ceased to exist, Mayfield's criminal intent could be inferred as
unintentional and objectively viewed as the same intent for each
offense.

SEE EX. (5 a),(7)

1 The fact that the two (2) charges involved different cause numbers
2 should not by itself evidence any difference in intent.

3 "The fact that the two charges involved
4 different drugs does not by itself
5 evidence any difference in intent."
6 STATE V. GARZA-VILLAREAL, 123 wn.2d 42,
7 at 49, 846 P.2d 1378 (1993).

8 (2) Same time and place;

9 Mayfield's concurrent convictions involve simultaneous counts of
10 bail jumping for more than one cause number, on the same date - Sep.
11 9, 2004; at the same time - 8:30 a.m.; at the same place - Superior
12 court, 930, Tacoma AVE. S. Tacoma, WA. 98402.

13 SEE EX. (5 a), (7)

14 Concurrent counts involving simultaneous
15 simple possession of more than one
16 controlled substance encompass the same
17 criminal conduct for sentencing purposes.
18 STATE V. VIKE, 125 wn.2d 407, at 412, 885
19 P.2d 824 (1994).

20 (3) Same victim;

21 Whether the victim in this case is the general public or Mayfield's
22 bail bonding company, with whom Mayfield remained in good standing
23 at all times. Or, given the nature of the offense, and the
24 propensity of the offense to be a strict liability crime, the victim
25 could be Mayfield. Mayfield sustained financial injury i.e., court
fees incurred, additional raise in bail, an additional ~~two thousand~~
dollars \$2,000.00 filing fees with the bail bonding company, SEE
EXHIBIT; ((6)

Definition of "victim" according to the
sentencing reform act of 1981 (SRA): "Any

1 person who has sustained emotional,
2 psychological, physical or financial
3 injury to person or property as a direct
4 result of the crime charged."
5 R.C.W. 9.94A.030 (40).

6 A reasonable mind could infer that in this case the victim is the
7 same.

8 Conclusion:

9 Wherefore, In light of the above stated reasons Mayfield
10 respectfully requests that his two (2) counts of bail jumping
11 convictions encompass the same criminal conduct. So that Mayfield
12 receive only one (1) additional current offense point rather than
13 two (2) points, for sentencing purposes, and the trial court be
14 reversed and Mayfield be remanded for resentencing or whatever
15 action the court deems appropriate.

16 (b). The trial court abused its discretion or misapplied the law
17 or both by arbitrarily counting separately Mayfield's two counts of
18 bail jumping convictions without engaging in a same criminal conduct
19 analysis.

20 Mayfield failed to appear in court on November 3, 2004 at 8:30 a.m.
21 at 930, Tacoma AVE. S. Tacoma, WA. 98402. Simultaneously for cause
22 No. #04-1-01851-1, (COA #33734-7-II) and cause No. #04-1-02556-9,
23 (COA #33740-1-II). As a result Mayfield was ultimately prosecuted
24 for bail jumping for both cases. Mayfield received one (1)
25 additional current offense point for each cause number and therefore
sentenced with two (2) additional current offender points.

SEE EX. (5 a)(7)

1 At sentencing, Mayfield's counsel pointed out to the court, and
2 the State also recognized in part, that several counts of Mayfield's
3 bail jumps doubled because hearings were set on the same day [simul-
4 aneously] for each of the cause numbers.

5 The court arbitrarily counted the convictions separately.
6 SEE EX. (8a,b5-16,c21-25,d1-7); Sentencing transcripts.

7 If the court arbitrarily counted the
8 convictions separately, it abused its
9 discretion.

10 STATE V. HADDOCK, 141 wn.2d 103; 3P.3d
11 733; (2000).

12 RAVON V. CITY OF SEATTLE, 135 wn.2d 278,
13 284, 957 P.2d 621 (1998).

14 R.C.W. 9.94A.589 (1) (a) provides that
15 two or more crimes encompass the same
16 criminal conduct for sentencing purposes
17 if the crimes (1) involve the same
18 criminal intent, (2) are committed at the
19 same time and place, and (3) involve the
20 same victim.

21 (1) Same criminal intent;

22 Both Mayfield's bail jumping convictions are literally a result of
23 one overall purpose, identical, one, and the same offense. That,
24 together, with Mayfield's efforts to comply with the affirmative
25 defense portion of the bail jumping statute, when he appeared or
surrendered as soon as his uncontrollable circumstances allowed, or
ceased to exist, Mayfield's criminal intent could be inferred as
unintentional and objectively viewed as the same intent for each
offense.

SEE EX. (5 a),(7)

1 The fact that the two (2) charges involved different cause numbers
2 should not by itself evidence any difference in intent.

3 "The fact that the two charges involved
4 different drugs does not by itself
5 evidence any difference in intent."
6 STATE V. GARZA-VILLAREAL, 123 wn.2d 42,
7 at 49, 846 P.2d 1378 (1993).

8 (2) Same time and place;

9 Mayfield's concurrent convictions involve simultaneous counts of
10 bail jumping for more than one cause number, on the same date - Nov.
11 3, 2004; at the same time - 8:30 a.m.; at the same place - Superior
12 court, 930, Tacoma AVE. S. Tacoma, WA. 98402.

13 SEE EX. (5a),(7)

14 Concurrent counts involving simultaneous
15 simple possession of more than one
16 controlled substance encompass the same
17 criminal conduct for sentencing purposes.
18 STATE V. VIKE, 125 wn.2d 407, at 412, 885
19 P.2d 824 (1994).

20 (3) Same victim;

21 Whether the victim in this case is the general public or Mayfield's
22 bail bonding company, with whom Mayfield remained in good standing
23 at all times. Or, given the nature of the offense, and the
24 propensity of the offense to be a strict liability crime, the victim
25 could be Mayfield. Mayfield sustained financial injury i.e., court
fees incurred, additional raise in bail, an additional ~~two thousand~~
dollars \$2,000.00 filing fees with the bail bonding company, SEE
EXHIBIT: (6)

Definition of "victim" according to the
sentencing reform act of 1981 (SRA): "Any

1 person who has sustained emotional, psy-
2 chological, physical or financial injury
3 to person or property as a direct result
4 of the crime charged."
5 R.C.W. §9.94A.030 (40).

6 A reasonable mind could infer that in this case the victim is the
7 same, "Mayfield."

8 Conclusion:

9 Wherefore, in light of the above stated reasons Mayfield respectfully
10 requests that his two (2) counts of bail jumping convictions encompass
11 the same criminal conduct. So that Mayfield receive only one (1)
12 additional current offense point rather than two points, for sentenc-
13 ing purposes, and the trial court be reversed and Mayfield be remanded
14 for resentencing or whatever equitable action the court deems appro-
15 priate.

16 (3). LACK OF JURISDICTION:

17 (a). On May 13, 2004, during a pretrial conference, Mayfield signed
18 an order of continuance that ordered Mayfield to disregard the upcom-
19 ing scheduled hearing set for June 2, 2004 at 8:30 a.m. Ordering
20 Mayfield to instead to appear on June 10, 2004 at 8:30 a.m.

21 SEE EXHIBIT: (1)

22 The state charged Mayfield with bail jumping for failing to appear
23 on June 2, 2004.

24 The court lacked jurisdiction and exceeded its statutory authority
25 to punish Mayfield, because Mayfield could not however be convicted
for bail jumping for failing to appear for his June 2, hearing as
required, when his June 2, hearing had been continued to June 10.
He simply was not required to appear on June 2, 2004.

Fisher could not however be convicted
of failing to appear for trial "as requir-
ed" on May 31, when trial had been contin-
ued to June 27. He simply was not "re-
quired" to appear on May 31.

U.S. V. FISHER, 137 F.3d 1158, at 1162,
(9th cir. 1998).

1 **The following persons are liable to pun-**
2 **ishment (1) a person who commits in this**
3 **state any crime, whole or in part...**
 R.C.W. §9A.04.030 (1) STATE CRIMINAL
 JURISDICTION.

4 IX. FINAL CONCLUSION:

5 Wherefore, Mayfield respectfully requests this honorable court to
6 dismiss or reverse Mayfield's multiple counts of bail jumping.

7 Or, in the alternative;

8 Encompass Mayfield's multiple counts of bail jumping as same criminal
9 conduct to reflect only one (1) additional current offense point
10 for sentencing purposes, and remand Mayfield for resentencing based
11 on the corrected offender score, or any other equitable relief as
12 may seem just to the court to correct the erroneous portion of May-
13 field's sentence as a result of cumulative errors and excessive prose-
14 cution.

15
16
17
18 I, Charles Keith Mayfield, declare under penalty of perjury that
19 the above is true and correct to the best of my knowledge.

20 Sworn to on this day;

21
22 Date: 8-7-06
23 Charles K. Mayfield
24 X C. May

25 NOTARY PUBLIC John P. [Signature]
 My commission expires 6/6/10



4.11 BOND IS HEREBY EXONERATED

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

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

43	months on Count	I	51	months on Count	IV
51	months on Count	II		months on Count	
51	months on Count	III		months on Count	

Actual number of months of total confinement ordered is: 51 months.

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

Concurrent to 04-1-02556-9

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

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

Confinement shall commence immediately unless otherwise set forth here:

(b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.506. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 46 days.

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

Count _____ for _____ months;

Count _____ for _____ months;

Count _____ for _____ months;

JES

SUPERIOR COURT OF THE STATE OF WASHINGTON

COUNTY OF Pierce,

STATE OF WASHINGTON,
Plaintiff.

v.

Charles K. Mayfield
Defendant.

No. COA 33734-7-II, 04-1-01851-1

AFFIDAVIT IN SUPPORT OF
MOTION OF ORDER OF
INDIGENCY
RAP 15.2

Charles K. Mayfield, pro se, being duly sworn on oath, deposes and states:

STATEMENT OF FINANCES:

1. I presently have a total of \$ 0 in cash. This amount includes all checking and savings accounts that belong to me.
2. I am/am not employed. My employer is/was N/A.
3. During the last 12 months, I did/did not receive any money from business, profession, or other forms of self-employment. If I did, it was \$ 0 and total income earned was \$ 0.

St. of Finance

4. During the past 12 months I

DID	DID NOT	
<u> </u>	<u>X</u>	Receive rent payments, is so total was \$ <u>0</u>
<u> </u>	<u>X</u>	Received interest, if so total was \$ <u>0</u>
<u> </u>	<u>X</u>	Received dividends, if so total was \$ <u>0</u>
<u> </u>	<u>X</u>	Received other money, if so total was <u>0</u>

5. List all real estate and other property or things of value which belong to you or in which you have interest in. List what each item of property is worth and how much you owe on it.

Item	Value/Amount owed
<u> </u>	<u> </u>

6. I am ~~not~~ married. If married list spouse's name and address.

7. All persons who need me to support them are:

NAME	ADDRESS	AGE/RELATIONSHIP
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

8. All bills and debts I owe are:

NAME OF CREDITOR	ADDRESS	AMOUNT
<u>Child Support</u>	<u>Tacoma WA.</u>	<u>\$20,000</u>
<u>medical</u>	<u>Elleusburg WA.</u>	<u>\$1200</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

9. If unemployed, I have taken the following steps in obtaining employment:

I am in prison

10. My prior/present attorney has refused to provide service on appeal or credit.

11. I have tried without success to barrow from lending institutions for the purpose of funding my appeal.

12. The total amount which I can contribute towards the expense of review is
\$0 at this time

13. The costs sought to be waived or provided at public expense are:

- Filing Fees
- Verbatim Report of Proceedings
- Clerk's Papers
- Costs in reproduction of briefs
- Cost of services provided by counsel (other than normal overhead)
- Other costs _____

14. A brief statement of the nature of the case is as follows: (attach additional sheets if necessary)

Ineffective Assistance of Counsel

Same Criminal Conduct

Lack of Jurisdiction

3

To be
Included

Related
Issues

_____	_____	Voir Dire of prospective jurors
_____	_____	Opening Statement
_____	_____	Testimony
✓	_____	_____, witness testimony
✓	_____	_____, witness testimony
_____	_____	_____, witness testimony
_____	_____	_____, witness testimony
_____	_____	_____, witness testimony
_____	_____	_____, witness testimony
_____	_____	Exceptions to Instructions
_____	_____	Closing argument
_____	_____	Procedure outside the presence of Jury
_____	_____	Closing Argument
_____	✓	Sentencing
_____	_____	Confession Hearing, CrR 3.5
_____	_____	Suppression Hearing, CrR 3.6
_____	✓	Omnibus Hearing, CrR 4.5
_____	_____	Other, _____

17. I believe this appeal is in good faith.

18. My retained/appointed counsel was NA, I am asking the court for previous counsel to be withdrawn. I am asking the court to appoint new counsel at this time.

C. Mayfield
Signature

Charles K. Mayfield #268840
Printed Name/DOC #
WCC PO Box 900
Address
Shelton, WA. 98584

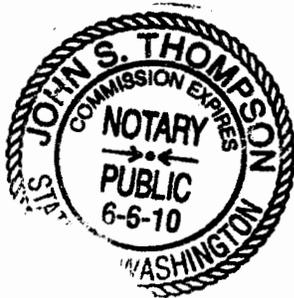
3

STATE OF WASHINGTON

County of Mason

I, John S. Thompson, Notary Public, in and for the State of Washington, do hereby certify that on this 7 day of August, 2006, Charles Mayfield, personally appeared before me, to be known to be the individual described in and within executed the within instrument and acknowledges that he/she signed same as his/her free and voluntary act and deed for the use and purposes herein mentioned.

GIVEN UNDER MY HAND AND SEAL this 7 day of August, 2006.



John S. Thompson

Signature, Notary Public in and for the State of Washington, residing at:

Shelton, WA

My appointment expires 6/6/10

6

SRENECKER

WASHINGTON CORRECTIONS CENTER

OTRTASTB

TRUST ACCOUNT STATEMENT

6.02.1.6

DOC# 0000268840 Name: MAYFIELD, CHARLES KEITH
LOCATION: H01-064-CD05L

BKG# 264649

Account Balance Today (08/04/2006) Current : 31.01
Hold : 0.00
Total : 31.01

Account Balance as of 07/31/0006 0.00

07/01/0006 07/31/0006

SUB ACCOUNT	START BALANCE	END BALANCE
SPENDABLE BAL	0.00	0.00
SAVINGS BALANCE	0.00	0.00

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
CVCS	CRIME VICTIM COMPENSATION/07112000	08182005	UNLIMITED	15.30	0.00
COIS	COST OF INCARCERATION /07112000	08182005	UNLIMITED	61.19	0.00
MEDD	MEDICAL COPAY DEBT	10032005	12.00	0.00	0.00
DEND	DENTAL COPAY DEBT	10032005	3.00	0.00	0.00
COI	COST OF INCARCERATION	08182005	UNLIMITED	0.00	0.00
CVC	CRIME VICTIM COMPENSATION	08182005	UNLIMITED	22.72	0.00
TVD	TV CABLE FEE DEBT	10082005	4.44	0.00	0.00
COSFD	COS - FELONY DEBT (206)	08182005	44.41	146.59	0.00
COSCD	COS - CONVERSION DEBT (206)	08182005	15.00	0.00	0.00
POSD	POSTAGE DEBT	09282005	9.37	0.00	0.00
TVRTD	TV RENTAL FEE DEBT	11172005	1.81	0.00	0.00
HYGA	INMATE STORE DEBT	10052005	160.92	0.00	0.00
LMD	LEGAL MAIL DEBT	04122006	0.24	0.00	0.00
DCS	CHILD SUPPORT PAYMENTS	000890242	UNLIMITED	90.28	0.00

TRANSACTION DESCRIPTIONS --

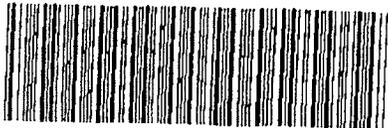
SPENDABLE BAL SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
------	-------------------------	----------	-----------------	---------

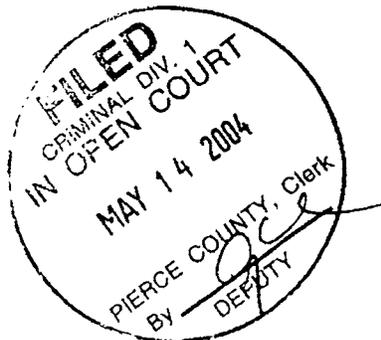
TRANSACTION DESCRIPTIONS --

SAVINGS BALANCE SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
------	-------------------------	----------	-----------------	---------



04-1-01851-1 21004897 ORH 05-17-04



IN THE SUPERIOR COURT FOR PIERCE COUNTY WASHINGTON

State of Washington,

Plaintiff

vs.

Charles Mayfield
Defendant

NO. 04-1-01851-1

SCHEDULING ORDER

IT IS HEREBY ORDERED that:

1. The following court dates are set for the defendant:

Approval No	Hearing Type	Date	Time	Courtroom
	<input type="checkbox"/> Pretrial Conference	,20	AM/PM	
	<input type="checkbox"/> Omnibus Hearing	,20	8:30 AM	
	<input type="checkbox"/> Status Conference	,20	8:30 AM	CDPJ
	<input type="checkbox"/> Motion:	,20	AM/PM	CDPJ
<input type="checkbox"/> Pros. agrees 3.6 hrg. necessary <input type="checkbox"/> Testimony expected <input type="checkbox"/> Time estimated:				
<u>set</u>	<input checked="" type="checkbox"/> TRIAL	<u>6/10, 2004</u>	8:30 AM	CDPJ
<u>1212533</u>	<input checked="" type="checkbox"/> continuance	<u>6/2, 2004</u>	8:30 AM/PM	<u>217A</u>
	<input type="checkbox"/>	,20	AM/PM	

2. The defendant shall be present at these hearings and report to the courtroom indicated at 930 Tacoma Avenue South, County-City Building, Tacoma, Washington, 98402

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

3. DAC; Defendant will be represented by Department of Assigned Counsel.

Retained Attorney; Defendant will hire their own attorney or, if indigent, be Screened (interviewed) for Department of Assigned Counsel Appointment.

Dated 5/13/04, 20__.

Copy Received:

[Signature]
Defendant

Attorney for Defendant/Bar # 1584

[Signature]
KATHRYN J. NELSON
JUDGE
[Signature]
Prosecuting Attorney/Bar # 11299

Ex. 1a

APPEARANCES

1
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For Plaintiff:

Terry Lane
Deputy Prosecuting Attorney
Tacoma, Washington

For Defendant:

(No attorney appeared on record.)

Ex. 1c

June 19, 2006

To whom it may concern:

I Theresa Glidden gave my brother, Charles K Mayfield a ride to court at the Pierce County Court house in Tacoma Wa. on August 26, 2004. Standing beside my brother while he was signing papers and conversing with two attorneys I overheard my brother's attorney specifically tell him that he, my brother, did not need to appear at the next court hearing, that he (the attorney) would take care of it as they would not be entering the courtroom on that date.

I Theresa F. Glidden swear to the above statement is true.

Theresa F. Glidden
June 19, 2006

Ex. 2

I ROZELLA WASHELL declare that on the date of November 3, 2004 my son Charles Mayfield did in fact live on my property at 431 Upper Green Canyon, Ellensburg, Washington 98926 in his motor home. On the day of November 3, 2004 Charles was snowed in and could not get out of the driveway. No one could. Our driveway is approximate one mile long. Charles was extremely upset.

I ROZELLA WASHELL swear the above to be true.

509 962
5851

Rozella Washell 4/2/06
431 Upper Green Canyon
Ellensburg, Washington
98926

Ex. 3

03/08/2006	VERBATIM REPORT TRANS TO DIV II *04-11-05*	Public	
03/17/2006	Transmittal Letter VRP Copy Filed	Public	1
03/17/2006	Transmittal Letter VRP Copy Filed	Public	1
03/21/2006	VERBATIM REPORT TRANS TO DIV II 08-23-04*	Public	
03/21/2006	VERBATIM REPORT TRANS TO DIV II *11-03-04*	Public	
03/21/2006	VERBATIM REPORT TRANS TO DIV II *11-19-04*	Public	
03/21/2006	NOTICE OF FILING A VERBATIM REPORT	Public	1

Proceedings

Date	Judge	Dept Type	Outcome
04/27/2004 01:30 PM	CRIMINAL DIVISION 1	CD1 CASE ISSUED-SUMM/ARRAIGN	ARRAIGN
05/13/2004 01:00 PM	CRIMINAL DIVISION 1	CD1 PRE-TRIAL CONFERENCE	HELD
06/02/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	DEF FTA, ORDEREC
06/10/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CANCELL
06/11/2004 01:30 PM	CRIMINAL DIVISION 1	CD1 QUASH	HELD
07/01/2004 01:00 PM	CRIMINAL DIVISION 1	CD1 PRE-TRIAL CONFERENCE	HELD
07/08/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	CONTINU
07/21/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	CONTINU
08/03/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	NOT HELI
08/10/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	CONTINU
08/12/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	CONTINU
08/23/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	NOT HELI
08/23/2004 09:00 AM	CRIMINAL DIVISION 1	CD1 REARRAIGNMENT	HELD
08/26/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CONTINU
08/26/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	HELD
09/09/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	DEF FTA, ORDEREC
09/28/2004 01:30 PM	CRIMINAL DIVISION 2	CD2 QUASH	HELD
10/13/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CANCELL
10/14/2004 01:00 PM	CRIMINAL DIVISION 1	CD1 PRE-TRIAL CONFERENCE	HELD
10/27/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	DEF FTA, ORDEREC
10/27/2004 01:30 PM	CRIMINAL DIVISION 2	CD2 QUASH - ADMINISTRATIVE	HELD
11/03/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	DEF FTA, ORDEREC
11/19/2004 01:30 PM	CRIMINAL DIVISION 1	CD1 QUASH	HELD
12/02/2004 01:00 PM	CRIMINAL DIVISION 1	CD1 PRE-TRIAL CONFERENCE	HELD
12/09/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	HELD
12/13/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CANCELL
01/04/2005 08:30 AM	CRIMINAL DIVISION- PRESIDING	CDPJ JURY TRIAL	CONTINU

Ex. 5a

JUDGE		
01/26/2005 08:30 AM CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	HELD
02/03/2005 09:00 AM CRIMINAL DIVISION 1	CD1 REARRAIGNMENT	HELD
02/16/2005 08:30 AM CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CONTINU
02/23/2005 08:30 AM CRIMINAL DIVISION 1	CD1 RETURN WITH ATTY	HELD
02/23/2005 08:30 AM CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	CONTINU
03/02/2005 08:30 AM CRIMINAL DIVISION 2	CD2 OMNIBUS HEARING	CANCELL
03/10/2005 10:00 AM CRIMINAL DIVISION 1	CD1 PLEA DATE	CANCELL
03/14/2005 08:30 AM CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	HELD
03/17/2005 08:30 AM CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CONTINU
04/01/2005 01:30 PM KATHRYN J. NELSON	13 STATUS CONFERENCE HEARING	HELD
04/11/2005 09:30 AM KATHRYN J. NELSON	13 PLEA DATE	CANCELL
04/21/2005 09:30 AM KATHRYN J. NELSON	13 MOTION-SUPPRESS (3.5,3.6,7.8)	CONTINU
04/21/2005 09:30 AM KATHRYN J. NELSON	13 MOTION (NOT CONTINUANCE)	CONTINU
04/25/2005 08:30 AM KATHRYN J. NELSON	13 JURY TRIAL	DEF FTA, ORDEREC
04/25/2005 09:30 AM KATHRYN J. NELSON	13 MOTION (NOT CONTINUANCE)	CANCELL
04/25/2005 09:30 AM KATHRYN J. NELSON	13 MOTION-SUPPRESS (3.5,3.6,7.8)	CANCELL
05/18/2005 01:30 PM KATHRYN J. NELSON	13 QUASH	CANCELL
07/15/2005 01:30 PM CRIMINAL DIVISION 2	CD2 BAIL HEARING - BENCH WARRANT	HELD
08/12/2005 01:30 PM KATHRYN J. NELSON	13 PRE-TRIAL CONFERENCE	CANCELL
08/12/2005 01:30 PM KATHRYN J. NELSON	13 PLEA DATE	PLEA & S
09/06/2005 08:30 AM KATHRYN J. NELSON	13 JURY TRIAL	CANCELL

Incidents

Incident Number	Law Enforcement Agency	Offense Date
032611	BONNEY LAKE POLICE DEPARTMENT	09/20/2005

Superior Court Co-Defendants

Cause Number	Defendant
--------------	-----------

Judgments

Cause #	Status	Signed	Effective	Fi
<u>05-9-09385-5</u>	OPEN as of 08/12/2005	KATHRYN J. NELSON on 08/12/2005	08/12/2005	0

- Hearing and location information displayed in this calendar is subject to change without notice. Changes to this information after the creation date and time may not display in current versions.
- Confidential cases and Juvenile Offender proceeding information is not displayed on this calendar. Confidential case types are: Adoption, Paternity, Involuntary Commitment, Dependency, and
- The names provided in this calendar cannot be associated with any particular individuals without individual case research.

Ex. 5-6

STATEMENT

EXPRESS BAIL BONDS, INC.

1112 SOUTH YAKIMA AVE.

TACOMA WA 98405

(253) 274-9999

8/18/05

TO: ROZELLE WASCELL
431 UPPER GREEN CANYON
ELLENSBURG WA 98926

Account Name: CHARLES KEITH MAYFIELD
Account Balance: \$2,075.00
Payment Terms:

Date	Activity Description	Activity Amount	Balance
4/26/02	Bond Fee: (\$10000 Bond)	\$1,000.00	\$1,000.00
4/26/02	Payment: Cash	(\$1,000.00)	\$0.00
7/16/02	Forfeiture Fee: FTA (FAILURE TO APPEAR)	\$50.00	\$50.00
8/1/02	Bond Fee: (\$2500 Bond)	\$250.00	\$300.00
8/1/02	Payment: Cash	(\$250.00)	\$50.00
12/30/02	Payment: Check#2797	(\$50.00)	\$0.00
4/28/04	Bond Fee: (\$3500 Bond)	\$350.00	\$350.00
4/28/04	Miscellaneous Fee: PAYMENT PLAN FEE	\$25.00	\$375.00
5/5/04	Payment: Cash	(\$375.00)	\$0.00
5/30/04	Bond Fee: (\$10000 Bond)	\$1,000.00	\$1,000.00
5/30/04	Payment: Check	(\$1,000.00)	\$0.00
6/2/04	Forfeiture Fee: FTA (FAILURE TO APPEAR)	\$100.00	\$100.00
9/9/04	Forfeiture Fee: FAIL TO APPEAR	\$100.00	\$200.00
9/9/04	Forfeiture Fee: FTA (FAILURE TO APPEAR)	\$100.00	\$300.00
10/17/04	Forfeiture Fee: FTA (FAILURE TO APPEAR)	\$100.00	\$400.00
10/17/04	Miscellaneous Fee: PREP. ON DOT/ OFFICE TIME	\$75.00	\$475.00
10/17/04	Miscellaneous Fee: FILING FEES	\$22.00	\$497.00
11/3/04	Forfeiture Fee: fta fee	\$100.00	\$597.00
11/5/04	Payment: Cash	(\$100.00)	\$497.00
11/19/04	Payment: Cash	(\$288.00)	\$209.00
2/10/05	Bond Fee: (\$7500 Bond)	\$750.00	\$959.00
2/10/05	Bond Fee: (\$5000 Bond)	\$500.00	\$1,459.00
2/10/05	Payment: Cash	(\$109.00)	\$1,350.00
2/10/05	Payment: Cash	(\$1,250.00)	\$100.00
5/4/05	Forfeiture Fee: fail to appear fee	\$100.00	\$200.00
7/14/05	Forfeiture Fee: OFFICE&INVESTIGATION TIME	\$250.00	\$450.00
7/14/05	Forfeiture Fee: PHONE TRACE	\$75.00	\$525.00
7/14/05	Forfeiture Fee: SURRENDER	\$1,275.00	\$1,800.00
7/15/05	Forfeiture Fee: LEGAL TO EXONERATE	\$275.00	\$2,075.00

Ex. 6

03/06/2006	VERBATIM REPORT TRANS TO DIV II *05-06-05*VOL 9	Public
03/07/2006	Transmittal Letter VRP Copy Filed	Public 1
03/08/2006	VERBATIM REPORT TRANS TO DIV II *04-11-05*	Public
03/17/2006	Transmittal Letter VRP Copy Filed	Public 1
03/17/2006	Transmittal Letter VRP Copy Filed	Public 1
03/21/2006	NOTICE OF FILING A VERBATIM REPORT	Public 1
03/21/2006	VERBATIM REPORT TRANS TO DIV II *11-19-04*	Public
03/24/2006	STATEMENT regarding verbatim report of proceedings	Public 1
03/28/2006	VERBATIM REPORT TRANS TO DIV II *09-09-04*	Public
03/28/2006	VERBATIM REPORT TRANS TO DIV II *09-28-04*	Public
03/28/2006	VERBATIM REPORT TRANS TO DIV II *09-28-04*	Public
03/28/2006	VERBATIM REPORT TRANS TO DIV II *06-02-04*	Public

Proceedings

Date	Judge	Dept Type	Outcome
05/25/2004 01:30 PM	CRIMINAL DIVISION 2	CD2 ARRAIGNMENT	ARRAIGN
06/08/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 PRE-TRIAL CONFERENCE	CONTINU
06/15/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 PRE-TRIAL CONFERENCE	HELD
06/22/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	HELD
07/01/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 PRE-TRIAL CONFERENCE	CONTINU
07/08/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CONTINU
07/08/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 PRE-TRIAL CONFERENCE	HELD
07/21/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 OMNIBUS HEARING	HELD
08/03/2004 09:00 AM	CRIMINAL DIVISION 2	CD2 REARRAIGNMENT	CANCELL
08/10/2004 09:00 AM	CRIMINAL DIVISION 2	CD2 REARRAIGNMENT	CONTINU
08/12/2004 09:00 AM	CRIMINAL DIVISION 1	CD1 REARRAIGNMENT	CONTINU
08/23/2004 09:00 AM	CRIMINAL DIVISION 2	CD2 REARRAIGNMENT	CANCELL
08/26/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CONTINU
08/26/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	HELD
08/26/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ REARRAIGNMENT	HELD
09/09/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 OMNIBUS HEARING	DEF FTA, ORDERED
09/28/2004 01:30 PM	CRIMINAL DIVISION 2	CD2 QUASH	HELD
10/06/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CANCELL
10/14/2004 01:00 PM	CRIMINAL DIVISION 2	CD2 PRE-TRIAL CONFERENCE	HELD
10/27/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 OMNIBUS HEARING	CONTINU
11/03/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 OMNIBUS HEARING	DEF FTA, ORDERED
11/19/2004 01:30 PM	CRIMINAL DIVISION 1	CD1 QUASH	HELD

1
2 ORIGINAL

3 FILED
IN PIERCE COUNTY SUPERIOR COURT

4 A.M. JUN 06 2006 P.M.

5 PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
7 IN AND FOR THE COUNTY OF PIERCE

8 STATE OF WASHINGTON,)
9 Plaintiff,)
10 vs.) S/C 04-1-01851-1
11 CHARLES K. MAYFIELD) ~~04-1-02556-9~~
12 Defendant.) COA NO. 33734-7-II

13 REPORTER'S TRANSCRIPT ON APPEAL
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15 FRIDAY, AUGUST 12, 2005

16 Pierce County Courthouse

17 Tacoma, Washington

18 Before the

19 HONORABLE KATHRYN J. NELSON

20 A P P E A R A N C E S

21 For the State: Stephen D. Trinen
22 Deputy Prosecuting Attorney

23 For Defendant Mayfield: Karen McCarty Lundahl
24 Attorney at Law

25 Carol Lynn Frederick, CCR
Official Pro Tem Court Reporter
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EX. 8a

1 understanding that it would not be the equivalent
2 of any violent offense and would not disqualify him
3 from a DOSA sentencing alternative.

4 It's undisputed that he has a lot of points,
5 Your Honor, but I would point out that six of those
6 points come from basically the imposition of what
7 would almost be a double whammy because he was
8 charged with bail jump, Your Honor. Several counts
9 of bail jump doubled because hearings were set on
10 the same day for each of these cause numbers, and
11 for each time that he failed to appear on those he
12 ended up -- Your Honor, he was either convicted of
13 or now has pled guilty to two offenses and gets two
14 points basically for each one of those, and, again,
15 a large number of the points that he has at this
16 point come from those bail jumps and I would point
17 out that on each and every one of those while he
18 did fail to appear he set quash hearings and did
19 show up eventually. He didn't skip the country.
20 He didn't leave so I think that that needs to be
21 taken into account.

22 The Court has had an opportunity to review the
23 letter from Janet Macri, a person for whom he has
24 done work very recently who obviously speaks very
25 highly of him. I've also had the opportunity to

1 somewhere in the system or out.

2 I know you've heard these words before, Your
3 Honor, from other men in despair and in my
4 situation, but I have faith that God is real and he
5 will walk with me and lead me. I turned 46 years
6 old, Your Honor, just three days ago and this is a
7 shameful awakening. As I stand here before you now
8 in serious trouble, I face the truth about myself,
9 Your Honor, and I have no choice but to change one
10 thing in my life and that's everything.

11 I pray that it's your decision not to send me
12 away from home for too long. My mother is sick
13 with cancer, Your Honor, and I have had my own
14 ongoing concerns with cancer as well. I know that
15 I've broken my mother's heart again. Your Honor,
16 please let me make it home before it's too late to
17 mend her heart. I just want to show her how much I
18 do love her and that maybe I have turned out to be
19 a good man like she's always hoped that I would. I
20 place myself at your mercy, Your Honor. Thank you.

21 MR. TRINEN: Your Honor, if I could
22 have just a little rebuttal, on the case that he
23 was convicted on at trial, there were two counts of
24 bail jumping, so even assuming the defense's
25 argument that as a practical matter you should kind

1 of regard those as identical offenses, that still
2 would only reduce his score to an 11 which is still
3 well above the maxed out point range and so I
4 believe my argument still pertains.

5 MS. LUNDAHL: Your Honor, if I could
6 just say one thing, I think I would put it down to
7 a 10 rather than an 11 with that math. The other
8 point, Your Honor, that I did not address in my
9 argument is that on the 04-1-01851-1 case, the
10 State's recommendation included a \$1,000 fine which
11 it was agreed that we could argue, Your Honor, and
12 I would ask that because he's being sentenced for
13 both of these cases and will have legal financial
14 obligations for both of them that you waive all or
15 part of that fine, Your Honor.

16 He's going to have significant legal/financial
17 obligations when he's released from custody and we
18 would ask that with respect to the fine that you
19 waive that, Your Honor.

20 THE COURT: Thank you. I don't find
21 that this case is appropriate for DOSA. However, I
22 am going to choose the low end of the range for the
23 count that carries the most largest fine and
24 sentence you to 51 months. With respect to the
25 other matters, I'm going to sentence you to 43