

COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

COURT OF APPEALS
 06/07/10 PM 1:55
 STATE OF WASHINGTON
 BY Ka
 CLERK

STATE OF WASHINGTON,)	
)	
Respondent,)	
)	No. <u>34540-4-II</u>
v.)	
)	STATEMENT OF ADDITIONAL
<u>BRENTON THOMPSON</u> ,)	GROUND FOR REVIEW
)	RAP 10 10
)	
Appellant.)	

I, BRENTON THOMPSON, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

The imposition of the five-year sentencing enhancement
for using a firearm in the commission of the murder was
improper, because the trial court did not instruct the jury
that it needed to find a nexus between the weapon, the
defendant, and the murder, and therefore, the court's imposi-
tion of the sentencing enhancement amounted to judicial fact
finding, in violation of Thompson's constitutional right to
trial by jury.

CERTIFICATE OF SERVICE
 I certify that I mailed

 copies of _____
 to _____
 & _____

 Date Signed

After Apprendi, every fact (other than the fact of a prior conviction), that increases the defendant's sentence beyond the statutory maximum, may be used only if it was either proved beyond a reasonable doubt to the trier of fact... . Apprendi v. New Jersey, 530 U.S. 466, 490, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000). In Blakely, the Supreme Court clarified that the 'statutory maximum' did not refer to the maximum sentence authorized by the legislature for the crime, instead, 'statutory maximum' meant the maximum sentence a trial judge was authorized to give without finding additional facts. In the case of the Sentencing Reform Act of 1981, Ch. 9.94A RCW, it is the top of the standard sentencing range. Blakely v. Washington, U.S., 124 S.Ct. 2531, 2538, 159 L.Ed.2d 403 (2004).

In State v. Holt, the court held that "as an element of the firearm enhancement, the nexus requirement must be set forth in the jury instructions." 119 Wn.App. 712, 728, 82 P.3d 688 (2004). The also held that the failure to so instruct the jury, "essentially relieves the State of the burden of proving the nexus beyond a reasonable doubt." Id. at 728.

In State v. Willis, 153 Wn.2d 366, 103 P.3d 1213 (2005) the court held that the instructions are sufficient if they

"inform the jury that it must find a relationship between the defendant, the crime and the deadly weapon." Id. at 374.

Here, during Thompson's murder trial, the court's instructions to the jury failed to sufficiently inform the jury to find a relationship between Thompson, the firearm, and the murder. Thus, the court's imposition of the firearm enhancement portion of Thompson's sentence must have been based on the judge's finding of fact and not the jury's. see Exhibit A.

Therefore, that portion of Thompson's sentence representing the firearm enhancement on the murder conviction must be reversed, and Thompson's judgment and sentence should be remanded for resentencing.

Additional Ground 2

Washington State Department of Corrections (DOC) modification of restitution order is improper. Pursuant to R.C.W. 72.11.020, DOC is currently deducting 20% of all funds that are recieved in Thompson's prison account towards the payment of Legal/Financial Obligations contray to the recent judgment and sentence imposed by the sentencing court.

A trial court, in setting a sentence is required by the Sentencing Reform Act to impose a sentence that "states with exactitude...terms of a fine or restitution." State v.

Shove, 113 Wn.2d 83, 86, 776 P.2d 132 (1989).

Under R.C.W. 9.94A.760(1), ...the court is to set a sum that the offender is required to pay on a montly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount... . Id. **see** Exhibit B.

The department may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances.

Here, no recommendation was made to the court prior to the deduction of funds, and more importantly, Thompson's financial circumstances has not changed since the trial court's imposition of judgment and sentence.

Therefore, this court should rule that the DOC is in violation of the current judgment and sentence, and order that DOC refrain from taking any monies that may be recieved in Thompson's prison account.

Additional Ground 3

Mr. Thompson's current sentence is invalid because the combined period of incarceration and community placement exceed the 'statutory maximum,' Blakely, 124 S.Ct. at 2538, for his crime.

R.C.W. 9.94A.505 (5), which provides in part that, 'a court may not impose a sentence providing for a term of confinement, community supervision, community placement, or community custody which exceeds the statutory maximum for the crime as provided in chapter 9A.20 R.C.W..'

Here, the trial court imposed a 361 month sentence on Mr. Thompson's murder conviction, and 123 month sentence on his assault conviction, both of which represent the top or high end of the standard sentencing range. Thus, the additional 2 year community placement imposed, clearly exceeds the statutory maximum for Mr. Thompson's crimes.

Because the community placement exceeds the statutory maximum for his crimes, Mr. Thompson's judgment and sentence is facially invalid and must be vacated and remanded for a new sentence.

Additional Ground 4

Mr. Thompson's current sentence is invalid because the 60 month firearm enhancement sentence coupled with the community placement 2 year term and the 361 month and 123 month sentence imposed for the murder and assault respectively, exceeds the statutory maximum for the crimes.

As argued above, the imposition of the top or high end of the standard sentencing range by the trial court, limits Mr. Thompson's total term of confinement to the 'statutory maximum' as defined by the Blakely Court.

In 1998, the Legislature required that if the firearm enhancement or the deadly weapon enhancement increases a sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced. As a result, in such a case, the underlying sentence must be reduced so that the total confinement time does not exceed the statutory maximum. see Adult Sentencing Manual 2005.

Therefore here, Mr. Thompson's judgment and sentence is facially invalid and must be vacated and remanded for a new sentence.

DATED this 9th day of November, 2006.

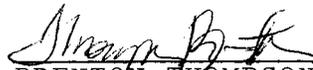

BRENTON THOMPSON
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EXHIBIT A

2 FEB 1 2000

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,

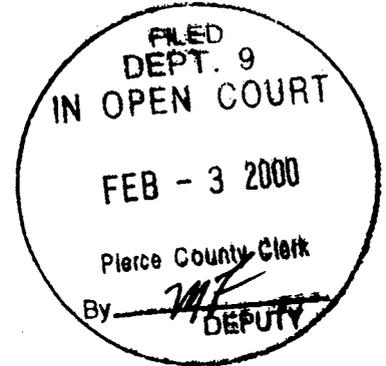
Plaintiff,

vs.

ERENTON DWAYNE THOMPSON,

Defendant.

NO. 99-1-01611-6



COURT'S INSTRUCTIONS TO THE JURY

DATED this 1st day of ~~January~~ ^{February}, 2000.



 JUDGE

1 FEB - 4 2000

ORIGINAL

INSTRUCTION NO. 1

It is your duty to determine which facts have been proved in this case from the evidence produced in court. It also is your duty to accept the law from the court, regardless of what you personally believe the law is or ought to be. You are to apply the law to the facts and in this way decide the case.

The order in which these instructions are given has no significance as to their relative importance. The attorneys may properly discuss any specific instructions they think are particularly significant. You should consider the instructions as a whole and should not place undue emphasis on any particular instruction or part thereof.

A charge has been made by the prosecuting attorney by filing a document, called an information, informing the defendant of the charge. You are not to consider the filing of the information or its contents as proof of the matters charged.

The only evidence you are to consider consists of the testimony of the witnesses and the exhibits admitted into evidence. It has been my duty to rule on the admissibility of evidence. You must not concern yourselves with the reasons for these rulings. You will disregard any evidence that either was not admitted or that was stricken by the court. You will not be provided with a written copy of testimony during your deliberations. Any exhibits admitted into evidence will go to the jury room with you during your deliberations.

In determining whether any proposition has been proved, you should consider all of the evidence introduced by all parties bearing on the question. Every party is entitled to the benefit of the evidence whether produced by that party or by another party.

You are the sole judges of the credibility of the witnesses and of what weight is to be given the testimony of each. In considering the testimony of any witness, you may take into account the

opportunity and ability of the witness to observe, the witness' memory and manner while testifying, any interest, bias or prejudice the witness may have, the reasonableness of the testimony of the witness considered in light of all the evidence, and any other factors that bear on believability and weight.

The attorneys' remarks, statements and arguments are intended to help you understand the evidence and apply the law. They are not evidence. Disregard any remark, statement or argument that is not supported by the evidence or the law as stated by the court.

The attorneys have the right and the duty to make any objections that they deem appropriate. These objections should not influence you, and you should make no assumptions because of objections by the attorneys.

The law does not permit a judge to comment on the evidence in any way. A judge comments on the evidence if the judge indicates, by words or conduct, a personal opinion as to the weight or believability of the testimony of a witness or of other evidence. Although I have not intentionally done so, if it appears to you that I have made a comment during the trial or in giving these instructions, you must disregard the apparent comment entirely.

You have nothing whatever to do with any punishment that may be imposed in case of a violation of the law. The fact that punishment may follow conviction cannot be considered by you except insofar as it may tend to make you careful.

You are officers of the court and must act impartially and with an earnest desire to determine and declare the proper verdict. Throughout your deliberations you will permit neither sympathy nor prejudice to influence your verdict.

INSTRUCTION NO. 2

The defendant has entered a plea of not guilty. That plea puts in issue every element of the crimes charged. The State is the plaintiff, and has the burden of proving each element of the crimes beyond a reasonable doubt.

A defendant is presumed innocent. This presumption continues throughout the entire trial unless during your deliberations you find it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly and carefully considering all of the evidence or lack of evidence. If, after such consideration, you have an abiding belief in the truth of the charge, you are satisfied beyond a reasonable doubt.

INSTRUCTION NO. 3

The defendant is not compelled to testify, and the fact that the defendant has not testified cannot be used to infer guilt or prejudice him in any way.

INSTRUCTION NO. 4

Evidence may be either direct or circumstantial. Direct evidence is that given by a witness who testifies concerning facts that he or she has directly observed or perceived through the senses.

Circumstantial evidence is evidence of facts or circumstances from which the existence or nonexistence of other facts may be reasonably inferred from common experience. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. One is not necessarily more or less valuable than the other.

INSTRUCTION NO. 5

A witness who has special training, education or experience in a particular science, profession or calling, may be allowed to express an opinion in addition to giving testimony as to facts. You are not bound, however, by such an opinion. In determining the credibility and weight to be given such opinion evidence, you may consider, among other things, the education, training, experience, knowledge and ability of that witness, the reasons given for the opinion, the sources of the witness' information, together with the factors already given you for evaluating the testimony of any other witness.

INSTRUCTION NO. 6

Evidence that a witness has been convicted of a crime may be considered by you in deciding what weight or credibility should be given to the testimony of the witness and for no other purpose.

INSTRUCTION NO. 1

The defendant is charged with the following crimes:

COUNT ONE: Premeditated Murder in the First Degree

in the alternative

Felony Murder in the First Degree

COUNT TWO: Assault in the First Degree

COUNT THREE: Unlawful Possession of a Firearm in the Second Degree.

INSTRUCTION NO. 8

A person commits the crime of Premeditated Murder in the First Degree when, with a premeditated intent to cause the death of another person, he or she or an accomplice causes the death of such person or of a third person.

INSTRUCTION NO. 9

Premeditated means thought over beforehand. When a person, after any deliberation, forms an intent to take human life, the killing may follow immediately after the formation of the settled purpose and it will still be premeditated. Premeditation must involve more than a moment in point of time. The law requires some time, however long or short, in which a design to kill is deliberately formed.

INSTRUCTION NO. 10

A person acts with intent or intentionally when acting with the objective or purpose to accomplish a result which constitutes a crime.

INSTRUCTION NO. 11

A person who is an accomplice in the commission of a crime is guilty of that crime whether present at the scene or not.

A person is an accomplice in the commission of the crime if, with knowledge that it will promote or facilitate the commission of a crime, he or she either:

- (1) solicits, commands, encourages, or requests another person to commit the crime; or
- (2) aids or agrees to aid another person in planning or committing a crime.

The word "aid" means all assistance whether given by words, acts, encouragement, support, or presence. A person who is present at the scene and ready to assist by his or her presence is aiding in the commission of the crime. However, more than mere presence and knowledge of the criminal activity of another must be shown to establish that a person present is an accomplice.

INSTRUCTION NO. 13

To constitute Premeditated Murder in the First Degree or Felony Murder in the First Degree there must be a causal connection between the death of a human being and the criminal conduct of a defendant or an accomplice so that the act was a proximate cause of the resulting death.

The term "proximate cause" means a cause which, in a direct sequence, unbroken by any new independent cause, produces the death, and without which the death would not have happened.

There may be more than one proximate cause of a death.

INSTRUCTION NO. 14

If you are satisfied beyond a reasonable doubt that the acts of the defendant or an accomplice were a proximate cause of the death of the deceased, it is not a defense that the conduct of the deceased or another may also have been a proximate cause of the death.

INSTRUCTION NO. 15

To convict the defendant of the crime of Premeditated Murder in the First Degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the 8th day of July, 1998, the defendant or an accomplice shot Julie Maroni with a handgun;
- (2) That the defendant or an accomplice acted with intent to cause the death of Julie Maroni.
- (3) That the intent to cause the death was premeditated;
- (4) That Julie Maroni died as a result of defendant's or an accomplice's acts; and
- (5) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 17

A person commits the crime of robbery when he or she or an accomplice unlawfully and with intent to commit theft thereof takes personal property, not belonging to the defendant, from the person or in the presence of another against that person's will by the use or threatened use of immediate force, violence, or fear of injury to that person or to that person's property or to the person or property of anyone. The force or fear must be used to obtain or retain possession of the property or to prevent or overcome resistance to the taking, in either of which cases the degree of force is immaterial. The taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom it was taken, such knowledge was prevented by the use of force or fear.

INSTRUCTION NO. 20

A person commits the crime of Attempted Robbery in the First Degree or Robbery in the Second Degree when, with intent to commit that crime, he or she does any act which is a substantial step toward the commission of that crime.

INSTRUCTION NO. 21

To convict the defendant of the crime of Felony Murder in the First Degree each of the following elements of the crime must be proved beyond a reasonable doubt;

- (1) That on or about the 8th day of July, 1998, Julie Maroni was killed;
- (2) That the defendant was committing or attempting to commit Robbery in the First Degree or Robbery in the Second Degree;
- (3) That the defendant or an accomplice caused the death of Julie Maroni in the course of and in furtherance of such crime or in immediate flight from such crime;
- (4) That Julie Maroni was not a participant in the crime; and
- (5) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 22

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of Premeditated Murder in the First Degree, the defendant may be found guilty of any lesser crime, the commission of which is necessarily included in the crime charged, if the evidence is sufficient to establish the defendant's guilt of such lesser crime beyond a reasonable doubt.

The crime of Premeditated Murder in the First Degree necessarily includes the lesser crime of Murder in the Second Degree.

When a crime has been proven against a person and there exists a reasonable doubt as to which of two or more degrees that person is guilty, he or she shall be convicted only of the lowest degree.

INSTRUCTION NO. 23

A person commits the crime of Murder in the Second Degree when with intent to cause the death of another person but without premeditation, he or she causes the death of such person or of a third person.

INSTRUCTION NO. 24

To convict the defendant of the crime of Murder in the Second Degree, each of the following elements of the crime must be proved beyond a reasonable doubt;

- (1) That on or about the 8th day of July, 1998, the defendant or an accomplice shot Julie Maroni with a handgun;
- (2) That the defendant or an accomplice acted with intent to cause the death of Julie Maroni;
- (3) That Julie Maroni died as a result of the defendant's or the accomplice's acts; and
- (4) That the acts occurred in State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 25

A person commits the crime of Assault in the First Degree when, with intent to inflict great bodily harm, he or she or an accomplice assaults another with a firearm or by any force or means likely to produce great bodily harm or death.

INSTRUCTION NO. 26

An assault is an intentional shooting of another person that is harmful or offensive regardless of whether any physical injury is done to the person. A shooting is offensive, if the shooting would offend an ordinary person who is not unduly sensitive.

An assault is also an act done with intent to inflict bodily injury upon another, tending, but failing to accomplish it and accompanied with the apparent present ability to inflict the bodily injury if not prevented.

2025 RELEASE UNDER E.O. 14176

INSTRUCTION NO. 27

The term "deadly weapon" includes any firearm, whether loaded or not.

INSTRUCTION NO. 28

Great bodily harm means bodily injury that creates a probability of death, or which causes significant serious permanent disfigurement, or that causes a significant permanent loss or impairment of the function of any bodily part or organ.

INSTRUCTION NO. 29

To convict the defendant of the crime of Assault in the First Degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the 8th day of July, 1998, the defendant or an accomplice assaulted Calvin Labee;
- (2) That the assault was committed with a firearm or by a force or means likely to produce great bodily harm or death;
- (3) That the defendant or an accomplice acted with intent to inflict great bodily harm; and
- (4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 30

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of Assault in the First Degree, the defendant may be found guilty of any lesser crime, the commission of which is necessarily included in the crime charged, if the evidence is sufficient to establish the defendant's guilt of such lesser crime beyond a reasonable doubt.

The crime of Assault in the First Degree necessarily includes the lesser crime of Assault in the Second Degree.

When a crime has been proven against a person and there exists a reasonable doubt as to which of two or more degrees that person is guilty, he or she shall be convicted only of the lowest degree.

INSTRUCTION NO. 31

A person commits the crime of Assault in the Second Degree when under circumstances not amounting to Assault in the First Degree he or she or an accomplice assaults another with a deadly weapon.

INSTRUCTION NO. 32

To convict the defendant of the crime of Assault in the Second Degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about the 8th day of July, 1998, the defendant or an accomplice assaulted Calvin Labee with a deadly weapon; and

(2) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements have been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 33

A person commits the crime of Unlawful Possession of a Firearm in the Second Degree when he or she owns a firearm or has a firearm in his or her possession or control and he or she has previously been convicted of a felony.

INSTRUCTION NO. 34

Possession means having a firearm in one's custody or control. It may be either actual or constructive. Actual possession occurs when the weapon is in the actual physical custody of the person charged with possession. Constructive possession occurs when there is no actual physical possession but there is dominion and control over the item, and such dominion and control may be immediately exercised.

INSTRUCTION NO. 35

To convict the defendant of the crime of Unlawful Possession of a Firearm in the Second Degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about the 8th day of July, 1998 the defendant had a firearm in his or her possession or control;

(2) That the defendant had previously been convicted of a felony; and

(3) That the possession or control of the firearm occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 36

As jurors, you have a duty to discuss the case with one another and to deliberate in an effort to reach a unanimous verdict. Each of you must decide the case for yourself, but only after you consider the evidence impartially with your fellow jurors. During your deliberations, you should not hesitate to re-examine your own views and change your opinion if you become convinced that it is wrong. However, you should not change your honest belief as to the weight or effect of the evidence solely because of the opinions of your fellow jurors, or for the mere purpose of returning a verdict.

INSTRUCTION NO. 37

Upon retiring to the jury room for your deliberation of this case, your first duty is to select a presiding juror. It is his or her duty to see that discussion is carried on in a sensible and orderly fashion, that the issues submitted for your decision are fully and fairly discussed, and that every juror has an opportunity to be heard and to participate in the deliberations upon each question before the jury.

You will be furnished with all of the exhibits admitted in evidence, these instructions, and verdict forms for each count.

When completing the verdict forms for Count One, you will first consider the crime of Murder in the First Degree as charged in Count One. You need not unanimously agree on a verdict for one or the other of the two alternatives for Count One, provided that you unanimously agree on a verdict for the crime of Murder in the First Degree. If you unanimously agree on a verdict, you must fill in the blank provided in Verdict Form A the words "not guilty" or the word "guilty" according to the decision you reach. If you unanimously agree on a verdict of "guilty" on Verdict Form A, do not use the form entitled "Interrogatories" and do not consider the lesser crime of Murder in the Second Degree. If you cannot unanimously agree on a verdict as to Murder in the First Degree, do not fill in the blank provided in Verdict Form A.

You are to consider the lesser included crime of Murder in the Second Degree only for the first alternative crime in Count One, Premeditated Murder in the First Degree. If you unanimously find the defendant not guilty of the crime of Murder in the First Degree on Verdict Form A, or if after full and careful consideration of the evidence, you unanimously find the defendant not guilty of Felony Murder in the First Degree and you cannot agree as to Premeditated Murder in the First Degree, you will then complete the form entitled "Interrogatories" by answering the questions. You will then consider the lesser crime of Murder in the Second Degree. If you unanimously agree on a verdict for the lesser crime

Since this is a criminal case, each of you must agree for you to return a verdict. When all of you have so agreed, fill in the proper form of verdict or verdicts to express your decision. The presiding juror will sign it and notify the judicial assistant, who will conduct you into court to declare your verdict.

INSTRUCTION NO. 28

You will also be furnished with special verdict forms for Counts One and Two. If you find the defendant not guilty do not use the special verdict forms. If you find the defendant guilty as charged on Counts One or Two, or guilty on the lesser included crimes for those counts, you will then use the special verdict forms and fill in the blank with the answer "yes" or "no" according to the decision you reach. In order to answer the special verdict forms "yes", you must unanimously be satisfied beyond a reasonable doubt that "yes" is the correct answer. If you have a reasonable doubt as to the question, you must answer "no".

EXHIBIT B

1 order what was ordered last time?

2 THE COURT: Do you have anything to say on that?

3 THE DEFENDANT: On the restitution that was
4 ordered?

5 THE COURT: Restitution and other court costs.

6 THE DEFENDANT: On that, Your Honor, I don't
7 pacifically (sic) have the RCW in front of me but I don't
8 have -- I'm not challenging the Court's -- to impose the
9 restitution. That's part of the sentence. What I ask is
10 that the Court direct me in a way to where I can set up
11 some type of payment plan with the court, with the
12 Superior Court, to make monthly payments on that. My
13 reasons for that is because DOC has a system set up to
14 deduct 20 percent from all incoming funds that I may
15 receive on my prison account. And it's a significant
16 hardship upon me for that to happen. And also I don't
17 have a job at this time anyway for any payments to be made
18 towards restitution, which that 20 percent would go to. I
19 mean, just so at least in all fairness to moneys being
20 paid toward the restitution, instead of just being --
21 interesting being accrued and nothing is being paid, I ask
22 that I be allowed to enter into some type of stipulation
23 with the Court to make, at a minimum, maybe \$5 monthly
24 payments when the time comes.

25 I believe the RCW 10.73.060, I'm not for sure

1 though, in regards to motioning the Court to remit and to
2 modify method of payment and restitution and court costs,
3 subsection 3 and 4, allows the Court to take into
4 consideration my present ability to pay any fines imposed
5 by the Court and also the hardship that it can impose on
6 myself, as well as my family.

7 THE COURT: What has been happening up until
8 now? Have you been paying something?

9 THE DEFENDANT: Well, I mean the money that --
10 the money that I have gotten since I have been
11 incarcerated, I believe is somewhere around \$400. But I
12 don't get money sent in like that. And the reason why is
13 even up to \$400, because previously earlier in my
14 incarceration I was allowed to have a job in correctional
15 industries to where they could take the 20 percent out of
16 the money that I was making. No longer -- I haven't had
17 that job since 2002, I believe, 2002 or 2001.. So there
18 will be no money being deducted from me, unless my mom or
19 somebody sends me some money, which is maybe once or twice
20 a year. And I want to -- if it's imposed upon me, I want
21 to at least make the showing that I'm trying to make these
22 payments when I can, if the Court would allow that.

23 THE COURT: What's your position on that? How
24 does that normally work, from your understanding?

25 MR. SCHACHT: I've never had anyone pay

1 restitution from prison before. If he's willing to pay, I
2 have no problem with the Court ordering a payment
3 schedule.

4 THE COURT: Set up by?

5 MR. SCHACHT: He's indicating he can pay \$5 a
6 month. I think we can start there. If there's reason to
7 modify that, certainly we can bring it back before the
8 Court.

9 THE COURT: Okay.

10 THE DEFENDANT: Thank you, Your Honor.

11 MR. SCHACHT: With respect to the amount ordered
12 last time for restitution, I don't have that figure in my
13 file. If the Court has that or would care to pass down
14 the file, I'll include that.

15 THE COURT: Okay.

16 (Adjourned.)



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
P.O. Box 41100 - Olympia, Washington 98504-1100

April 25, 2006

H2 74L

Brenton Thompson # 725911
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, Wa 98520

Re: Legal Financial Obligation (LFO)

Mr. Thompson:

I am responding to your letter. I have reviewed your J & S and have come up with the following answer to your question. LFO's are collectible at a rate of 20% of deposits while you are incarcerated. The \$5.00 per month per your copy you are scheduled to start paying in June 2006 if there is a remaining balance once are released.

This cause is collectible per RCW 72.11.020 - Department of Corrections is required to take deductions on all court-ordered LFO's without exception.

Any further correspondence on this issue will not be addressed

Sincerely,

S. Badger, Fiscal Analyst 2
Accounting Services, ASD

SB/swb

cc: File

FILED
COURT OF APPEALS

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STATE OF WASHINGTON

BY _____
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COURT OF APPEALS
DIVISION II
OF THE STATE OF WASHINGTON

BRENTON THOMPSON,
Petitioner,
v.
STATE OF WASHINGTON,
Respondent.

No. 34540-4-II

DECLARATION OF
SERVICE BY MAIL

I, Brenton Thompson, the Petitioner in
the above entitled cause do hereby declare
that I have served the following documents:

DECLARATION OF SERVICE BY MAIL
STATEMENT OF ADDITIONAL GROUNDS

1 Upon :

2
3 COURT OF APPEALS, DIVISION II
4 450 Broadway, Ste. 300
5 Tacoma, WA. 98402
6

7 Kathleen Proctor ✓
8 Pierce Co. Pros. Offc.
9 930 Tacoma Ave. So., Rm 946
10 Tacoma, WA. 98402
11
12

13 I deposited with the Unit Officer's Station,
14 by processing Legal Mail, with first-class
15 postage affixed thereto, at the :

16
17 STAFFORD CREEK CORR. CTR.
18 191 CONSTANTINE WAY
19 Aberdeen, WA. 98520
20

21 On this 9th day of NOVEMBER, 2006.
22
23

24 Respectfully Submitted

25
26 *Brenton Thompson*
27 BRENTON THOMPSON
28 Pro Se
29
30
31
32
33

42-174

of Center-Correction Center
Statute Way
WA, No. 95570

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STATE OF WASHINGTON

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DIVISION II
750 BRUNNEN, SAC. BLD
Tacoma, wa. 98402

LEGAL MAIL

