

NO. 34547-1-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON, Respondent

v.

JAMES RAYMOND NELSON, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE DIANE M. WOOLARD
CLARK COUNTY SUPERIOR COURT CAUSE NO'S.
05-1-02317-1 and 05-1-02361-9

BRIEF OF RESPONDENT

Attorneys for Respondent:

ARTHUR D. CURTIS
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Clark County, Washington

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Telephone (360) 397-2261

FILED
CLERK OF COURT
OCT 11 2012
CLARK COUNTY
WA
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I. STATEMENT OF FACTS

The State accepts the statement of facts as set forth by the defendant.

II. RESPONSE TO ASSIGNMENT OF ERROR NO. 1

The first assignment of error raised by the defendant is a claim that the sentencing court erred when it included a prior conviction for Burglary in the Third Degree from New York State. The allegation is that the trial court did not conduct a comparability analysis and therefore it should not be counted as criminal history. In reviewing the argument made, it appears that the only area of contention is the concept of a “building”. The State submits that the definitions of a “building” in Washington State and New York State for purposes of the burglary statute are basically identical.

Certified copies of the New York conviction were provided to the court. The New York charging documentation discussed that the “building” was a house owned by Aaron Wagner. (RP 16-17). It appears that the trial court reviewed the documentation and made the determination that the elements of Washington’s and New York’s burglary statutes were comparable. (RP 20-21).

As appellate counsel on page 5 of the brief indicates, the certified documents used at the time of sentencing are included in the clerk's papers. A copy of the documentation that was supplied to the trial court is attached hereto and by this reference incorporated herein.

The issue of "building" appears to center around the concept that, maybe, the New York language is overly broad in that it could be potentially a vehicle of some type. However, the State submits that this argument fails in two respects. First, the indictment that leads to the conviction maintains that the building burglarized was a house. Second, the definition of a "building" under New York Consolidated Laws Section 140-00(2) defines a building as follows:

"Building", In addition to its ordinary meaning, includes any structure, vehicle or watercraft used for overnight lodging of persons, or used by persons for carrying on business therein, or used as an elementary or secondary school, or an enclosed motor truck, or an enclosed motor truck trailer. Where a building consists of two or more units separately secured or occupied, each unit shall be deemed both a separate building in itself and a part of the main building.

RCW 9A.04.110(5) defines a building as follows:

(5) "Building", in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building.

The State Submits that these are basically identical definitions and that comparability analysis has been done. State v. Ross, 152 Wn.2d 220, 230, 95 P.3d 1225 (2004); State v. McCorkle, 137 Wn.2d 490, 495, 973 P.2d 461 (1999).

III. RESPONSE TO ASSIGNMENT OF ERROR NO. 2

The second assignment of error deals with a conviction for Assault IV from The Dalles, Oregon. The defendant's claim is that the State failed to present proper proof of this alleged conviction.

A copy of the documentation has been attached as part of the appendix to this brief. It is a one page document which purports to be a certified copy of the court documents from the Municipal Court in the City of The Dalles.

The argument by defense is not one of comparability to Washington laws, but is merely whether or not this is adequately authenticated for purposes of use at the sentencing hearing.

In State v. Ammons, 105 Wn.2d 175, 186, 713 P.2d 719 (1986), the appellate courts held that the use of a prior conviction as a basis for sentencing under the SRA is permissible if the State proves the existence of the prior conviction by a preponderance of the evidence. The best evidence of a prior conviction is a certified copy of the judgment.

State v. Cabrera, 73 Wn. App. 165, 168, 868 P.2d 179 (1994). However, the State may introduce other comparable documents of record or transcripts of prior proceedings to establish criminal history. Cabrera, 73 Wn. App. at 168. The touchstone of any of these rules is that this should be information that the court could reasonably rely on. State v. Labarbera, 128 Wn. App. 343, 345, 115 P.3d 1038 (2005).

The defendant also claims that this is an uncertified document. RCW 5.44.040 discusses the elements of a court certification. The State submits that this documentation is a certified document. A certificate of the custodian is prima facie evidence of its authenticity. State v. Christensen, 122 Wn. 236, 210 P. 376 (1922). The appellate courts have continuously held that documents may be admitted under RCW 5.44.040 if they meet the traditional common-law requirements as set forth in Steel v. Johnson, 9 Wn.2d 347, 115 P.2d 145 (1941). In Steel the rule was set forth as follows:

In order to be admissible, a report or document prepared by a public official must contain facts and not conclusions involving the exercise of judgment or discretion or the expression of opinion. Subject matter must relate to facts which are of a public nature, it must be retained for the benefit of the public and there must be expressed statutory authority to compile the report.

- Steel v. Johnson, 9 Wn.2d at 358.

This rule has recently been followed in State v. Monson, 53 Wn. App. 854, 856, 771 P.2d 359 (1989).

The State submits that the document that was reviewed by the sentencing court, in our situation, was a certified document. There is nothing that requires that there be an embossed seal placed on the document. Rather, it refers to a certification. Further, there is nothing to indicate that the person signing this documentation did not have the authority under Oregon legislation to sign on such documents nor is there any information that would lead one to believe that this a falsified or inappropriate type of document. This is a classic example of a public record kept pursuant to a statute for the benefit of the public and available for public inspection. These public records and documents are routine daily products of government and business. The State submits that the mere fact that they are kept as they are is prima facie proof of their genuineness. State v. Bolen, 142 Wn. 653, 663, 254 P. 445 (1927); State v. Connie J. C., 86 Wn. App. 453, 457, 937 P.2d 1116 (1997).

IV. RESPONSE TO ASSIGNMENT OF ERROR NO. 3

The third assignment of error raised by the defendant is that the sentencing court did not look at whether or not the Lewis County convictions for Assault 2 and Harassment constituted the same criminal conduct.

Certified copies of the Statement of Defendant on Plea of Guilty and Judgment and Sentence under the Lewis County Cause Number 00-1-00497-9 are part of the appendices to this brief. These certified copies were part of the record used at the time of sentencing in our case.

The trial court, in our situation, relied on the determination by the Lewis County Superior Court that the convictions did not merge.

It is correct that the court was not bound by the original Lewis County decision concerning same criminal conduct. State v. Lara, 66 Wn. App. 927, 834 P.2d 70 (1992). But there is nothing in the statute that says that the court cannot take into consideration the fact that a Superior Court elsewhere in the State had made that determination initially. The State submits that this, although not binding on our Superior Court, is certainly information that the court can rely on as credible and trustworthy. The State further submits that this is a discretionary call by the sentencing court and should not be overturned unless it is clearly erroneous and the application of this doctrine would work a manifest injustice. State v. Clark, 143 Wn.2d 731, 744-745, 24 P.3d 1006 (2001) (discussing the doctrine of law of the case as it applies to appellate decisions returned to the Superior Court level); State v. Tili, 139 Wn.2d 107, 122-123, 985 P.2d 365 (1999). The State submits that there has been no showing that the

trial court's determination concerning the question of same criminal conduct was an abuse of discretion.

V. RESPONSE TO ASSIGNMENT OF ERROR NO. 4

The fourth assignment of error raised by the defendant is that the sentencing should be amended to reflect that the maximum term that the defendant can serve for the convictions in these matters is sixty months. The State does agree that it appears that State v. Sloan, 121 Wn. App. 220, 87 P.3d 1214 (2004) is the current applicable case law. The State agrees that resentencing would be appropriate to clarify in the judgment and sentences that the total term cannot exceed sixty months.

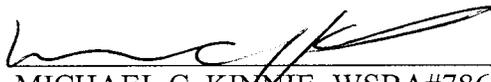
VI. CONCLUSION

The State agrees that the defendant should be returned for purposes of resentencing on the issue of clarifying the statutory maximum of sixty months for the convictions. However, on all other matters, the State submits that the trial court should be affirmed.

DATED this 21 day of Nov, 2006.

Respectfully submitted:
ARTHUR D. CURTIS
Prosecuting Attorney
Clark County, Washington

By:


MICHAEL C. KINNIE, WSBA#7869
Senior Deputy Prosecuting Attorney

APPENDIX "A"

NEW YORK CONVICTION DOCUMENTATION

COUNTY COURT : STATE OF N.Y. YORK
TRIAL/SPECIAL TERM : ROCKLAND COUNTY

Present: HON. HARRY EDELSTEIN Judge

DECISION AND ORDER

THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiffs,

-against-

JAMES R. NELSON,

Defendant.

Index 7728
Number.....1980

Motion
Date.....19...

Motion
Cal. Number.....

Trial
Cal. Number.....

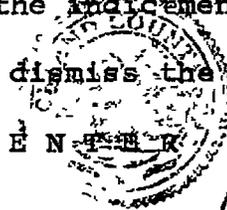
Indictment
Number.....80-251.....

Pursuant to the Consent Order for Discovery and Inspection signed by the Court on November 28, 1980, the grand jury minutes were made available to this Court for the purpose of determining the legal sufficiency of the evidence presented to the grand jury.

Dec 24, 1980 SB

The Court has read the grand jury minutes and finds them sufficient to support the crimes charged in the indictment.

Accordingly, the motion to dismiss the indictment is denied.



Robert Crable
Robert Crable Deputy County Clerk & Clerk of the Court of the County of Rockland County

HARRY EDELSTEIN
County Court, Rockland County

Dated: New City, New York
December 23, 1980

TO: KENNETH GRIBETZ, ESQ.
District Attorney of Rockland County

PETER BRANTI, JR., ESQ.
Public Defender of Rockland County

ENTERED DEC 24 1980 3:44 P.M.

LIBER 62 PAGE 187

Joseph K. Holcomb
Rockland County Clerk

80251

ORDER AND CONDITIONS OF PROBATION—ADULT

7728/80

To JOHN A. MULHOLLAND (Director of Probation
~~Chief Probation Officer~~
Rockland County (Probation Department)
 Name James R. Nelson Date of Birth 9/15/61
 Address Senate Hotel, Spring Valley, New York 10977

having been (convicted of) ~~XXXXXXXXXX~~ Burglary in the Third Degree, P.L. 140.20,
Class D Felony

is this day sentenced to probation for a period of 5 years under your supervision. While on probation ~~and~~
 he shall observe the following conditions of probation and any others which the Court may impose at a later date, and
~~that~~ he shall also follow the instruction of the probation officer as to the way in which these conditions are to be
 carried out:

GENERAL CONDITIONS:

1. Report to a probation officer as directed by the Court or the probation officer and permit the probation officer to visit him (~~her~~) at his (~~her~~) place of abode or elsewhere.
2. Remain within the jurisdiction of the Court unless granted permission to leave by the Court or the probation officer.
3. Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.

OTHER CONDITIONS:

4. Avoid injurious, immoral and/or vicious habits.
5. Refrain from frequenting unlawful or disreputable places or consorting with disreputable persons.
6. Work faithfully at suitable employment or faithfully pursue a course of study or of vocational training that will equip you for suitable employment.
7. Abstain from the use or possession of dangerous or harmful drugs and narcotics, including marijuana.
8. Undergo available medical or psychiatric treatment and/or rehabilitation program when required for that purpose and as directed.
9. Not violate any Federal or State Law or Municipal Ordinances.
10. Shall agree to waive extradition from any state in the United States.

- SEE OVER -

The period of probation shall expire on 3-11-86 unless terminated by the Court prior to the aforementioned date.

Dated this 12 day
 of March 1981

[Signature]
 Hon. Harry Edelstein (Judge)
 Rockland County (Court) I have received
 a copy.

I have read and understand the above conditions of probation. I agree to abide by them.

Dated this 12 day
 of March 1981

[Signature]
 (Probationer)
 Witness [Signature]
 (Probation Officer)

11. You shall spend _____ weekends in the Rockland County Jail from _____ to _____ commencing on _____ and ending on _____ and you shall not report to the Rockland County Jail under the influence of drugs and/or alcohol.
12. You shall undergo evaluation at the Substance Abuse Clinic at the Rockland County Mental Health Center and faithfully cooperate with any plan of treatment recommended by staff at said clinic until your counselor/therapist and your Probation Officer agree it is no longer necessary.
13. You shall submit urine samples for urinalysis as directed by your Probation Officer.

FILED
JAN 11 1983
ROCKLAND COUNTY
CLERK'S OFFICE

FILE NO. 7728
1980

DISTRICT ATTORNEY SUPERIOR COURT CRIMINAL DISPOSITION REPORT

1738/198

CASE NO.	70-251	OTHER CASES	DEFENDANT'S NAME (FIRST AND LAST)	WILSON, JAMES R.
COUNTY AND NAME	ROCKLAND COUNTY			DISP. NO.
NYSID	42565772	ARREST DATE	9/16/80	
COURT CONTROL # (FROM JC-90) CASE #	FOR OCA USE	DIRECT INDICTMENT		
COURT OF ORIGINAL JURISDICTION	DATE OF ACTION	10/21/80		
ARRAIGNMENT COURT CODE AND COUNTY	APPEARED TO	NAME OF COURT		
11/1/80	ROCKLAND COUNTY COURT	LOCAL CRIMINAL COURT		
DISMISSED/NO BILL	REMANDED TO	LET & FAMILY COURT		
DISPOSITION	BY: Hon. Nancy Colletton			

2 INTERIM DISPOSITION	BY: MIST. TRIAL JURY	BRING WARRANT ISSUED	TEMP. ORDER OF OBSERVATION	REL 790-40(1)
DATE OF ACTION	DISPOSITION CODE	TRANSFER TO COURT	DATE OF ACTION	DISPOSITION CODE

3 ARRAIGNMENT CHARGE # 1	LAW CODE	SECTION 1	SUBSECTION 1	ATTEMPT	# OF COUNTS
190.20					1
Description: Poss. Burglar's Tools					

3 ARRAIGNMENT CHARGE # 2	LAW CODE	SECTION 1	SUBSECTION 1	ATTEMPT	# OF COUNTS
190.35					1
Description: Poss. Burglar's Tools					

4 FINAL DISPOSITION ON CHARGE # 1	LAW CODE	SECTION 1	SUBSECTION 1	ATTEMPT	# OF COUNTS
190.20					1
Description: Burglar's Tools					
DATE OF ACTION	DISPOSITION CODE	OTHER COUNTS DISMISSED			
11/1/80					
ADJOURNED TO DATE	COVERED BY CASE #	FOR OCA USE			

4 FINAL DISPOSITION ON CHARGE # 2	LAW CODE	SECTION 1	SUBSECTION 1	ATTEMPT	# OF COUNTS
190.35					1
Description: Burglar's Tools					
DATE OF ACTION	DISPOSITION CODE	OTHER COUNTS DISMISSED			
ADJOURNED TO DATE	COVERED BY CASE #	FOR OCA USE			

5 SENTENCE ON CHARGE # 1	CLASSIFICATION	SENTENCE CODE			
190.20		C9P			
PROBATION TIME	INSTITUTION	CONCURRENT	CONSECUTIVE	INTERMITTENT	
12 Days					
SECOND FELONY OFFENDER	PERSISTENT FELON	ADJUDICATED Y.O.	CERTIFIED ADDICT	DRIVER'S LICENSE SUSPENDED or REVOKED	

5 SENTENCE ON CHARGE # 2	CLASSIFICATION	SENTENCE CODE			
190.35		C9P			
PROBATION TIME	INSTITUTION	CONCURRENT	CONSECUTIVE	INTERMITTENT	
SECOND FELONY OFFENDER	PERSISTENT FELON	ADJUDICATED Y.O.	CERTIFIED ADDICT	DRIVER'S LICENSE SUSPENDED or REVOKED	

6 COMPLETED BY	7 SEAL ORDER (use rubber stamp)	8 REMARKS
<i>[Signature]</i>	RETURN PRINTS AND PHOTOS TO:	Sent to Seelye's Commanding on March 15, 1981, terminating in <i>[Signature]</i> Robert Crable sealed
NAME	ADDRESS	Robert Crable Deputy County Clerk & Clerk of the 1st Term County Courts
CITY, STATE, ZIP		
MAIL TO: COUNTY OFFICE OF COURT ADMINISTRATION 100 BROADWAY NEW YORK, NY 10007		



CRIMINAL DISPOSITION REPORT - CHARGE SUPPLEMENT SHEET

INSTRUCTIONS: USE THIS SHEET WHEN REPORTING ON 3 OR MORE DISTINCT CHARGES. LIST UP TO FOUR ADDITIONAL CHARGES FOR THE CASE ON EACH SUPPLEMENT SET. COPY THE PREPRINTED "SERIAL#", "COURT OR COUNTY CODE" AND "DEFENDANT'S NAME" FROM SECTION 1 - CASE DATA, OF THIS REPORT, ALWAYS FORWARD UPDATED COPY OF THIS SET WHEN MAKING A REPORT ON THE CASE.

SERIAL # <u>17948225</u>	COURT OR COUNTY CODE <u>43 Rockland</u>	DEFENDANT'S NAME (LAST, FIRST, M.I.) <u>Nelson James R.</u>
--------------------------	---	---

3 ARRAIGNMENT CHARGE #

LAW CODE <u>PL</u>	SECTION # <u>145.00</u>	Subsection # <u>1</u>	Attempt <input type="checkbox"/>	# of Counts <u>1</u>
DESCRIPTION <u>CRIM MISCHIEF 4th D</u>				

3 ARRAIGNMENT CHARGE #

LAW CODE <u>PL</u>	SECTION # <u>265.01</u>	Subsection # <u>1</u>	Attempt <input type="checkbox"/>	# of Counts <u>1</u>
DESCRIPTION <u>CRIM Poss Weapon 4th D</u>				

4 FINAL DISPOSITION ON CHARGE #

LAW CODE	SECTION #	Subsection #	Attempt <input type="checkbox"/>	# of Counts
DESCRIPTION				
DATE OF ACTION	DISPOSITION CODE <u>COV #1</u>	All Other Counts Dismissed <input type="checkbox"/>		
ADJOURNED TO	COVERED BY CASE #	FOR OCA USE		

4 FINAL DISPOSITION ON CHARGE #

LAW CODE	SECTION #	Subsection #	Attempt <input type="checkbox"/>	# of Counts
DESCRIPTION				
DATE OF ACTION	DISPOSITION CODE <u>COV #1</u>	All Other Counts Dismissed <input type="checkbox"/>		
ADJOURNED TO	COVERED BY CASE #	FOR OCA USE		

5 SENTENCE ON CHARGE # 3

DATE SENTENCED	SENTENCE CODE <u>COV #1</u>
FINE AMOUNT \$	PROBATION TIME <input type="checkbox"/> 1 year <input type="checkbox"/> 3 years <input type="checkbox"/> 5 years <input type="checkbox"/> Life
CUSTODY TIME	INSTITUTION <input type="checkbox"/> CONCURRENT <input type="checkbox"/> CONSECUTIVE <input type="checkbox"/> INTERMITTENT <input type="checkbox"/>
SECOND FELONY OFFENDER <input type="checkbox"/>	PERSISTENT FELON <input type="checkbox"/> ADJUDICATED Y O <input type="checkbox"/> CERTIFIED ADDICT <input type="checkbox"/> DRIVER'S LICENSE SUSPENDED OR REVOKED <input type="checkbox"/>

5 SENTENCE ON CHARGE # 4

DATE SENTENCED	SENTENCE CODE
FINE AMOUNT \$	PROBATION TIME <input type="checkbox"/> 1 year <input type="checkbox"/> 3 years <input type="checkbox"/> 5 years <input type="checkbox"/> Life
CUSTODY TIME	INSTITUTION <input type="checkbox"/> CONCURRENT <input type="checkbox"/> CONSECUTIVE <input type="checkbox"/> INTERMITTENT <input type="checkbox"/>
SECOND FELONY OFFENDER <input type="checkbox"/>	PERSISTENT FELON <input type="checkbox"/> ADJUDICATED Y O <input type="checkbox"/> CERTIFIED ADDICT <input type="checkbox"/> DRIVER'S LICENSE SUSPENDED OR REVOKED <input type="checkbox"/>

3 ARRAIGNMENT CHARGE #

LAW CODE	SECTION #	Subsection #	Attempt <input type="checkbox"/>	# of Counts
DESCRIPTION				

3 ARRAIGNMENT CHARGE #

LAW CODE	SECTION #	Subsection #	Attempt <input type="checkbox"/>	# of Counts
DESCRIPTION				

4 FINAL DISPOSITION ON CHARGE #

LAW CODE	SECTION #	Subsection #	Attempt <input type="checkbox"/>	# of Counts
DESCRIPTION				
DATE OF ACTION	DISPOSITION CODE	All Other Counts Dismissed <input type="checkbox"/>		
ADJOURNED TO	COVERED BY CASE #	FOR OCA USE		

4 FINAL DISPOSITION ON CHARGE #

LAW CODE	SECTION #	Subsection #	Attempt <input type="checkbox"/>	# of Counts
DESCRIPTION				
DATE OF ACTION	DISPOSITION CODE	All Other Counts Dismissed <input type="checkbox"/>		
ADJOURNED TO	COVERED BY CASE #	FOR OCA USE		

5 SENTENCE ON CHARGE #

DATE SENTENCED	SENTENCE CODE
FINE AMOUNT \$	PROBATION TIME <input type="checkbox"/> 1 year <input type="checkbox"/> 3 years <input type="checkbox"/> 5 years <input type="checkbox"/> Life
CUSTODY TIME	INSTITUTION <input type="checkbox"/> CONCURRENT <input type="checkbox"/> CONSECUTIVE <input type="checkbox"/> INTERMITTENT <input type="checkbox"/>
SECOND FELONY OFFENDER <input type="checkbox"/>	PERSISTENT FELON <input type="checkbox"/> ADJUDICATED Y O <input type="checkbox"/> CERTIFIED ADDICT <input type="checkbox"/> DRIVER'S LICENSE SUSPENDED OR REVOKED <input type="checkbox"/>

5 SENTENCE ON CHARGE #

DATE SENTENCED	SENTENCE CODE
FINE AMOUNT \$	PROBATION TIME <input type="checkbox"/> 1 year <input type="checkbox"/> 3 years <input type="checkbox"/> 5 years <input type="checkbox"/> Life
CUSTODY TIME	INSTITUTION <input type="checkbox"/> CONCURRENT <input type="checkbox"/> CONSECUTIVE <input type="checkbox"/> INTERMITTENT <input type="checkbox"/>
SECOND FELONY OFFENDER <input type="checkbox"/>	PERSISTENT FELON <input type="checkbox"/> ADJUDICATED Y O <input type="checkbox"/> CERTIFIED ADDICT <input type="checkbox"/> DRIVER'S LICENSE SUSPENDED OR REVOKED <input type="checkbox"/>

COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

-----X
THE PEOPLE OF THE STATE OF NEW YORK

-against-

Ind. No. 80-251

JAMES R. NELSON,

Defendant.
-----X

THE GRAND JURY OF THE COUNTY OF ROCKLAND, by this indictment, accuse the defendant of the crime of BURGLARY IN THE THIRD DEGREE (Sec. 140.20 Penal Law) committed as follows:

The defendant, in the Town of Ramapo, in the County of Rockland, in the State of New York, on or about the 16th day of September, 1980, with intent to commit a crime therein, knowingly entered and remained unlawfully in a building, to wit, a house owned by Aaron Wagman, located at 83 Williams Avenue, Hillcrest, New York.

SECOND COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of POSSESSION OF BURGLAR'S TOOLS (Sec. 140.35 Penal Law) committed as follows:

of Rockland, in the State of New York, on or about the 16th day of September, 1980, under circumstances evincing an intent to use the same in the commission of an offense of such character, did possess a tool, adapted, designed and commonly used for committing and facilitating offenses involving forcible entry into premises, to wit, a screwdriver.

THIRD COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of CRIMINAL MISCHIEF IN THE FOURTH DEGREE (Sec. 145.00(1) Penal Law) committed as follows:

Said defendant, in the Town of Ramapo, in the County of Rockland, in the State of New York, on or about the 16th day of September, 1980, having no right to do so, nor any reasonable ground to believe that he had such right, intentionally damaged property of another, by breaking a window of a house, located at 83 Williams Avenue, Hillcrest, New York.

FOURTH COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE (Sec. 265.01(1) Penal Law) committed as follows:

Said defendant, in the Town of Ramapo, in the County of Rockland, in the State of New York, on or about the 16th day of September, 1980, did possess a billy.

Kenneth Gribetz
KENNETH GRIBETZ
District Attorney
Rockland County

State of New York (County of Rockland) SS.

I, ROBERT CRABLE, Deputy County Clerk and Clerk of the Supreme and County Courts, Rockland County, DO HEREBY CERTIFY

that I have compared this copy with the original thereof filed or recorded in my office on

and the same is a correct transcript thereof IN WITNESS WHEREOF, 5B

I have hereunto set my hand and affixed my official seal.



Robert Crable

Robert Crable Deputy County Clerk & Clerk
of the Supreme County Courts
Rockland County

OCTOBER TERM - PART II

(W) No. 80-251

COUNTY COURT.

COUNTY OF ROCKLAND.

THE PEOPLE
vs.

MES R. WILSON,

Defendant.

INDICTMENT

FOR

REGULARY 3°
POS. OF BURGLAR'S TOOLS
CRIMINAL MISCHIEF 4°
CRIMINAL POSS. WEAPON 4°

Kenneth G. Smith
District Attorney of Rockland County

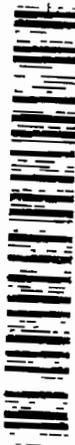
A True Bill

W. J. ...
Foreman

presented and filed the 31st
of October, 1980
...
Clerk

ROCKLAND COUNTY RECORDS CENTER

02/17/1999 66585957



IND.251/80

861 01-10-13-04

1410

APPENDIX "B"

CITY OF THE DALLES, OREGON, CONVICTION DOCUMENTATION

31-



12-13-05

CITY OF THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

MUNICIPAL COURT

(541) 296-5481 ext. 1124

FAX (541) 296-5416

FILED

FEB 21 2006

TO: CLARK COUNTY PA
RE: JAMES RAYMOND NELSON

JoAnne McBride, Clerk, Clark Co.

051-02317-1

NELSON, James Raymond
1020 E. 11th 5'8, 130, Brn/Brn

103-46-1228

9/15/61

DATE	OFFENSE	CITATION	DISPOSITION
10/31/90	Assault IV	S14392	9 da.J1 11/7/90 Repay attorney fees. \$400F

*THIS IS THE ONLY INFORMATION WE HAVE HAVE MR. NELSON, IS HIS CARD FILE..

DORENE J. BROWN
COURT CLERK
CITY OF THE DALLES, MUNICIPAL COURT

Dorene J. Brown

I Certify A True Copy of Original

By *Dorene J. Brown*
Court Clerk

18

APPENDIX "C"

LEWIS COUNTY, WASHINGTON, CONVICTION DOCUMENTATION

LEWIS COUNTY
SUPERIOR COURT

JW AUG 13 2000
By Nettie Jurgens, Clerk

Certified

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR LEWIS COUNTY

2 STATE OF WASHINGTON,)
 3 Plaintiff,) No. 00-1-00497-9
 4 vs.) INFORMATION
 5 JAMES RAYMOND NELSON,)
 6 DOB: 09/15/1961,)
 7 Defendant.)

8 **COUNT I - ATTEMPTED ARSON IN THE FIRST DEGREE**

9 By this Information the Prosecuting Attorney for Lewis
 10 County accuses the defendant of the crime of ATTEMPTED ARSON
 11 IN THE FIRST DEGREE, which is a violation of RCW
 12 9A.48.020(1)(a) or (b) or (c) and RCW 9A.28.020, the maximum
 13 penalty for which is life in prison and a \$50,000 fine, in
 14 that the defendant on or about August 17, 2000, in Lewis
 15 County, Washington, then and there did knowingly and
 16 maliciously attempt to cause a fire or explosion which is
 17 manifestly dangerous to any human life, including fireman, or
 18 attempted to caused a fire or explosion which damaged a
 19 dwelling, or attempted to caused a fire or explosion in any
 20 building in which there shall be at the time a human being who
 21 is not a participant in the crime; against the peace and
 22 dignity of the State of Washington.

23 **COUNT II - ASSAULT IN THE SECOND DEGREE**

And I, the Prosecuting Attorney aforesaid, further do
 accuse the defendant of the crime of ASSAULT IN THE SECOND
 DEGREE, which is a violation of RCW 9A.36.021(1)(c), the

INFORMATION

LEWIS COUNTY
 PROSECUTING ATTORNEY
 360 NW NORTH ST 1001 PRO01
 CHEHALIS, WASHINGTON 98532-1900
 (360) 740-1240
 FAX (360) 740-1487

1 maximum penalty for which is 10 years in prison and a \$20,000
2 fine, in that the defendant on or about August 17, 2000, in
3 Lewis County, Washington, then and there assaulted another
4 with a deadly weapon, and in the commission thereof, the
5 defendant was armed with a deadly weapon, to wit: a knife,
6 that being a deadly weapon as defined in RCW 9.94A.125 and
7 invoking the provisions of RCW 9.94A.310, and adding
8 additional time to the presumptive sentence as provided in
9 RCW 9.94A.370; against the peace and dignity of the State of
10 Washington.

11 **COUNT III - HARASSMENT**

12 And I, the Prosecuting Attorney aforesaid, further do
13 accuse the defendant of the crime of HARASSMENT, which is a
14 violation of RCW 9A.46.020(2), the maximum penalty for which
15 is 5 years in prison and a \$10,000 fine, in that the
16 defendant on or about August 17, 2000, in Lewis County,
17 Washington, then and there without lawful authority, did
18 knowingly and feloniously threaten to kill Pat Palmer, and
19 the defendant's words or conduct placed Pat Palmer in
20 reasonable fear that the threat would be carried out; against
21 the peace and dignity of the State of Washington.

22 Dated: 8/18/2000

JEREMY RANDOLPH
Prosecuting Attorney

23 By: _____

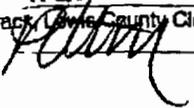
DONALD A. BLAIR, WSBA# 24637
Deputy Prosecuting Attorney

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DEFENDANT INFORMATION								
NAME: JAMES RAYMOND NELSON				DOB: 09/15/1961				
ADDRESS: 115 N BUCKNER #				CITY: CENTRALIA				
STATE: WA		ZIP CODE: 98531		PHONE #(s):				
SSN: 103-46-1228		SID: WA18430648		FBI: 272239T1		LEA#: 00A-11513		
DRIV. LIC. NO. NELSOJR3900N		DL ST WA	SEX: M	RACE:	HGT: 5' 9"	WGT: 170	EYES: BRN	HAIR: BRN
OTHER IDENTIFYING INFORMATION:								

I, Kathy A. Brack, Clerk of the Superior Court for Lewis County, do certify the foregoing is a true copy of the original on file and of record in my office

NOV 23 2005

Kathy A. Brack, Lewis County Clerk
By  Deputy

Received & Filed
LEWIS COUNTY, WASH
Superior Court

Certified

OCT 12 2000

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By Nettie Jungers, Clerk *JW*
Deputy

IN THE SUPERIOR COURT OF WASHINGTON FOR COUNTY OF LEWIS	
STATE OF WASHINGTON	Plaintiff
<i>James Nelson</i> vs.	Defendant

NO. 00-1-497-9

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY
(STDFG - 08.2000)

1. My true name is: James Nelson

2. My age is: 39

3. I went through the 10th grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

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

(b) I am charged with the following crime(s):
 Court ~~II~~ Assault 2
 The elements are: to assault another while armed with a deadly weapon.

Court ~~II~~ Abreassment
 The elements are: to knowingly threaten another, placing that person in reasonable fear that the threat would be carried out.

Court III: _____
 The elements are: _____

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

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- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a STANDARD SENTENCE RANGE as follows:

COUNT NO.	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancement #	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see subsection 3(f))	MAXIMUM TERM AND FINE
2	22-24 MON	-	22-24	18-36 MO	2010 hrs \$10,000
3	17-22 MON		17-22	9-18 MO	545 hrs \$10,000

* (F) Firearm, (D) other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present
priors include Forgery (x3), THEFT 2°

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.

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For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is less than 12 months. If this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community placement. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community placement. If this crime is a sex offense, the court will order me to serve at least three years of community custody. The actual period of community placement, community custody, or community supervision may be as long as my earned early release period. During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h).

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is less than 12 months. If the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the community custody range established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.150 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody range will be based on the offense type that dictates the longest term of community custody. If I have been convicted of a crime that is not listed in the chart and my sentence is more than 12 months, I will be placed on community custody for the period of earned release.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Sex Offenses (Not sentenced under RCW 9.94A.120(8))	36 to 48 months or up to the period of earned release, whichever is longer
Serious Violent Offenses	24 to 48 months or up to the period of earned release, whichever is longer
Violent Offenses	18 to 36 months or up to the period of earned release, whichever is longer.
Crimes Against Persons as defined by RCW 9.94A.440(2)	9 to 18 months or up to the period of earned release, whichever is longer
Offenses under Chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.120(6))	9 to 12 months or up to the period of earned release, whichever is longer.

ACT
ACTS

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

(g) The prosecuting attorney will make the following recommendation to the judge: Dismissing Arson, Dismissing Deadly Weapon Enhancement
22 months with credit for time served (agreed)

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either the State or I can appeal that sentence. If the

~~X~~

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

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(d) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040

NOTIFICATION RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS DO NOT APPLY, THEY SHOULD BE STRICKEN AND INITIALED BY THE DEFENDANT AND THE JUDGE

[k] This offense is a most serious offense or strike as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. In addition, if this offense is (1) rape in the first degree, rape of a child in the first degree, rape in the second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child molestation in the first degree, or (2) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation, or (3) any attempt to commit any of the crimes listed in this sentence and I have at least one prior conviction for one of these listed crimes in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.

~~[l]~~

The judge may sentence me as a first-time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days' confinement, and up to two years community supervision if the crime was committed prior to July 1, 2000, or two years of community custody if the crime was committed on or after July 1, 2000, plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.

~~[m]~~

The judge may suspend execution of the standard range term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.120(8). If the judge suspends execution of the standard range term of confinement, I will be placed on community custody for the length of the suspended sentence or three years, which ever is greater; I will be ordered to serve up to 180 days of total confinement; I will be ordered to participate in sex offender treatment; and I will be subject to all of the conditions described in paragraph (e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

~~[n]~~

Because this crime involves a sex offense, or a kidnapping offense involving a minor, I will be required to register where I reside, study or work. The specific current registration requirements are set forth in attachment A. These requirements may change at a later date. I will be responsible for learning about any changes in the registration requirements and for complying with the registration requirements.

~~[o]~~

If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis.

[p]

If this is a crime of domestic violence and if I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

~~[q]~~

If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.

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The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.120(6). This sentence could include a period of total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions described in paragraph (e). During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose community custody of at least one-half of the midpoint of the standard range that must include appropriate substance abuse treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. Additionally, the judge could prohibit me from using alcohol or controlled substances, require me to devote time to a specific employment or training, stay out of certain areas, pay thirty dollars per month to offset the cost of monitoring and require other conditions, including affirmative conditions.

If the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.

If this crime involves the manufacture, delivery, or possession with the intent to deliver methamphetamine or amphetamine, a mandatory methamphetamine clean-up fine of \$3,000.00 will be assessed. RCW 69.50.401(a)(1)(ii)

If this crime involves a motor vehicle, my driver's license or privilege to drive will be suspended or revoked. If I have a driver's license, I must now surrender it to the judge.

If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(8).

The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(k).

I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.

I understand that the offense(s) I am pleading guilty to include a deadly weapon or firearm enhancement. Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements.

I understand that the offenses I am pleading guilty to include both a conviction under RCW 9.41.040 for unlawful possession of a firearm in the first or second degree and one or more convictions for the felony crimes of theft of a firearm or possession of a stolen firearm. The sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will also be imposed for each firearm unlawfully possessed.

This plea of guilty will result in the suspension of public assistance. RCW 74.08.290.

7. I plead guilty to count II and III in the original information. I have received a copy of that information.

8. I make this plea freely and voluntarily.

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

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

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement:

on August 17, 2000, I assaulted another while armed with a deadly weapon. On August 17, 2000 I threatened to kill another, placing that person in reasonable fear that the threat would be carried out. This occurred in Lewis County, Washington

[] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

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

James Nelson
Defendant

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

Per Backlund
Defendant's Lawyer

[Signature]
Prosecuting Attorney

DAVID BLAIR
Print Name

2217
Bar #

Print Name

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

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

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

Dated: 10/12/2000

[Signature]
Judge

I, Kathy A. Brack, Clerk of the Superior Court for Lewis County, do certify the foregoing is a true copy of the original on file and of record in my office.

NOV 21 2005

Kathy A. Brack, Lewis County Clerk
By *[Signature]* Deputy

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Certified

Received & Filed
LEWIS COUNTY, WASH
SUPERIOR COURT

OCT 18 2000

By JW Nettie Jungers, Clerk
Deputy

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR LEWIS COUNTY

STATE OF WASHINGTON, Plaintiff,

No. 00-1-497-9

vs.

James
JAMES RAYMOND NELSON,
Defendant.

JUDGMENT AND SENTENCE (JS)

PRISON

SID:WA18430648
FBI:272239T1
DOB:9-15-61
DOC#:767846

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer, Jody Backlund, and the deputy prosecuting attorney, Donald Blair, were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the Court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 10-12-00,

by plea jury-verdict bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
II.	ASSAULT IN THE SECOND DEGREE (F)	9A.36.021(1)(c)	8-17-00
III.	HARASSMENT (F)	9A.46.020(2)	8-17-00

as charged in the original information.

Additional current offenses are attached in Appendix 2.1

A special verdict/finding for use of a firearm was returned on Count(s) _____. RCW 9.94A.125, 310

A special verdict/finding for use of a deadly weapon other than a firearm was returned on Count(s) _____, RCW 9.94A.125, 310

A special verdict/finding of sexual motivation was returned on Count(s) _____. RCW 9.94A.127

00-9-1668-2

JUDGMENT AND SENTENCE (FELONY - PRISON)
(RCW 9.94A.110, .120)(WPF CR 94.0400 (6/2000))

- The defendant was convicted of vehicular homicide which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400): NONE.
- This case involves Kidnapping in the First Degree, Kidnapping in the Second Degree, or Unlawful Imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130
- The court finds that the offender has a chemical dependency that has contributed to the offense(s).RCW9.94A.120.
- The crime charged in Count(s) II, III involves domestic violence.
- Other current convictions listed under different cause numbers used in calculating the offender score are: _____

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

CRIME	DATE OF SENTENCE	SENTENCING CRT (COUNTY & STATE)	DATE OF CRIME	ADULT OR JUVENILE	TYPE OF CRIME
FORGERY	9-2-99	CLARK, WA	2-19-98	A	NV
THEFT 2 ND	9-2-99	CLARK, WA	3-10-99	A	NV
FORGERY	6-23-97	CLARK, WA	2-23-97	A	NV
FORGERY	93	FREMONT, CO	12-24-92	A	NV

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement. RCW 9.94A.360
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.360): NONE.
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520: _____.

2.3 SENTENCING DATA:

COUNT	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE	ENHANCEMENTS *	TOTAL STANDARD RANGE	MAXIMUM TERM
II	5	IV	22-29 MO	N/A	22-29 MO	10 YRS
III	5	III	17-22 MO	N/A	17-22 MO	5 YRS

*(F) Firearm, (D) Other Deadly Weapon, (V) VUCSA, (VH) Veh. Hom, See RCW 46.61.520

- Additional current offense sentencing data is attached in Appendix 2.3.

2.4 **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence above the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney did not recommend a similar sentence.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.142

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.142): _____

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are attached as follows: 22 MO DOC _____

III. JUDGMENT

3.1 The defendant is **GUILTY** of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 The Court **DISMISSES** Count I.

3.3 The defendant is found **NOT GUILTY** of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

\$ _____ Restitution to: **PATRICIA PALMER - 78b**

JASS CODE

\$ _____ Restitution to:

RTN/RJN

\$ _____ Restitution to: _____

(Name and Address—address may be withheld and provided confidentially to Clerk's Office).

PCV

\$ 500.00

Victim assessment

RCW 7.68.035

CRC

\$ 225.00

Court costs, including: RCW 9.94A.030, 9.94A.120, 10.01.160, 10.46.190

Criminal filing fee \$ 110.00

FRC

Witness costs \$ _____

WFR

Sheriff service fees \$ 173.00

SFR/SFS/SFW/WRF

Jury demand fee \$ _____

JFR

Other

\$ _____

PUB

\$ 1657.00

Fees for court appointed attorney

RCW 9.94A.030

WFR

\$ _____

Court appointed defense expert and other defense costs

RCW 9.94A.030

FCM/MTH

\$ _____

Fine RCW 9A.20.021; VUCSA fine deferred due to indigency RCW 69.50.430

CDF/LDI/PCD

\$ _____

Drug enforcement fund of Lewis County

RCW 9.94A.030

NTF/SAD/SDI

CLF

\$ _____

Crime lab fee deferred due to indigency

RCW 43.43.690

EXT

\$ _____

Extradition costs

RCW 9.94A.120

\$ _____

Emergency response costs (Veh Asst, Veh Homeids, \$1000 max) RCW 38.52.430

\$ 1000.00

Other costs for: Incarceration in the Lewis County Jail. RCW 9.94A.145

In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate. RCW 9.94A.145

\$ _____ **TOTAL** RCW 9.94A.145

The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.142. A restitution hearing:

shall be set by the prosecutor

is scheduled for _____

RESTITUTION. Schedule attached, Appendix 4.1.

Restitution ordered above shall be paid jointly and severally with: _____

NAME of other defendant CAUSE NUMBER (Victim name) (Amount \$)RJN

The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.200010

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Rate to be determined by the Community Corrections Officer commencing 90 days post release. RCW 9.94A.145

The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73

4.2 HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340 (All "sex offenses," RCW 9.94A.030(33) and all "violent offenses," RCW 9.94A.030(38).)

DNA TESTING. The defendant shall have a blood sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754 (All "sex offenses," RCW 9.94A.030(33), "prostitution offenses," RCW 9A.88, "needle related drug offenses," RCW 69.50, and all "violent offenses," RCW 9.94A.030(38).)

4.3 The defendant shall not have contact with known drug users/drug traffickers as directed by CCO, Patricia Palmer including, but not limited to, personal, verbal, telephonic, written or contact through a third party for 10 years.

Domestic Violence Protection Order or Anti-Harassment Order attached as Appendix 4.4.

4.4 OTHER: refrain from use controlled substances not lawfully prescribed by a licensed medical practitioner, submit to random UA's as directed by CCO, no possession or consumption of alcohol, submit to random BAC/PBT's as directed by CCO

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

(a) CONFINEMENT. RCW 9.94A.400. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections:

_____ Months on count I _____ Months on count IV

22 Months on count II _____ Months on count V

22 Months on count III _____ Months on count VI

Actual number of months of total confinement ordered is: 22 w/o DOC.

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

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 with the sentence in cause number(s) _____ but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.400
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.120. 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: 61 days.

4.6 COMMUNITY PLACEMENT is ordered as follows: Count _____ for months; Count _____ for months; Count _____ for months;

COMMUNITY CUSTODY is ordered as follows:

Count II for a range from 18 to 36 months;

Count III for a range from 9 to 18 months;

Count _____ for a range from _____ to _____ months;

or for the period of earned release awarded pursuant to RCW 9.94A.150(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses – serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense – RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at Department of Corrections-approved education, employment and/or community service; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by the Department of Corrections; (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections. The residence location and living arrangements are subject to the prior approval of the Department of Corrections while in community placement or community custody. Community custody for sex offenders may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

The defendant shall not consume any alcohol.

Defendant shall have no contact with: known drug users/traffickers as defined by CCO, _____.

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

The defendant shall participate in the following crime related treatment or counseling services: _____

The defendant shall comply with the following crime-related prohibitions: _____

refrain from use of controlled substances not lawfully prescribed by a licensed medical practitioner, submit to random UA's as directed by CCO

Other conditions may be imposed by the court or Department during community custody, or are set forth here: 2 SHALL COMPLETE A DOMESTIC VIOLENCE

TREATMENT PROGRAM.

- 4.7 [] **WORK ETHIC CAMP.** RCW 9.94A.137, RCW 72.09.410. The court finds that defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. If the defendant successfully completes work ethic camp, the department shall convert the period of work ethic camp confinement at the rate of one day of work ethic camp to three days of total standard confinement. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.7.
- 4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: _____

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.145 and RCW 9.94A.120(13).
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.200010. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.200030
- 5.4 **RESTITUTION HEARING.**
 Defendant waives any right to be present at any restitution hearing (sign initials): *JM*
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.200
- 5.6 **FIREARMS. YOU MUST IMMEDIATELY SURRENDER ANY CONCEALED PISTOL LICENSE AND YOU MAY NOT OWN, USE OR POSSESS ANY FIREARM UNLESS YOUR RIGHT TO DO SO IS RESTORED BY A COURT OF RECORD.** (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification, to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047

5.8 OTHER: Any bond previously posted is hereby exonerated, _____

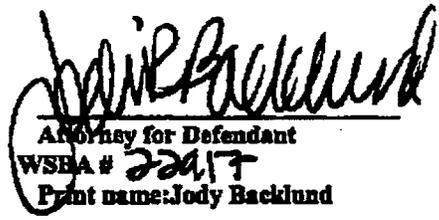
DONE In Open Court and in the presence of the defendant this date: October 18, 2020.



JUDGE Print name:
David R. Draper



Deputy Prosecuting Attorney
WSBA # 24637
Print name: Donald Blair



Attorney for Defendant
WSBA # 22917
Print name: Jody Backlund



Defendant

Translator signature/Print name: _____

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

CAUSE NUMBER of this case: 00-1-497-9

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

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

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

IDENTIFICATION OF DEFENDANT

SID No. WA18430648

Date of Birth: 9-15-61

FBI No. 272239T1

Local ID No. _____

PCN No. _____

Other: 5'9", 170 LBS, BRN, BRN

Alias name, SSN, DOB: CO402905, NY4256577Z, OR08304056, JIMMY NELSON, JAMES RICHARD NELSON

Race:

Asian/Pacific
Islander

Black/African-
American

Caucasian

Ethnicity:

Hispanic

Sex:

Male

Native American

Other: _____

Non-
Hispanic

Female

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints

and signature thereto. Clerk of the Court: K. Walker, Deputy Clerk. Dated: 10/18/00

DEFENDANT'S NAME: JAMES RAYMOND NELSON

DEFENDANT'S SIGNATURE: James Nelson

Left four fingers taken simultaneously

Left
Thumb

Right
Thumb

Right four fingers taken simultaneously



SUPERIOR COURT OF WASHINGTON
COUNTY OF LEWIS

STATE OF WASHINGTON, Plaintiff,

vs.
JAMES RAYMOND NELSON,
Defendant.

No. 00-1-497-9

DOMESTIC VIOLENCE PROTECTION ORDER
ORPRT

APPENDIX 4.4, JUDGMENT AND SENTENCE

This Domestic Violence Protection Order is entered as an appendix to the Judgment and Sentence. The victim protected by this order is: PATRICIA PALMER, DOB: 5-26-56.

WARNINGS TO THE DEFENDANT: Violation of the provisions of this order with actual notice of its terms is a criminal offense under chapter 26.50 RCW and RCW 10.31.100 and will subject a violator to arrest. Any assault that is a violation of this order and that does not amount to assault in the first degree or second degree under RCW 9A.36.011 is a class C felony. Any conduct in violation of this order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony. **YOU CAN BE ARRESTED EVEN IF THE PERSON OR PERSONS WHO OBTAINED THE ORDER INVITE OR ALLOW YOU TO VIOLATE THE ORDER'S PROHIBITIONS.** You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application.

IT IS ORDERED THAT:

Defendant is RESTRAINED from:

- Causing physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking the above-named victim.
- Coming near or within 1000 feet and from having any contact whatsoever, in person or through others, directly or indirectly, by phone, mail or any means (except for mailing of court documents) with the above-named victim.
- Entering or coming within 1000 feet of the above-named victim's residence, school and place of employment or other: _____

It is further ordered that the Clerk of the Court shall forward a copy of this order (Appendix 4.4) on or before the next judicial day to: Lewis County Sheriff's Office where the above-named victim lives which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

THIS ORDER FOR PROTECTION IS PERMANENT.

If the duration of this order exceeds one year, the court finds that an order of less than one year will be insufficient to prevent further acts of domestic violence.

Done in Open Court in the presence of the defendant this date: 10-18-00

David R. Draper

David R. Draper

JUDGE Print name:

Donald Blair

Deputy Prosecuting Attorney
WSBA # 24637
Print name: Donald Blair

Jodi Backlund

Attorney for Defendant
WSBA # 22917
Print name: Jodi Backlund

James Nelson

Defendant

A completed law enforcement information sheet must be attached for identification purposes by the police or sheriff.

I, Kathy A. Brack, Clerk of the Superior Court for Lewis County, do certify the foregoing is a true copy of the original on file and of record in my office.

2005
By *Kathy A. Brack* Deputy

