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STATE OF WASHINGTON
BY DEPUTY

NO. 34585-4-II

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

STATE OF WASHINGTON, Respondent

v.

CLYDE LOKI HARRISON, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE JOHN F. NICHOLS
CLARK COUNTY SUPERIOR COURT CAUSE NO. 05-1-02384-8

BRIEF OF RESPONDENT

Attorneys for Respondent:

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I. STATEMENT OF FACTS

The defendant was found guilty on February 27, 2006 of possession of a controlled substance – heroin. He was sentenced in the Superior Court on March 10, 2006. A copy of the felony judgment and sentence (CP 60) is attached hereto and by this reference incorporated herein.

As part of the sentencing, the judge and defendant entered into a discussion concerning the assessment of fees and costs. The judge, after listening to the defendant decided to go ahead and reduce and adjust some of the fines and costs (RP 155). Nevertheless, the defendant still owes a substantial amount of money. There does not appear to be anything in the record to indicate that there has been any attempt to collect any of these fees or costs.

Also part of the judgment and sentence dealt with specific terms and conditions which included prohibitions against alcohol and prohibitions about being in places where alcohol is the primary sale item.

II. RESPONSE TO ASSIGNMENT OF ERROR #1

The first assignment of error raised by the defendant is the legal and financial obligations.

Our State Supreme Court has held that mandatory fee assessments are not unconstitutional. Further, that the defendant's rights are implicated only when the government attempts to recoup the fees, at which time the defendant is entitled to a show cause hearing to contest his ability to pay. State v. Blank, 131 Wn.2d 230, 239-241, 930 P.2d 1213 (1997).

As the Blank court indicates:

> Common sense dictates that a determination of ability to pay and an inquiry into defendant's finances is not required before a recoupment order may be entered against an indigent defendant as it is nearly impossible to predict ability to pay over a period of ten years or longer. However, we hold that before enforced collection or any sanction is imposed for nonpayment, there must be an inquiry into ability to pay.
>
> - State v. Blank, 131 Wn.2d at 242

In State v. Ziegenfuss, 118 Wn.App. 110, 74 P.3d 1205 (2003) the defendant argued that the department of corrections procedures for collection of legal financial obligations was unconstitutional. The court ruled that the unconstitutionality of a law is not ripe for review unless the person seeking review is harmed by the part of the law alleged to be unconstitutional. Ziegenfuss has not failed to pay nor had she been incarcerated or otherwise sanctioned for violating the terms of her community custody. The court ruled therefore that she has suffered no

harm and her challenge to the constitutionality of any these processes was premature.

This approach is consistent with State v. Phillips, 65 Wn.App. 239, 244, 828 P.2d 42 (1992) which indicates that issues of costs are not ripe for review when the costs are imposed, but only when the State attempts to collect on those costs.

Finally, the statute in question, RCW 10.01.160 has built into it a procedure for the court to review whether or not the recoupment of costs will impose a manifest hardship on the defendant or the defendant's immediate family. When that decision is made the court may remit all or part of the amount that is due. (RCW 10.01.160(4)).

The State submits that this issue is premature at this stage. There is nothing in this record to indicate that any attempts have been made to collect any fees or costs from this defendant.

III. RESPONSE TO ASSIGNMENT OF ERROR #2

The second issue raised on appeal is that the trial court lacked authority to impose alcohol related conditions of community custody. The defendant is currently on a life-time parole from the federal authorities with conditions previously imposed on that. The conditions of being present in a place where alcohol is sold as the primary object was not discussed. The State agrees that he should be re-sentenced on that

particular provision. Certainly, the prohibition against the drinking of alcohol is properly imposed on him (and since it is already imposed on other judicial matters) it seems to be academic in this particular circumstance. Nevertheless, the State concedes that re-sentencing would be appropriate.

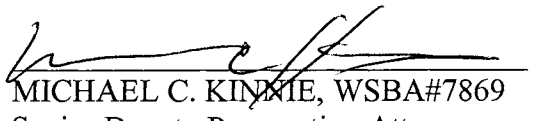
IV. CONCLUSION

The State concedes that the prohibition against being present where alcohol is sold is not appropriate and the defendant would need to be re-sentenced on that. Concerning everything else in the judgment, the State submits that it was properly done by the trial court and should be affirmed.

DATED this 14 day of Sept, 2006.

Respectfully submitted:

ARTHUR D. CURTIS
Prosecuting Attorney
Clark County, Washington

By: 
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APPENDIX

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JoAnne McBride, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

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STATE OF WASHINGTON, Plaintiff, v CLYDE LOKI HARRISON, Defendant. SID: WA23045317 DOB: 7/2/1958	No. 05-1-02384-8 **FELONY JUDGMENT AND SENTENCE (FJS)** **NONPRISON** **Clerk's action required;** ☐ **Paragraph 4.5 (SDOSA),** ☒ **4.15.2,** ☒ **5.3,** ☒ **5.6 and** ☐ **5.8**

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney 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 February 27, 2006

by ☐ plea ☐ jury-verdict ☒ bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
01	POSSESSION OF CONTROLLED SUBSTANCE - HEROIN	69.50.4013(1)	10/26/2005

(If the crime is a drug offense, include the type of drug in the second column)
as charged in the Amended Information

☐ Additional current offenses are attached in Appendix 2 1

☐ A special verdict/finding for use of **deadly weapon other than a firearm** was returned on Count(s) _____. RCW 9.94A 602, 533

☐ A special verdict/finding of **sexual motivation** was returned on Count(s) _____ RCW 9 94A 835.

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☐ The court finds that the offender has a **chemical dependency** that has contributed to the offense(s) RCW 9 94A.607.

☐ The crimes charged in Count(s) _____ is/are **Domestic Violence** offense(s) as that term is defined in RCW 10.99.020:

☐ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are Count(s) _____ (RCW 9.94A.589)

☐ Additional misdemeanor crime(s) pertaining to this cause number are contained in a separate Judgment and Sentence.

☐ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____.

2 2 CRIMINAL HISTORY (RCW 9 94A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv	TYPE OF CRIME
See Attached Criminal History					

☒ *Additional criminal history is attached in Appendix 2.2*

☐ The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525.

☐ The court finds that the following prior convictions are one offense for purposes of determining the offender score RCW 9.94A 525: _____

☐ The following prior convictions are not counted as points but as enhancements pursuant to RCW 46 61 520: _____

☐ The State has moved to dismiss count(s) 02 (Unlawful Use Of Drug Paraphernalia)

2.3 SENTENCING DATA:

COUNT NO	OFFENDER SCORE	SERIOUS-NESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
01	4	I - D	6+-18 Months	N/A	6+-18 Months	5 YEARS $10000

* (F) Firearm, (D) other Deadly Weapons, (V) VUCSA in a protected zone, (VH) Veh Hom, see RCW 46 61 520, (JP) Juvenile present.

☐ 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 ☐ within ☐ below the standard range for Count(s) _____

☐ The defendant and the State stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the Sentencing Reform Act

☐ Aggravating factors were: ☐ stipulated to by the defendant, ☐ admitted by the defendant in the guilty plea, ☐ found by the court after the defendant waived jury trial, ☐ found by jury by special interrogatory

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☐ The defendant stipulates and waives his right to have a jury determine any issues regarding the imposition of an exceptional sentence upward. *Apprendi v. New Jersey, 530 U S. 466, 120 S. Ct 2348, 147 L. Ed 2d 435 (2000), Blakely v. Washington, ___ U.S. ___, 124 S Ct. 2531, 159 L Ed. 2d 403 (2004)*

☐ Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.6 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 9.94A750/753.

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9 94A 753): _____.

2.7 For the Violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are ☐ attached ☐ as follows: _____

_____.

If no formal written plea agreement exists, the agreement is as set forth in the Defendant's Statement on Plea of Guilty

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(s) 02 (Unlawful Use Of Drug Paraphernalia)

☐The defendant is found NOT GUILTY of Count(s) _____.

3.3 There ☐ do ☐ do not exist substantial and compelling reasons justifying an exceptional sentence outside the presumptive sentencing range.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

RTN/RJN	$ _____	Restitution to be paid to: _____ ☐ Victim(s) and amounts to be set by separate court order	RCW 9.94A 750/ .753
PCV	$500.00	Victim Assessment	RCW 7 68 035
	$ _____	DV Penalty Assessment	RCW 10 99 080
CRC		Court Costs, including RCW 9.94A 760, 9.94A 505, 10.01.160, 10.46.190	
FRC	$200 00	Criminal filing fee	RCW 9.94A.505
WFR	$ _____	Witness costs	RCW 10 01 160 and RCW 2.40 010
SFR/SFS/SFW/ WRF	$ _____	Sheriff Service Fees	RCW 10.01 160 and 36.18.040

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JFR	$ _____	Jury Demand Fee $ 250.00	RCW 10 01 160 and 10.46 190
EXT	$ _____	Extradition costs	RCW 9 94A 505
	$ _____	Other Costs _____	RCW 9.94A 760
PUB	$700.00 $ _____	Fees for court appointed attorney Trial per diem if applicable	RCW 9 94A 505/ .760/.030
WFR	$_____	Court appointed defense expert and other defense costs	RCW 9.94A 505, 760, 9.94A 030
FCM/MTH	~~$500.00~~ $200	Fine	RCW 9A 20 021
CDF/LDI/FCD/ NTF/SAD/SDI	$1,000 00	Drug fund contribution to be paid within two (2) years Fund # ☒ 1015 ☐ 1017 (TF)	RCW 9 94A 760
CLF	$100.00	Crime lab fee - ☐ Suspended due to indigency	RCW 43 43 690
	$100.00	Felony DNA Collection fee (for crimes committed on or after July 1, 2002)	RCW 43.43.7541
RTN/RJN	$_____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, $1000 maximum) To: _____ (List Law Enforcement Agency)	RCW 38 52 430
	$_____	Other Costs for: _____	RCW 9.94A.760

☐ The above financial obligations do 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.750/753. A restitution hearing.

☐ shall be set by the prosecutor

☐ is scheduled for _____

☐ Restitution ordered above shall be joint and several with the co-defendants listed in the Information or identified below: _____.

☒ The Department of Corrections/Superior Court Clerk Collections Unit shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8)

☒ All payments shall be made in accordance with the policies of the Superior Court Clerk and on a schedule established by the Department of Corrections/Superior Court Clerk Collections Unit, commencing immediately, unless the court specifically sets forth the rate here:

Not less than $_____ per month commencing _____. RCW 9.94A.760

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☒ The defendant shall report as directed by the Superior Court Clerk and provide financial information as requested. RCW 9.94A.760(7)(b). The defendant shall report in person no later than the close of business on the next working day after the date of sentencing or release from custody. A map has been provided to the defendant showing the location of the Superior Court Clerk Collections Unit, 500 West 8th Street, Suite 50, Vancouver, Washington. The defendant must report any changes in address and phone numbers to the Collections Unit within 72 hours of moving

☐ 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 of $50.00 per day, unless another amount is specified here: _____ (JRL) RCW 9 94A.760

☒ 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 10.73 160. The defendant shall pay the cost of services to collect unpaid legal financial obligations. This is an annual fee which will be automatically renewed until financial obligations are completed. RCW 9.94A.780 and RCW 36.18 190

4.2 ☒ DNA TESTING. The defendant shall have a biological sample collected 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

☐ HIV TESTING. The defendant shall be tested and counseled for HIV as soon as possible and the defendant shall fully cooperate in the testing and counseling. RCW 70.24 340

Failure to provide the DNA/HIV testing sample is a violation of this Judgment and Sentence and a warrant may be issued to compel compliance.

4.3 The defendant shall not have contact with including, but not limited to, personal, verbal, telephonic, electronic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence).

☐ A Supplemental Domestic Violence Protection Order or Antiharassment No Contact Order is filed with the Judgment and Sentence.

4.4 **OTHER:** _____

_____

_____

_____

4.5 **JAIL ONE YEAR OR LESS.** The defendant is sentenced as follows:

(a) **CONFINEMENT**. RCW 9 94A.589. Defendant is sentenced to the following term of confinement in the custody of the county jail:

240 days/months on Count 01

Actual number of days/months of confinement ordered is: 240 days
(add mandatory deadly weapon enhancement time to run consecutively to other counts, see Section 2 3 sentencing data, above.)

☐ The confinement time on Count(s) _____ contain a mandatory minimum term of _____.

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 at Section 2.3 and except for the following counts which shall be served consecutively:

_____

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The term(s) of confinement (sentence) imposed herein shall be served consecutively to any other term of confinement (sentence) which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein:

_____

Confinement shall commence immediately unless otherwise set forth here: _____

_____

The Sentence shall be served as follows:		
135	☒ Days ☐ Months credit for time served, said confinement being solely related to this cause number. RCW 9.94A 505	
105	☒ Days ☐ Months of additional total confinement	
	☐ Days ☐ Months of additional partial Confinement, if approved and eligible, may be served as:	
		☐ Days ☐ Months on work/education release RCW 9.94A 731
		Days on work crew – Defendant shall report within 24 hours of this order/release from custody RCW 9 94A.725
		Days on work crew – Defendant shall be screened while in custody RCW 9 94A 725
		Days of Community Service/Community Restitution (8 hours = 1 day)

☐ **Alternatives to total confinement** were not used because of:

☐ Criminal history

☐ Failure to appear (finding required for nonviolent offenders only). RCW 9 94A.380

☐ Defendant has served all of confinement.

☐ Other:

_____

☐ **CONVERSION OF JAIL CONFINEMENT (Nonviolent and Nonsex Offenses).** The county jail is authorized to convert jail confinement to an available county supervised community option and may require the offender to perform affirmative conduct pursuant to RCW 9.94A.680(3), RCW 9.94A.607

(b) **CONFINEMENT**. RCW 9.94A.712 (Sex Offense, only): The defendant is sentenced to the following term of confinement in the custody of the DOC

Count	minimum term	maximum term
01		

4.6 **SUPERVISION.** ☐ **COMMUNITY SUPERVISION.** ☒ **COMMUNITY CUSTODY** RCW 9 94A.505, .545. Defendant shall serve 12 months in community supervision/community custody [On or after July 1, 2003, the court may order community custody under the jurisdiction of DOC for up to 12 months if the defendant is convicted of a sex offense, a violent offense, a crime against a person under RCW 9.94A.411, or felony violation of chapter 69.50 or 69.52 RCW or an attempt, conspiracy or solicitation to commit such a crime]

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[ ] **COMMUNITY CUSTODY** for count(s) _____, sentenced under RCW 9.94A 712, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence.

Defendant shall report to the Department of Corrections, 210 West 11th Street, Vancouver, Washington and the Superior Court Clerk Collections Unit at 500 West 8th Street, Suite 50, Vancouver, Washington not later than 24 hours after release from custody A map has been provided to the defendant containing the location of the Department of Corrections and the Superior Court Clerk Collections Unit. The defendant shall perform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department and shall comply with the instructions, rules and regulations of the Department for the conduct of the defendant during the period of community supervision/community custody and any other conditions of community supervision/community custody stated in this Judgment and Sentence. The defendant's conditions of community supervision/community custody are outlined below.

The defendant shall be on community supervision/community custody under the charge of the Department of Corrections and shall follow and comply with the instructions, rules and regulations promulgated by said Department for the conduct of the defendant during the period of community supervision/community custody and any other conditions stated in this Judgment and Sentence This includes the following conditions:

☒ Remain in prescribed geographic boundaries specified by the community corrections officer.

☒ Notify the community corrections officer of any change in defendant's address or employment

☐ Not reside in a community protection zone (within 800 feet of the facilities and grounds of a public or private school). (RCW9 94A 030(8)).

☒ Defendant shall not violate any federal, state or local criminal laws, and shall not be in the company of any person known by him/her to be violating such laws.

☒ Defendant shall not commit any like offenses.

☒ Other conditions may be imposed by the Court of the Department of Corrections during community custody, or as set forth here·

_____

☒ Defendant shall notify his/her community corrections officer within forty-eight (48) hours of any arrest or citation.

☒ Defendant shall not initiate or permit communication or contact with persons known to him/her to be convicted felons, or presently on probation, community supervision/community custody or parole for any offense, juvenile or adult, except immediate family or as authorized by his/her community corrections officer for treatment purposes. Additionally, the defendant shall not initiate or permit communication or contact with the following persons:

_____

☐ Defendant shall not have any contact with other participants in the crime, either directly or indirectly.

☒ Defendant shall not initiate or permit communication or contact with persons known to him/her to be substance abusers.

☒ Defendant shall not possess, use or deliver drugs prohibited by the Uniform Controlled Substances Act, or any legend drugs, except by lawful prescription. The defendant shall notify his/her community corrections officer on the next working day when a controlled substance or legend drug has been medically prescribed

☒ Defendant shall not possess or use any paraphernalia that can be used for the ingestion or processing of controlled substances or that can be used to facilitate the sale or transfer of controlled substances including scales, pagers, cellular phones, police scanners, and hand held electronic scheduling and data storage devices.

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- [x] Defendant shall not frequent known drug activity areas or residences
- [x] Defendant shall not use or possess alcoholic beverages [x] at all [ ] to excess.

  The defendant [ ] will [x] will not be required to take monitored antabuse per his/her community corrections officer's direction, at his/her own expense, as prescribed by a physician.
- [x] Defendant shall not be in any place where alcoholic beverages are sold by the drink for consumption or are the primary sale item.
- [x] Defendant shall undergo an evaluation for treatment for [x] substance abuse [ ] mental health [ ] anger management treatment and fully comply with all recommended treatment.
- [x] Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a [x] substance abuse [ ] mental health [ ] anger management treatment program as established by the community corrections officer and/or the treatment facility
- [ ] Defendant shall participate in a **domestic violence perpetrator program** as approved under RCW 26 50.150 and fully comply with all recommended treatment. RCW 9 94A 505 (11).
- [ ] Based upon the Pre-Sentence Report, the court finds reasonable grounds to exist to believe the defendant is a mentally ill person, and this condition was likely to have influenced the offense Accordingly, the court orders the defendant to undergo a mental status evaluation and participate in outpatient mental health treatment. Further, the court may order additional evaluations at a later date, if deemed appropriate
- [x] Treatment shall be at the defendant's expense and he/she shall keep his/her account current if it is determined that the defendant is financially able to afford it.
- [x] Defendant shall submit to urine, breath or other screening whenever requested to do so by the treatment program staff and/or the community corrections officer.
- [ ] Defendant shall not associate with any persons known by him/her to be gang members or associated with gangs
- [ ] Defendant shall not wear or display any clothing, apparel, insignia or emblems that he/she knows are associated with or represent gang affiliation or membership as determined by the community corrections officer.
- [ ] Defendant shall not possess any gang paraphernalia as determined by the community corrections officer.
- [ ] Defendant shall not use or display any names, nicknames or monikers that are associated with gangs.
- [ ] Defendant shall comply with a curfew, the hours of which are established by the community corrections officer
- [ ] Defendant shall attend and successfully complete a shoplifting awareness educational program as directed by the community corrections officer
- [ ] Defendant shall attend and successfully complete the Victim Awareness Educational Program as directed by the community corrections officer.
- [ ] Defendant shall not accept employment in the following field(s)

  _____.
- [ ] Defendant shall not possess burglary tools.
- [ ] Defendant's privilege to operate a motor vehicle is suspended/revoked for a period of one year, two years if the defendant is being sentenced for a vehicular homicide.
- [ ] Defendant shall not operate a motor vehicle without a valid driver's license and proof of liability insurance in his/her possession.

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☐ Defendant shall not possess a checkbook or checking account.

☐ Defendant shall not possess any type of access device or P.I N. used to withdraw funds from an automated teller machine.

☒ Defendant shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections.

☒ Defendant shall not be eligible for a Certificate of Discharge until all financial obligations are paid in full and all conditions/requirements of sentence have been completed including no contact provisions

☐ Defendant shall not enter into or frequent business establishments or areas that cater to minor children without being accompanied by a responsible adult Such establishments may include but are not limited to video game parlors, parks, pools, skating rinks, school grounds, malls or any areas routinely used by minors as areas of play/recreation.

☐ Defendant shall not have any unsupervised contact with minors. Minors mean persons under the age of 18 years.

☐ Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a sexual deviancy treatment program as established by the community corrections officer and/or the treatment facility. "Cooperate with" means the offender shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity.

☐ Defendant shall submit to periodic polygraph examinations at the direction of his/her community corrections officer to ensure compliance with the conditions of community placement/custody.

☐ Defendant shall submit to periodic plethysmograph examinations at the direction of his/her community corrections officer to ensure compliance with the conditions of community placement/custody.

☐ Defendant shall not possess or use any pornographic material or equipment of any kind and shall not frequent establishments that provide such materials for view or sale.

☐ If the defendant is removed/deported by the U S. Immigration and Customs Enforcement, the community custody time is tolled during that time that the defendant is not reporting for supervision in the United States The defendant shall not enter the United States without the knowledge and permission of U.S Immigration and Customs Enforcement. If the defendant re-enters the United States, he/she shall immediately report to the Department of Corrections for supervision.

☒ Defendant shall sign necessary release of information documents as required by the Department of Corrections.

☐ Defendant shall adhere to the following additional crime-related prohibitions or conditions of community supervision/community custody·

_____

_____

_____

The community supervision/community custody imposed by this order shall be served consecutively to any term of community supervision/community custody in any sentence imposed for any other offense, unless otherwise stated. The maximum length of community supervision/community custody pending at any given time shall not exceed 24 months, unless an exceptional sentence is imposed. RCW 9.94A.589

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The conditions of community supervision/community custody shall begin immediately unless otherwise set forth here: _____

4.7 **OFF LIMITS ORDER** (known drug trafficker) RCW 10 66.020. The following areas are off limit to the defendant while under the supervision of the County Jail or Department of Corrections.

_____

4.8 The Bail or release conditions previously imposed are hereby exonerated and the clerk shall disburse it to the appropriate person(s).

4.9 This case shall not be placed on inactive or mail-in status until all financial obligations are paid in full

4 10 When there is a reasonable cause to believe that the defendant has violated a condition or requirement of this sentence, the defendant shall allow, and the Department of Corrections can conduct, searches of the defendant's person, residence, automobile or other personal property Residence searches shall include access, for the purposes of visual inspection, all areas of the residence in which the defendant lives or has exclusive/joint control/access and automobiles owned and possessed by the defendant.

4.11 Other:

_____

_____

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 ten (10) years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations 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 760 and RCW 9.94A 505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9 94A 760(4) and RCW 9.94A.753(4).

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 or the clerk of the court 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.7602. Other income-withholding action under RCW 9 94A 760 may be taken without further notice. RCW 9 94A 7606.

5.4 **RESTITUTION HEARING.**

☐ Defendant waives any right to be present at any restitution hearing (sign initials). _____

5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634

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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

Cross off if not applicable:

5 7 **SEX AND KIDNAPPING OFFENDER REGISTRATION** RCW 9A 44.130, 10.01.200. Because this crime involves a sex offense or kidnapping offense (e.g., 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 you are not the minor's parent), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within 30 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington state, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington state

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution, whichever is earlier. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within 10 days of such termination.

Even if you lack a fixed residence, you are required to register Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 48 hours excluding weekends and holidays after ceasing to have a fixed residence If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours The county sheriff's office may require you to list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24 550

If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing a residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign

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country to the county sheriff with whom you last registered in Washington State

If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within 5 days of the entry of the order RCW 9A.44 130(7).

5.8 ☐ The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The court clerk is directed to immediately punch the defendant's Washington Driver's license or permit to drive with a "C" as directed by the Department of Licensing pursuant to RCW 46.20.270

5.9 If the defendant is or becomes subject to a court-ordered mental health or chemical dependency treatment, the defendant must notify the Department of Corrections and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9 94A.562

5.10 Persistent Offense Notice

☐ The crime(s) in count(s) _____ is/are "most serious offense(s)." Upon a third conviction of a "most serious offense", the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.030 (28 & 32(a)), 9 94A.505

☐ The crime(s) in count(s) _____ is/are one of the listed offenses in RCW 9.94A.030 (32)(b). Upon a second conviction of one of these listed offenses, the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody

5.11 **OTHER**: _____

DONE in Open Court and in the presence of the defendant this date: March 10, 2006.

JOHN F NICHOLS
JUDGE OF THE SUPERIOR COURT

Print Name: John F. Nichols

Gene A. Pearce, WSBA #32792
Deputy Prosecuting Attorney

Alfred Arthur Bennett, WSBA #06711
Attorney for Defendant

CLYDE LOKI HARRISON
Defendant

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VOTING RIGHTS STATEMENT: RCW 10.64.____. I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9 94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

Defendant's signature: _____. 2005 Wash. Laws 246 § 1.

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.

Interpreter signature/Print name:_____

I, JOANNE McBRIDE, 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 CLYDE LOKI HARRISON	
Alias name, DOB:	
SID No WA23045317 (If no SID take fingerprint card for State Patrol)	Date of Birth 7/2/1958
Race: W	Sex: M
Driver License No.	Driver License State.
FBI No. 586313W4	Local ID No. (CFN): 181209
	Corrections No.
Other_____	

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: _____, Deputy Clerk
Dated: 3/10/06

DEFENDANT'S SIGNATURE: _____

Left four fingers taken simultaneously	Left Thumb	Right Thumb	Right four fingers taken simultaneously

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

STATE OF WASHINGTON, Plaintiff, v. CLYDE LOKI HARRISON, Defendant	No. 05-1-02384-8 APPENDIX 2.2 DECLARATION OF CRIMINAL HISTORY

COME NOW the parties, and do hereby declare, pursuant to RCW 9.94A.100 that to the best of the knowledge of the defendant and his/her attorney, and the Prosecuting Attorney's Office, the defendant has the following undisputed prior criminal convictions:

CRIME	COUNTY/STATE CAUSE NO.	DATE OF CRIME	DATE OF SENTENCE	PTS.
MURDER 2	YUKON TERRITORY, CANADA/ CAN SC 270.77	7/9/1977 to 7/17/1977	4/10/1978	1
CONVEYANCE OF WEAPON WITHIN FEDERAL CORRECTIONAL INSTITUTION	FEDERAL/CA CR82-243-WMB	10/2/1981	6/14/1982	1
ESCAPE	FEDERAL/WA CR99-542Z	4/7/1999	1/21/2000	1
DELIVERY OF MARIJUANA FOR PAYMENT	MULTNOMAH/OR 04-05-32492	5/22/2004	12/16/2004	1

☐ The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.360. 4

DATED this 10 day of March, 2006.

Defendant

Alfred Arthur Bennett, WSBA#08711
Attorney for Defendant

Kasey T Vu, WSBA#31528 #32792 for
Deputy Prosecuting Attorney

CLARK COUNTY PROSECUTING ATTORNEY
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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON, Respondent, v. CLYDE LOKI HARRISON, Appellant.	No. 34585-4-II Clark Co. No. 05-1-02384-8 DECLARATION OF TRANSMISSION BY MAILING

FILED
COURT OF APPEALS
06 SEP 18 PM 12:47
STATE OF WASHINGTON
BY

STATE OF WASHINGTON)
: ss
COUNTY OF CLARK)

On September 15, 2006, I deposited in the mails of the United States of America a properly stamped and addressed envelope directed to the below-named individuals, containing a copy of the document to which this Declaration is attached.

TO:		
	David Ponzoha, Clerk Court Of Appeals, Division II 950 Broadway, Suite 300 Tacoma, WA 98402-4454	Lisa E. Tabbut Attorney at Law 1402 Broadway Longview, WA 98632
	Clyde Loki Harrison, #39463-066 Federal Detention Center PO Box 13900 Seattle, WA 98198	

DOCUMENTS: Brief of Respondent

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Abby Rowland
Date: September 15, 2006.
Place: Vancouver, Washington.