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SUPREME COURT

IN THE SUPREME COURT OF THE STATE OF WASHINGTON  
06 APR 14 PM 3:25  
BY C. J. MERRITT

*CRF*

IN RE THE PERSONAL ) NO. 78409-4-II  
RESTRAINT PETITION OF ) RESPONSE TO PERSONAL  
MICHAEL JOHN RIESE ) RESTRAINT PETITION

Comes now Edward G. Holm, Prosecuting Attorney in and for Thurston County, State of Washington, by and through James C. Powers, Deputy Prosecuting Attorney, and files its response to petitioner's personal restraint petition pursuant to RAP 16.9.

I. BASIS OF CURRENT RESTRICTIONS ON LIBERTY

Petitioner is currently in the custody of the Washington Department of Corrections pursuant to a sentence of 180 months for murder in the second degree, RCW 9A.32.050(1)(a), imposed in Thurston County Superior Court Cause No. 04-1-01962-5 on May 12, 2005, based upon the defendant's plea of guilty. See Appendix D.

II. STATEMENT OF PROCEEDINGS

On November 1, 2004, an Information was filed in Thurston County Superior Court charging

the defendant with one count of murder in the first degree, alleging that, with premeditated intent, the defendant had caused the death of Austin Hardison, and that during the commission of this offense the defendant had been armed with a firearm See Appendix A. Pursuant to a plea agreement reached in this case, a First Amended Information was filed on April 29, 2005, charging the defendant with second-degree murder in violation of RCW 9A.32.050(1)(a), and omitting any allegation with regard to a special firearm enhancement. See Appendix B.

On April 29, 2005, the defendant entered a plea of guilty to the First Amended Information. In the defendant's Statement on Plea of Guilty, he acknowledged his understanding that his sentence range would be 123 to 220 months in prison. See Appendix C. He also acknowledged that he and the prosecutor had agreed to make the following sentence recommendation to the court: 156 months in prison, a community custody range of 24 to 48

months, 110 dollars in court costs, a 500 dollar crime victim assessment, a requirement that the defendant have no contact with the victim's family for life, and a determination if any restitution should be ordered at a later date. On page 4 of the defendant's Statement on Plea of Guilty was the following language:

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 sentence is within the standard range, no one can appeal the sentence.

See Appendix C.

On page 6 of the Statement, there was an affirmation that the plea was being made freely and voluntarily, and that no person had made promises of any kind to cause the defendant to enter his guilty plea other than what was set forth in that document. On that same page, the defendant made the following statement with regard to what he had done to cause him to be guilty of second-degree

murder:

On October 26, 2004, in Thurston County, Washington, I intentionally shot, and caused the death of, Austin G. Hardison.

See Appendix C.

On page 7 of the Statement, the defendant signed his name under the following paragraph:

My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and Attachment "A" if applicable. 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.

See Appendix C. Finally, the Honorable Judge Wm. Thomas McPhee signed the Statement, noting that the defendant had signed it in open court, and had acknowledged to the court that had read the entire Statement and understood it in full. See Appendix C.

A sentencing hearing was held on May 12, 2005. At that time, the court imposed a standard range sentence of 180 months in prison, which was somewhat higher than the 156-month recommendation of both the State and defense. See Appendix D.

The defendant did not seek a direct appeal in this case. However, he has now filed a timely personal restraint petition claiming ineffective assistance of counsel and the discovery of new evidence.

### III. RESPONSE TO ISSUES RAISED

3.1. The defendant has failed to prove that his trial attorney rendered ineffective assistance in advising him with regard to his decision to plead guilty, and therefore the defendant's attempt to withdraw his guilty plea on this basis should be denied.

In this personal restraint petition, the defendant seeks to withdraw his plea of guilty, claiming that his trial attorney rendered ineffective assistance of counsel by giving him false information concerning direct consequences of his plea. In order to obtain relief by a personal restraint petition, defendant Riese bears the burden of establishing an error of constitutional magnitude that gives rise to actual prejudice. In re Personal Restraint of Cook, 114 Wn.2d 802, 813, 792 P.2d 506 (1990). To justify withdrawal of his

guilty plea, Riese must show that this is necessary to correct a manifest injustice. This is a demanding standard, and the defendant bears the burden of establishing that he has suffered an injustice that is obvious, directly observable, overt, and not obscure. State v. Branch, 129 Wn.2d 635, 641, 919 P.2d 1228 (1996). Thus, if a defendant can prove the need to correct a manifest injustice, then he will have also met the standard for relief in a personal restraint petition. In re Personal Restraint of Clements, 125 Wn. App. 634, 640, 106 P.3d 244 (2005).

A defendant can establish the need to correct a manifest injustice by showing that his guilty plea was the result of ineffective assistance of counsel. State v. Taylor, 83 Wn.2d 594, 597, 521 P.2d 699 (1974). To make such a showing, the defendant must prove that his attorney failed to actually and substantially assist him in deciding whether to plead guilty, and also prove there is a reasonable probability that, but for his attorney's

deficient performance, the defendant would not have entered the guilty plea and would have proceeded to trial instead. State v. Acevedo, 137 Wn.2d 179, 198-199, 970 P.2d 299 (1999).

Riese claims that his trial attorney told Riese he would receive a sentence of 156 months in prison or less if he pled guilty, rather than the 180-month sentence he actually received. In support of this claim, he provides affidavits from his wife and son. However, these affidavits simply state that the wife and son had the "understanding" Riese would receive a 156-month sentence after speaking to the defendant's attorney. Since the plea bargain included a joint recommendation for that result, they may have hoped the court would agree. However, neither states that the defendant's attorney told them the court would be bound by the agreement. See Exhibits B and C in support of defendant's petition.

The Statement of Defendant on Plea of Guilty shows that the defendant was aware his standard

range was 123 to 220 months in prison. While both he and the State made a sentence recommendation of 156 months, he acknowledged in his Statement his understanding that the court was not bound by anyone's recommendation as to sentence, and could impose a sentence anywhere within the standard range, or even an exceptional sentence under certain circumstances. Both in the Statement and orally to the court, the defendant affirmed that he had read the entire Statement and fully understood it. The court found the defendant's guilty plea to have been knowingly, intelligently, and voluntarily made, and that the defendant understood the consequences of his plea. See Appendix C.

When a defendant fills out a written statement on plea of guilty in compliance with CrR 4.2(g), and acknowledges that he or she has read it and understands it and its contents are true, the written statement provides prima facie verification of the plea's voluntariness. When the judge goes on to inquire orally of the defendant and satisfies himself on the record of the existence of the various criteria of voluntariness, the presumption of voluntariness is well nigh irrefutable.

State v. Perez, 33 Wn. App. 258, 261-262, 654 P.2d 7-8 (1982).

The defendant's claim that he expected to get a sentence of 156 months or less shows he was aware the court had some discretion in determining the appropriate sentence. Given the information conveyed in his Statement of Defendant on Plea of Guilty, which he confirmed he understood, he therefore necessarily understood the judge could also impose a sentence above 156 months.

The defendant further contends, again with the support of his wife and son, that his attorney told him he would receive a third off his sentence for good behavior, while actually under RCW 9.94A.728(1)(a) he is only eligible for an earned early release reduction of up to ten percent. His attorney has denied ever informing the defendant that he could receive a third off his sentence for good behavior. See Appendix D at 11 in support of defendant's petition.

For a guilty plea to have been knowingly made,

it is not necessary that a defendant have been informed of all possible consequences of his plea, but he must have been informed of all direct consequences. In re Personal Restraint of Isadore, 151 Wn.2d 294, 298, 88 P.3d 390 (2004). Direct consequences are those that have a definite, immediate, and largely automatic effect on a defendant's sentence. State v. Turley, 149 Wn.2d 395, 399, 69 P.3d 338 (2003). Thus, earned early release time is not a direct consequence. State v. Johnston, 17 Wn. App. 486, 493, 564 P.2d 1159 (1977). A sentencing court has no power to grant or restrict earned early release time. It is the Department of Corrections that has the authority to develop standards for good behavior and the discretion to determine when good time should be awarded or denied. In re Personal Restraint of West, 154 Wn.2d 204, 212-213, 110 P.3d 1122 (2005).

Thus, the defendant cannot rely upon his claim that he was misinformed about good time in order to show that his plea was involuntary. As regards his

claim of ineffective assistance of counsel, having claimed that his counsel failed to inform him his potential good time would be no more than ten percent, he must show that had he known of that limit on good time he would not have pled guilty. Acevedo, 137 Wn.2d at 198-199. He has claimed this is the case. However, under the circumstances, that claim should not be found sufficient.

The defendant was facing trial on a charge of first-degree murder with a special firearm allegation. First-degree murder has a seriousness level of fifteen. RCW 9.94A.515. Had he been convicted of that crime, he would have faced a sentence range of 240 to 320 months in prison. RCW 9.94A.510. A firearm enhancement would have added an additional 60 months to that range. RCW 9.94A.533(3)(a). Furthermore, he would not have been eligible for any good time credit during the portion of his sentence resulting from the firearm enhancement. RCW 9.94A.728(1). The defendant obviously pled guilty to second-degree murder to

avoid these potential penalties. Thus, the defendant's claim that he would have rather faced the risk of those higher penalties if he had known the difference in the potentially available good time for second-degree murder without a firearm enhancement is simply not reasonable. See State v. Conley, 121 Wn. App. 280, 287-288, 87 P.3d 1221 (2004).

The defendant also claims that his trial counsel told him that Washington had a parole system, and that he could expect to be released on parole in about three years. This is a completely ludicrous claim. Criminal offenses in Washington have not been subject to a parole system since July 1, 1984, the effective date of the Sentencing Reform Act. As the defendant's attorney noted in his denial of this claim, he is an attorney whose practice is limited to criminal defense, and has been practicing in that area of law in Washington for 15 years. See Appendix D at 11 in support of defendant's petition. There is no way he could

have made such a mistake, and surely no motive to commit intentional fraud upon his client. Such a transparent fabrication cannot satisfy the defendant's obligation to prove ineffective assistance amounting to a manifest injustice.

For the reasons stated above, this court should find that the defendant has not proved ineffective assistance by his attorney, and his claim seeking withdrawal of his guilty plea on this basis should be denied.

3.2. This case should be remanded to the Thurston County Superior Court for a reference hearing on whether newly discovered evidence presented by the defendant would probably be sufficient to change the result in this case at a trial.

In the Statement of Defendant on Plea of Guilty to the reduced charge of second-degree murder, the defendant explicitly admitted he intentionally shot and caused the death of the victim in this case. See Appendix C. Now, the defendant claims there is newly discovered evidence to support a claim of self defense, and therefore

he should be allowed to withdraw his guilty plea to correct a manifest injustice, so that he can proceed to trial on the charge of first-degree murder while armed with a firearm. He has included with his petition a declaration from Kenneth Gilaspie, who claims to have been an eyewitness to the shooting. The State concurs that Gilaspie never came forward while this case was pending trial to make the claims he has now asserted in his declaration.

When a defendant seeks to withdraw his guilty plea on the basis of newly discovered evidence, he has the burden of showing that the new evidence: (1) will probably change the result at a trial; (2) was discovered since the guilty plea was entered; (3) could not have been discovered before trial by the exercise of due diligence; (4) is material; and (5) is not merely cumulative or impeaching. The failure of the defendant to establish any one of the above factors would be grounds to deny the defendant's request to withdraw his guilty plea.

State v. Macon, 128 Wn.2d 784, 800, 911 P.2d 1004 (1996); State v. Williams, 96 Wn.2d 215, 222-223, 634 P.2d 868 (1981). The State agrees that Gilaspie's declaration is evidence discovered since the defendant was convicted based on his plea of guilty. The State also agrees that if Gilaspie testified consistent with his declaration, the evidence would be material, and not just cumulative or impeachment.

Whether this evidence could have been discovered before the defendant pled guilty by the exercise of due diligence is unclear. For one thing, there is no evidence that Gilaspie ever claimed to anyone that he had seen anything material to this case before he discussed the matter with Riese in January-February, 2006, while they were both incarcerated in the Thurston County Jail. Obviously, for evidence to have been discoverable prior to the plea, it would have to have been in existence at that time, which itself is a substantial question in this case.

The State does dispute that this is evidence that would probably change the result at a trial. While Gilaspie describes the victim of the shooting as having red curly hair, the actual victim was an African American male with black hair. See Autopsy Report at 1 in Appendix H. While Gilaspie describes the victim of the shooting as a man much larger than the defendant, in fact the actual victim was shorter and weighed less than the defendant. See Appendix G and Autopsy Report at 1 in Appendix H. There were several other eyewitnesses to the shooting who would dispute that the victim was armed with a stick at the time of the shooting or was making any aggressive movement toward Riese when he was shot. See Appendix F. The autopsy results contradict the claim that the victim was close to the defendant when he was shot. See Autopsy Report at 5 in Appendix H.

The evidence would be that it was late afternoon, the defendant had been drinking through the day, and was intoxicated. The evidence would

also be that the defendant went and grabbed the gun in order to confront the victim after a physical altercation between the two of them, that the defendant advanced on the victim, used racial epithets against the victim, and then fired one shot, killing the victim.

After firing the shot, the defendant was seen leaving the area. He fled from that location in a vehicle with his girl friend. Later that night, when contacted by police, he denied he had been in an altercation with anyone that day, and denied he had shot anyone. See Appendix I. The next day, the defendant was arrested.

After the defendant waived his Miranda rights, he gave a second statement in which he admitted having been in a physical altercation with the victim, but denied there was any gun involved or that he had shot the victim. See Appendix I. On October 28<sup>th</sup>, the defendant gave a third statement. This time, the defendant admitted he went and got his gun from his nearby office after the physical

altercation with the victim. He admitted he advanced on the victim with the gun in his possession, claiming he was going to make a "citizen's arrest". See Appendix I. He claimed that the victim then advanced on him with a large club, and so he shot him, and then left the area. See Appendix I. Thus, the defendant's claim of self defense was not made until his third version of the events, each version changing in response to the evidence mounting against him.

Virtually every detail of Gilaspie's description of the shooting is disputed by the State's evidence, including statements of eyewitnesses, statements of other witnesses, the autopsy report, and the defendant's own changing versions of what occurred, as summarized by the materials in Appendices E through I. Therefore, a substantial issue exists as to whether Gilaspie's statement would probably change the result at a trial, given all this other evidence. Given the manner in which Gilaspie's statement has been

brought to the attention of the court for the first time, more than a year after the shooting, and the evidence contradicting every detail of that statement, it is the State's contention that Gilaspie's statement does not provide a sufficient basis for the defendant to withdraw his guilty plea.

Consequently, it would appear this matter should be referred back to the Superior Court for a reference hearing to decide that issue, at which time the defendant would have the burden of proof. RAP 16.12; In re Personal Restraint of Rice, 118 Wn.2d 876, 886-887, 828 P.2d 1086 (1992).

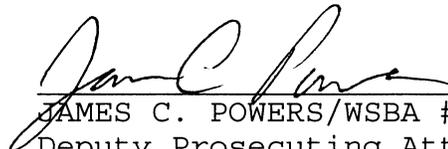
#### IV. CONCLUSION

For the reasons argued above, the State asks that this court find the defendant has not met his burden of showing ineffective assistance of counsel, and that therefore his attempt to withdraw his guilty plea on that basis should be denied. The State further recommends that this court remand this case to the Superior Court for a reference

hearing on whether the newly discovered evidence presented by the defendant would be sufficient to probably change the result in a trial, and therefore provide a basis for withdrawal of the defendant's guilty plea.

RESPECTFULLY SUBMITTED this 14th day of  
April, 2006.

EDWARD G. HOLM  
Prosecuting Attorney

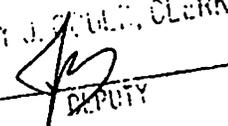
  
\_\_\_\_\_  
JAMES C. POWERS/WSBA #12791  
Deputy Prosecuting Attorney

APPENDIX  
A

FILED  
SUPERIOR COURT  
THURSTON COUNTY, WASH.

04 NOV -1 PM 3: 22

BETTY J. STOLT, CLERK

BY  DEPUTY

**IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR THURSTON COUNTY**

STATE OF WASHINGTON,

Plaintiff,

vs.

MICHAEL JOHN REISE  
W,M,5'11,200,BLK,BRN  
DOB: 10-21-1957  
SID: UNKNOWN FBI: 958941P8  
2260 NW Division Street Unit #17A  
Olympia, WA 98502  
PCN: 766810926  
BOOKING NO. C0127968

Defendant.

NO. 04-1-1962-5

**INFORMATION**

STEVEN E. STRAUME  
Senior Deputy Prosecuting Attorney

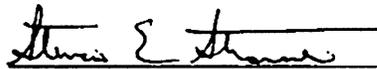
Co-Defendant(s)  
N/A

Comes now the Prosecuting Attorney in and for Thurston County, Washington, and charges the defendant with the following crime:

COUNT I: MURDER IN THE FIRST DEGREE, WHILE ARMED WITH A DEADLY WEAPON - FIREARM, RCW 9A.32.030(1)(a), RCW 9.94A.510, RCW 9.94A.602 - CLASS A. FELONY:

That the defendant, MICHAEL JOHN REISE, in the State of Washington, on or about the 26th day of October, 2004, with premeditated intent to cause the death of another person, did cause the death of another person, to-wit AUSTIN G. HARDISON. It is further alleged that during the commission of this offense, the defendant, or an accomplice, was armed with a deadly weapon, to-wit: a firearm.

DATED this 1 day of November, 2004.



STEVEN E. STRAUME, WSBA# 18181  
Senior Deputy Prosecuting Attorney

INFORMATION

ORIGINAL  
S C A N N E D

**Edward G. Holm**  
Thurston County Prosecuting Attorney  
2000 Lakenidge Drive S.W.  
Olympia, WA 98502  
360/786-5540 Fax 360/754-3358

APPENDIX  
B

FILED  
SUPERIOR COURT  
THURSTON COUNTY, WASH.

05 APR 29 PM 3: 30

BETTY J. GOULD, CLERK

BY  DEPUTY

**IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR THURSTON COUNTY**

STATE OF WASHINGTON,

Plaintiff,

vs.

MICHAEL JOHN REISE  
W,M,5'11,200,BLK,BRN  
DOB: 10-21-1957  
SID: UNKNOWN FBI: 958941P8  
2260 NW Division Street Unit #17A  
Olympia, WA 98502  
PCN: 766810926  
BOOKING NO. C0127968

Defendant.

NO. 04-1-1962-5

**FIRST AMENDED  
INFORMATION**

STEVEN E. STRAUME  
Senior Deputy Prosecuting Attorney

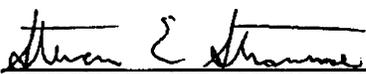
Co-Defendant(s)  
N/A

Comes now the Prosecuting Attorney in and for Thurston County, Washington, and charges the defendant with the following crime:

COUNT I: MURDER IN THE SECOND DEGREE, RCW 9A.32.050(1)(a) – CLASS A  
FELONY

That the defendant, MICHAEL JOHN REISE, in the State of Washington, on or about the 26th day of October, 2004, with intent to cause the death of another person, to-wit: AUSTIN G. HARDISON, caused the death of such person.

DATED this 29 day of April, 2005.

  
STEVEN E. STRAUME, WSBA# 18181  
Senior Deputy Prosecuting Attorney

FIRST AMENDED INFORMATION

Edward G. Holm  
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Kofax

APPENDIX  
C

FILED  
SUPERIOR COURT  
THURSTON COUNTY, WASH.

05 APR 29 PM 3: 30

BETTY J. SOULD, CLERK

BY 7  
DEPUTY

SUPERIOR COURT OF WASHINGTON  
FOR

STATE OF WASHINGTON

Plaintiff

vs.

MICHAEL J. REISE

Defendant.

NO. 04-1-1962-5

STATEMENT OF DEFENDANT ON  
PLEA OF GUILTY  
(STTDFG)

[Docket No. \_\_\_\_\_]

1. My true name is: MICHAEL J. REISE
2. My age is: 47
3. I went through the 12 grade. (GED)
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: MURDER 2<sup>o</sup>

- The elements are as set forth in the State's ( 1st Amended ) information.
5. I UNDERSTAND I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (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) That 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.

STATEMENT ON PLEA OF GUILTY (STTDFG) - 1  
CrR 4.2(g) (10/2003)

SCANNED

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	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	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 paragraph 6(f))	MAXIMUM TERM AND FINE
1	0	123-220 mos.	-	123-220 mos.	24-48 mos.	LIFE / \$50k

\* (F) Firearm, (D) other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present

- (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 has been filed with this statement. Unless I have attached a different statement, I stipulate and agree that the prosecuting attorney's statement is true, correct and complete, and that any federal or out of state convictions listed are properly classified under the laws of this state as a felony, that none of the convictions constitutes same criminal conduct, and I waive any and all challenges to that history. 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.
- (f) 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 not more 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. 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.

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 not more than 12 months. If the crime I have been convicted of falls into one of the offense types listed in the following chart, and I am sentenced to more than 12 months, 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 the crime I have been convicted of is not listed in the following chart and I am sentenced to more than 12 months, then there will be no period of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
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	9 to 18 months or up to the period of earned release, whichever is longer.
Offenses under Chapter 69.50 or 69.52 RCW	9 to 12 months or up to the period of earned release, whichever is longer.

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: *Agreed (13 years)*  
*156 months; Restitution Reserved; \$110 Court Cost;*  
*\$500 Crime Victim 24-48 months Community Custody*  
*No Contact with Vic Family for Life*

- (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 sentence is within the standard range, no one can appeal the sentence.
- (i) 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.
- (j) 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.
- (k) Public assistance will be suspended during any period of imprisonment.

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.

- [l] 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.

*MC/MC*

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 up to two years of community custody if the crime was committed on or after July 1, 2000, plus all of the conditions described in paragraph (c). 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.

*MC/MC*

If this crime involves a kidnapping offense involving a minor, I will be required to register where I reside, study or work. The specific registration requirements are set forth in Attachment "A."

- [o] **For all sentencings on or after July 1, 2002, that involve a felony**, or stalking under RCW 9A.46.110, or harassment under RCW 9A.46.020, or communicating with a minor for immoral purposes under RCW 9.68A.090, I will be required to provide a biological sample for purposes of DNA identification analysis, and will be assessed a \$100 fee for this purpose.

*MC/MC*

If this is a crime of domestic violence, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

*MC/MC*

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

MC [initials]

The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under former RCW 9.94A.120(6) (for offenses committed before July 1, 2001) or RCW 9.94A.660 (for offenses committed on or after July 1, 2001). 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 6(c). 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.

[s] 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.

MC [initials]

If this crime involves the manufacture of methamphetamine, a mandatory clean-up fine of \$3,000.00 will be assessed. If this crime involves a felony violation of the Uniform Controlled Substances Act, then a mandatory \$1,000 drug enforcement fund penalty will be assessed, and shall be doubled if this is a subsequent controlled substances offense.

MC [initials]

If this crime involves a violation of the state drug laws, my eligibility for state and federal food stamps, welfare, and education benefits will be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 862a.

MC [initials]

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.

MC [initials]

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).

MC [initials]

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.

MC [initials]

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.

MC [initials]

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.

MM (a)

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.

MM (b)

I understand that if I am pleading guilty to the crime of unlawful practices in obtaining assistance as defined in RCW 74.08.331, no assistance payment shall be made for at least 6 months if this is my first conviction and for at least 12 months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.

7. I plead guilty to:

count 1 MURDER 2°  
count \_\_\_\_\_  
count \_\_\_\_\_

in the 1st Amended Information. I have received a copy of that Information, discussed it with my attorney, and understand the nature of the charges to which I am pleading guilty.

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 October 26, 2004, in Thurston County, Washington, I intentionally shot, and caused the death of, AUSTIN G. HARDISON.

[ ] 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.

[ ] I do not believe I am guilty. However, I wish to plead guilty in order to take advantage of the State's plea offer. I agree that the State could produce sufficient evidence at trial from which a reasonable jury would likely find me guilty beyond a reasonable doubt of the above charges.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and Attachment "A," if applicable. 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.

Michael Reis  
Defendant

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

Steven S. Strama  
Deputy Prosecuting Attorney, WSBA #

[Signature] 20257  
Defendant's Lawyer, WSBA #

**COURT'S FINDINGS**

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. The Interpreter's Declaration is attached.

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: April 29, 2005

[Signature]  
JUDGE

**INTERPRETER'S DECLARATION**

I am a certified interpreter or have been found otherwise qualified by the court to interpret in the \_\_\_\_\_ language, which the defendant understands, and I have translated the statement of defendant on plea of guilty for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Interpreter

Location: Olympia, Washington

APPENDIX  
D

05 MAY 12 AM 10:15

BETTY G. COULD, CLERK

BY pdg  
CLERK

SUPERIOR COURT OF WASHINGTON  
COUNTY OF THURSTON

STATE OF WASHINGTON, Plaintiff,

v.  
MICHAEL JOHN REISE,  
Defendant.

PCN: 766810926  
SID: UNKNOWN FBI: 958941P8  
DOB: 10-21-1957  
BOOKING: C0127968

No.04-1-1962-5

(FOR CRIMES COMMITTED ON OR AFTER 7-1-00)

**JUDGMENT AND SENTENCE (JS)**

- Prison
- Jail One Year or Less
- First-Time Offender
- Special Sexual Offender Sentencing Alternative
- Special Drug Offender Sentencing Alternative

**I. HEARING**

1.1 A sentencing hearing was held on May 12, 2005 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 May 12, 2005 by  plea  jury-verdict  bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
1	MURDER IN THE SECOND DEGREE	9A.32.050(1)(a)	October 26, 2004

as charged in the FIRST AMENDED Information.

- The court finds that the defendant is subject to sentencing under RCW 9.94A.712
- A special verdict/finding for use of **firearm** was returned on Count(s) \_\_\_\_\_, RCW 9.94A.602, .510.
- A special verdict/finding for use of **deadly weapon other than a firearm** was returned on Count(s) \_\_\_\_\_, RCW 9.94A.602, .510.
- A special verdict/finding of **sexual motivation** was returned on Count(s) \_\_\_\_\_, RCW 9.94A.835.
- A special verdict/finding for **Violation of the Uniform Controlled Substances Act** was returned on Count(s) \_\_\_\_\_, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture was returned on Count(s) \_\_\_\_\_, RCW 9.94A.605, RCW 69.50.401(a), RCW 69.50.440.

05-9-10886-2

COPY TO SHERIFF 571

- 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.
- 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). RCW 9.94A.607.
- The crime charged in Count(s) \_\_\_\_\_ involve(s) **domestic violence**.
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- The Court finds that none of the above convictions constitute same criminal conduct.
- 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
1	N/A				
2					
3					
4					
5					

- 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 Court finds that none of the above listed prior convictions constitutes same criminal conduct.
- The Court finds that the above federal and/or out of state prior convictions are properly classified under the laws of this state as a felony for purposes of criminal history and offender score.
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

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
I	0	XIV	123 - 220 months	N/A	123 - 220 months	life

\* (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) \_\_\_\_\_. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney [ ] did [ ] 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.753.
- [ ] The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

- 2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [ ] attached  as follows: 156 MONTHS

### 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 Counts \_\_\_\_\_ [ ] 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:

<u>ISS CODE</u>	\$ <u>determined</u>	Restitution to: <u>To be determined</u>	
RTN/RJN	\$ _____	Restitution to: _____	
	\$ _____	Restitution to: _____	(Name and Address—address may be withheld and provided confidentially to Clerk's Office).
PCV	\$ <u>500.00</u>	Victim assessment	RCW 7.68.035
CRC	\$ <u>110.00</u>	Court costs, including	RCW 9.94A.760, 9.94A.505, 10.01.160
		Criminal filing fee \$ <u>110.00</u>	FRC
		Witness costs \$ _____	WFR
		Sheriff service fees \$ _____	SFR/SFS/SFW/WRF
		Jury demand fee \$ _____	JFR
		Extradition costs \$ _____	EXT
		Other \$ _____	
PUB	\$ _____	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.760
FCM/MTH	\$ _____	Fine RCW 9A.20.021; [ ] VUCSA additional fine deferred due to indigency	RCW 69.50.430
CDF/LDE/FCI NTE/SAD/SDI CLF	\$ _____	Drug enforcement fund of <u>THURSTON COUNTY</u>	RCW 9.94A.760
	\$ _____	Crime lab fee [ ] deferred due to indigency	RCW 43.43.690
	\$ <u>100.00</u>	Felony DNA collection fee [ ] not imposed due to hardship	RCW 43.43.754
	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum)	RCW 38.52.430
	\$ _____	Other costs for: <u>COSTS OF INCARCERATION FEE</u>	
	\$ <u>710.00</u>	TOTAL	RCW 9.94A.753

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.753. A restitution hearing:

shall be set by the prosecutor  
is scheduled for \_\_\_\_\_

[ ] RESTITUTION. Schedule attached.

[ ] Restitution ordered above shall be paid jointly and severally with:

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

RJN

[X] The Department of Corrections (DOC) may immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602.

[X] All payments shall be made in accordance with the policies of the clerk and on a schedule established by DOC, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ \_\_\_\_\_ per month commencing \_\_\_\_\_. RCW 9.94A.760.

[X] 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.760.

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

[X] 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.

4.2 DNA TESTING. For anyone convicted on or after July 1, 2002, regardless of when the crime occurred, of a felony, stalking, harassment, or communicating with a minor for immoral purposes, 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 shall be responsible for obtaining the sample prior to defendant's release from confinement. RCW 43.43.754.

[ ] 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

4.3 The defendant shall not have contact with AUSTIN HARRISON'S FAMILY (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE years (not to exceed the maximum statutory sentence).

[ ] Domestic Violence Protection Order or Antiharassment Order is filed with this Judgment and Sentence.

4.4 OTHER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

180 months on Count I \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

Actual number of months of total confinement ordered is: 180 MOS.

(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.589

Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_

(b) **CONFINEMENT.** RCW 9.94A.712: The defendant is sentenced to the following terms of confinement in the custody of Department of Corrections:

Count \_\_\_\_\_ minimum term \_\_\_\_\_ maximum term

Count \_\_\_\_\_ minimum term \_\_\_\_\_ maximum term

Count \_\_\_\_\_ minimum term \_\_\_\_\_ maximum term

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. 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: \_\_\_\_\_

4.6  **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.

**COMMUNITY PLACEMENT** is ordered as follows: Count \_\_\_\_\_ for \_\_\_\_\_ months; Count \_\_\_\_\_ for \_\_\_\_\_ months; Count \_\_\_\_\_ for \_\_\_\_\_ months;

**COMMUNITY CUSTODY** is ordered as follows:

Count 1 for a range from 24 to 48 months;

Count \_\_\_\_\_ for a range from \_\_\_\_\_ to \_\_\_\_\_ months;

Count \_\_\_\_\_ for a range from \_\_\_\_\_ to \_\_\_\_\_ months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700 and .705 for community placement offenses, which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and Chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 committed before July 1, 2000. See RCW 9.94A.715 for community custody range offenses, which include sex offenses not sentenced under RCW 9.94A.712 and violent offenses committed on or after July 1, 2000. 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 DOC-approved education, employment and/or community restitution; (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 DOC; and (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 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: VICTIM'S FAMILY

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 undergo an evaluation for treatment for  domestic violence  substance abuse  mental health  anger management and fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: Not possess controlled substances without a valid prescription. Not associate with those who use, sell, possess, or manufacture controlled substances. Randum U.A.'s at CCO direction.

Other conditions may be imposed by the court or DOC during community custody, or are set forth here: \_\_\_\_\_

For sentences imposed under RCW 9.94A.712, other conditions may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven (7) working days.

- 4.7  **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the 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. 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 4.6.
- 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.760 and RCW 9.94A.505.
- 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.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): ml
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634.
- 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:** Bail previously posted, if any, is hereby exonerated and shall be returned to the posting party.

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 forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.

DONE in Open Court and in the presence of the defendant this date:

May 12, 2005

JUDGE:

*[Handwritten signature]*

*[Signature]*  
Senior Deputy Prosecuting Attorney  
WSBA #18181  
Print name: STEVEN E. STRAUME

*[Signature]*  
Attorney for Defendant  
WSBA #20257  
Print name: JAMES J. DIXON

*[Signature]*  
Defendant  
MICHAEL JOHN REISE

Interpreter 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: 04-1-1962-5

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. UNKNOWN  
(If no SID take fingerprint card for State Patrol)

Date of Birth 10-21-1957

FBI No. .958941P8

Local ID No. C0127968

PCN No. 766810926

Other \_\_\_\_\_

Alias name, SSN, DOB: \_\_\_\_\_

Race:

Asian/Pacific Islander     Black/African-American     Caucasian

Ethnicity:

Hispanic

Sex:

Male

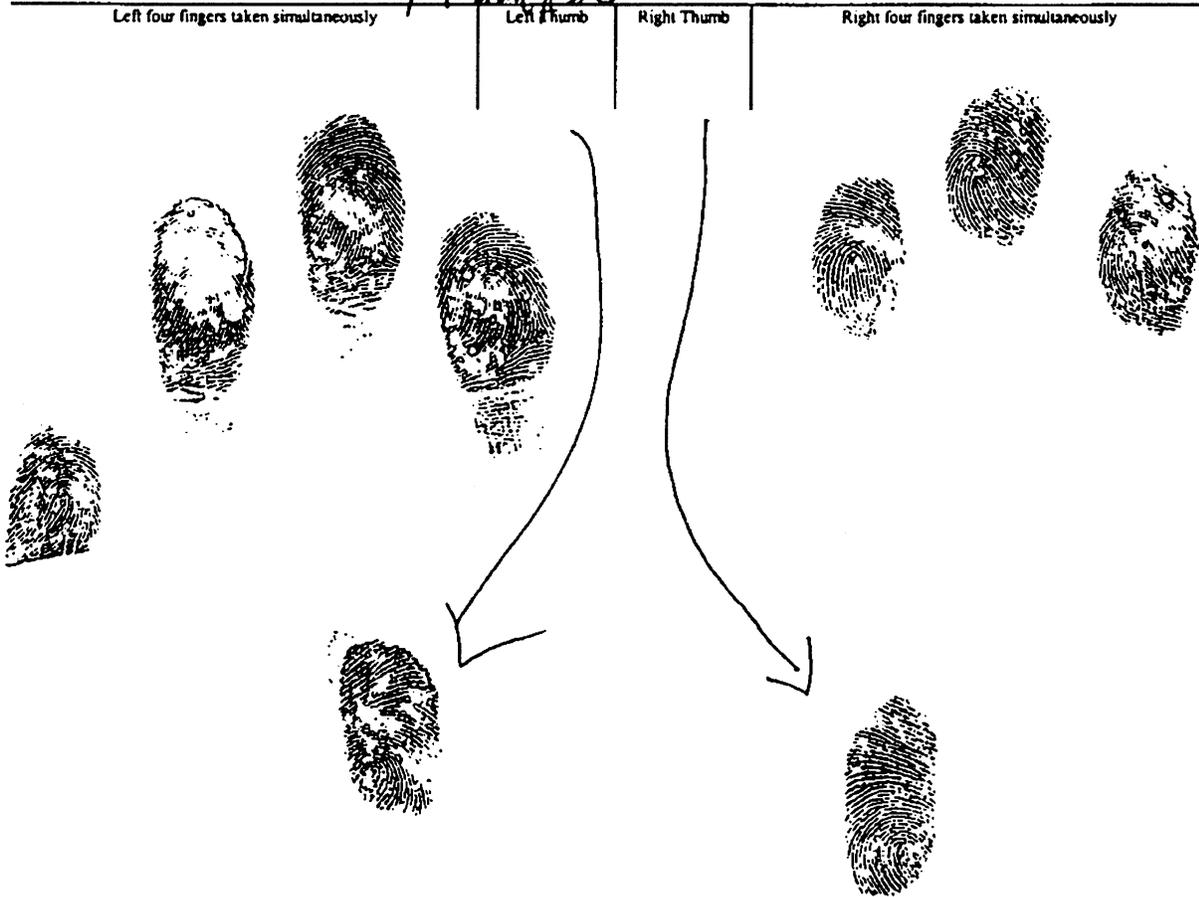
Native American     Other: \_\_\_\_\_

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., Deputy Clerk. [Signature] Dated: 5-12-05

DEFENDANTS SIGNATURE: X [Signature]



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF THURSTON

STATE OF WASHINGTON

NO. 04-1-1962-5

Plaintiff,

vs.

WARRANT OF COMMITMENT ATTACHMENT  
TO JUDGMENT AND SENTENCE (PRISON)

MICHAEL JOHN REISE,

Defendant.

DOB: 10-21-1957  
SID: UNKNOWN FBI: 958941P8  
PCN: 766810926  
RACE: W  
SEX: M  
BOOKING NO: C0127968

THE STATE OF WASHINGTON TO:

The Sheriff of Thurston County and to the proper officer of the Department of Corrections.

The defendant MICHAEL JOHN REISE has been convicted in the Superior Court of the State of Washington for the crime(s) of: MURDER IN THE SECOND DEGREE

and the court has ordered that the defendant be sentenced to a term of imprisonment as set forth in the Judgment and Sentence.

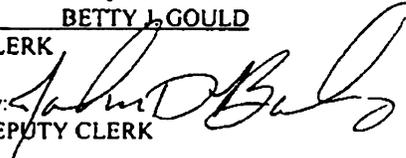
YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.

By direction of the Honorable:



BETTY J. GOULD  
CLERK

By:   
DEPUTY CLERK

APPENDIX  
E

# OLYMPIA POLICE DEPARTMENT

## PRELIMINARY REPORT FOR PROBABLE CAUSE

**DETECTIVE:** R.T. HIROTAKA

**CASE #** 04-8175

**DATE:** October 27, 2004,

**PAGE** 1 OF 7

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On 10/26/04 at about 1630 hours, I was called by Detective Sgt. JOHNSON regarding a shooting at the Bailey Motor Inn located at 3333 Martin Way E. While en route, I was advised by Detective Sgt. JOHNSON that the incident at the Bailey Motor Inn had turned into a homicide investigation. Detective Sgt. JOHNSON assigned me as lead investigator.

I arrived at the Bailey Motor Inn at about 1645 hours. I contacted Detective Sgt. JOHNSON at the southwest corner of the lower parking lot and was briefed on what information was known at that time. I observed a male subject laying on his back in the area of the cement filled former swimming pool area.

I then assisted in setting a perimeter using the yellow police line barricade tape.

At about 1710 hours, I was contacted by a subject later identified as Schoen O. ANDERSCH who said he works for the motel and had seen the earlier reported incident. He agreed to meet me for an interview.

I then went to the manager's office with ANDERSCH and obtained his statement.

ANDERSCH said he was working on 10/26/04 when the shooting incident occurred as well as earlier in the day when another incident involving the victim, Austin G. HARDISON occurred at the motel.

ANDERSCH said the first incident involving HARDISON occurred at about one hour before the shooting incident (OPD case # 04-8170). ANDERSCH said that HARDISON was inquiring about a subject who was arrested. ANDERSCH said he told HARDISON that if he did not have any reason to be on the property, he was to leave. ANDERSCH said that an officer asked him if he wanted to have HARDISON trespass which ANDERSCH declined. ANDERSCH said he though HARDISON was "high" but did not know for sure.

ANDERSCH said HARDISON was still in the area about 30 minutes later after being told to leave. ANDERSCH said HARDISON then walked over toward the old cement filled pool area. ANDERSCH said he recalled observing HARDISON about ½ an hour prior to the shooting incident.

ANDERSCH said that just prior to the shooting incident, he had walked to #503 from #104 where he was doing work. ANDERSCH said his friend, Branden THOMAS and

THOMAS' girlfriend live in #503. ANDERSCH said he had just stepped in the doorway and heard 1 gunshot. ANDERSCH said he started outside toward where the gunshot was coming from (near the filled in cement pool area) when his girlfriend, Stephanie RACKLEFF called his cellular phone and asked if he had heard the gunshot. ANDERSCH said other occupants from the motel also exited their rooms and started moving toward the cement filled pool area.

ANDERSCH said he observed a male subject laying on the ground in the area of the cement filled swimming pool. ANDERSCH said the male subject was laying on his left side holding his neck. ANDERSCH said a younger looking male subject exited from #408 and said the male subject laying down was bleeding and had been shot and to call 911.

ANDERSCH said he observed two male subjects leaving from the area of the cement filled swimming pool. ANDERSCH said one of the male subjects, described as an older male, 5-10 tall, medium build with gray hair was walking from the 400 building balcony toward a staircase on the northside of the building. ANDERSCH said the other male subject, described as a dark skinned Hispanic male, 40-45 years old, heavy set with a mustache came from a different direction but met up with the older white male subject. ANDERSCH said he could not recall what the darker skinned male was wearing. ANDERSCH did say that he recognized the darker skinned male as the Bailey Restaurant manager named "Mike " unknown last name. ANDERSCH said the two then walked down the staircase leading from the 400 building area to the lower parking lot and entrance to the Bailey Restaurant. ANDERSCH said it was less than 60 seconds from the time that he heard the single gunshot to the time the two subjects were walking away from the cement filled pool area.

I then met with Branden THOMAS at 1930 hours. THOMAS said he and his girlfriend, Tina NIGHTENGALE (unknown on spelling of her last name) live in #503 and she works as a housekeeper for the motel. THOMAS said he was helping his girlfriend since she was ill and six rooms needed to be cleaned. THOMAS said that just prior to the shooting incident, he had just moved carpet from the 100 building to #503.

THOMAS said ANDERSCH was outside of the door to #503 and was just leaving when the gunshot was heard. THOMAS said he thought he heard two noises described like a rock hitting a wall. THOMAS said the two noises were one after the other. THOMAS said he did not know that the noises were gunshots. THOMAS said he did not know if there were two gunshots or one gunshot and an "Echo." THOMAS said someone called him from the 100 building and said that a gunshot was heard. THOMAS said other guests mentioned gunshots were heard.

THOMAS said he then made his way from room # 503 to where to the area of the motel office when he observed a subject laying on the cement filled swimming pool. THOMAS said he observed ANDERSCH talking with a younger male who had come out of room #408. THOMAS said he heard the younger male tell ANDERSCH what had happened and then ANDERSCH was on the phone with dispatch.

THOMAS said he recalled observed the male victim on the southeast corner of the cement filled swimming pool. THOMAS said the male victim was on his rightside and not moving. THOMAS said he did not see any blood or injury and recalled the male victim wearing a blue pullover sweatshirt. THOMAS said he did not see the two subjects described by ANDERSCH.

I then met with ANDERSCH's girlfriend, Stephanie RACKLEFF at 2011 hours. RACKLEFF said she was at home since she was feeling ill. RACKLEFF said she had the front door open but the front living room window cannot be opened but the blinds were pulled up. RACKLEFF said she heard one single gunshot which she immediately identified as being a gunshot from her experiences living near the Capitol Forrest.

RACKLEFF said she called ANDERSCH to ask him about the gunshot and within about 30 seconds, observed a male subject described as "fat" and having a black mustache and wearing a black jacket and a burgundy shirt. RACKLEFF said the subject's hands were in his pockets as he fled. RACKLEFF said the male subject appeared to be "Mexican." RACKLEFF said the subject was running on the north side of the 400 building and running from east to west. RACKLEFF said the this male subject fell on his rearend as he was running down the staircase leading from the 400 building to the lower parking lot and entrance to the restaurant.

RACKLEFF said a second subject described as being white and in his 60's was running behind the heavier set male subject down the stairs. RACKLEFF estimated the second white male subject was about 3 feet behind the heavier set male subject. RACKLEFF said the older white male was wearing blue jeans and a pink or purple colored shirt. RACKLEFF said she lost sight of the subjects as they ran down to the lower parking lot. Moments later, RACKLEFF said she observed a white small "Ford Ranger" type of pickup truck with a toolbox in the bed leave the lower parking lot of the restaurant. RACKLEFF said the vehicle appeared to leave in a hurry and was last seen westbound on Martin Way from the Bailey Restaurant lot. RACKLEFF said it appeared the pickup truck had a blue symbol on the side similar to those that are used by the City of Olympia . RACKLEFF said that the heavier male subject's clothes would be dirty from falling onto the cement staircase.

I then met with Jodi M. ROESSLE at about 2030 hours. ROESSLE was given a ride to the Bailey Motor Inn and inquired about what had happened. It was later determined that ROESSLE was a friend of the victim, HARDISON.

She agreed to go with me for an interview at the police station. We arrived at about 2045 hours.

ROESSLE said she has known the victim through her fiancée, Harvey SANCHEZ. ROESSLE said he had stayed at her residence Sunday and Monday nights. ROESSLE said HARDISON was homeless and would only stay at the residence once in a while. ROESSLE said HARDISON did use drugs (methamphetamine and heroin) and was

recently hospitalized for overdosing on both methamphetamine and heroin. ROESSLE said HARDISON was woke up about 0700 hours and rode a bicycle around town. ROESSLE said she thought HARDISON last checked in prior around 1700 hours on 10/26/04.

ROESSLE said and Harvey's son, Brandon had gone to the dentist since she did not know if she could drive after the appointment. ROESSLE said Brandon left the dentist appointment and never returned. ROESSLE said that Brandon is using her white 1998 Mazda 626 which she does not want to report stolen. ROESSLE said Brandon and HARDISON are friends and it she has not seen Brandon since the earlier dentist appointment.

ROESSLE said Harvey was trying to locate Brandon by checking with friends in the area. ROESSLE said she does not know who would have shot HARDISON but said she knew it was going to happen, but did not know when. ROESSLE said two calls from the Bailey Restaurant were received at 1502 hours and 1645 hours on 10/26/04. Due to a problem with the answering machine, it is unknown who called, only the caller ID feature recorded the received calls.

While I interviewed ROESSLE, Detective KING interviewed two witnesses, Michelle K. PHILLIPS and Cole D. BRIDGES. Detective KING said both PHILLIPS and BRIDGES gave similar descriptions of one subject as mid 30-40's, 6-00 to 6-03, 240-260 lbs, with collar length hair and square tinted glasses. The subject was described as wearing a black jacket, black jeans and had a chunky face. The other subject could only be identified as an white male about the same age and weight with blond wavy hair.

Myself and Detective Sgt. JOHNSON went drove ROESSLE to her residence as well as meeting with Harvey and recovering a briefcase and wallet belonging to HARDISON.

Detectives LOWER and COSTELLO made contact with the restaurant manager, identified as Michael J. REISE at his residence. Detective COSTELLO advised that a statement was obtained from him denying anything had occurred at Bailey Motor Inn regarding an argument with another subject or being involved in a disturbance. Detective COSTELLO advised REISE appeared to be intoxicated. It was also learned that a City of Olympia employee, Arthur C. RILEY was the subject and his vehicle was the one identified as fleeing the scene. RILEY's supervisor, Donald COLE was contacted and met me at the Smith Building located at 837 7<sup>th</sup> Ave SE at about 2300 hours to locate the city vehicle in question and to have the vehicle impounded. COLE provided information about RILEY which was consistent with information I was provided by dispatch.

A white City of Olympia 1989 GMC S-15 pickup truck WA Lic# 05837D was located (vehicle #470) in the parking lot of 837 7<sup>th</sup> Ave SE which COLE said is assigned to RILEY to use during the business day. It was photographed and later towed by Jerry's Towing to the backlot of OPD. COLE also agreed to meet me at OPD to obtain his statement which occurred at 0100 hours.

COLE said RILEY has been working for as an electrical inspector for about 2 years. COLE said RILEY is assigned vehicle #470 but RILEY is not required to sign the vehicle in or out when used. COLE also said the mileage is only monitored by the city shops for maintenance and fuel useage. CLOSE said RILEY normally works alone due to the workload but at times will work with another employee for training purposes.

COLE said that on 10/26/04, RILEY arrived before 0700 hours and attended a regular meeting with other staff. COLE said RILEY does not check in and his work is monitored by the forms completed after completing an inspection. COLE said that the date is only noted on the form and no times are listed.

COLE recalled RILEY wearing a nicer tan colored waist length jacket and possibly a plaid shirt. COLE said RILEY wears eyeglasses and his hair is gray/blond and is combed to one side. COLE said RILEY appeared to be wearing the same clothing as in the morning when COLE saw RILEY at about 1630 hours on 10/26/04. COLE said he was leaving as RILEY was entering the building. COLE said he would see RILEY the next day as they passed each other. COLE said RILEY did not appear distracted or upset and acknowledged COLE as he left.

COLE said RILEY has been a good employee with no performance problems or teamwork issues. COLE said that he has heard COLE will help others both at work and his off time which may overextend RILEY. COLE said there have been no outbursts or conflicts between he and RILEY or RILEY and other employees.

COLE advised that RILEY would be in around 0600 hours on 10/27/04 and usually works until 1630 hours. COLE said RILEY parks in the south lot and city hall and walks over to his office.

I called dispatch and requested a Department of Licensing Special Investigations employee call me to get a photo of RILEY for a photo montage. I later spoke with Sue CLOVIS who is with the Special Investigations Unit. CLOVIS said she would locate a photo and send it to me.

On 10/27/04 at about 0515 hours, I received the black and white photo of RILEY sent by CLOVIS. At about 0545 hours, myself as well as Detectives COSTELLO, JELCICK and Detective Sgt. JOHNSON monitored RILEY's work for him to arrive. RILEY later arrived at his office at about 0600 hours.

Myself as well as Detectives COSTELLO and JELCICK then met with RILEY in his office. He agreed to provide a statement at the OPD Detectives' office. RILEY's statement was initiated at about 0615 hours.

RILEY said he has worked for the City for two years and was an electrical contractor before that. RILEY said he knows the manager of the Bailey Restaurant only as Mike. RILEY said he has only had coffee with "Mike" about three times and helps "Mike" with

electrical issues with the Bailey Restaurant. RILEY said he does not like "Mike" but helps out when needed.

RILEY said he was called by "Mike" on 10/26/04 around noon to help with electrical problems at the restaurant. RILEY said he would not be able to meet "Mike" until 1500 hours after finishing an electrical inspection for his job.

RILEY said "Mike" called again so he went to the restaurant on the way back from finishing an inspection job. RILEY said "Mike" asked him to look at the furnace and fuse box. RILEY said "Mike" was intoxicated to point of "stumbling." RILEY said they went to the electrical room which RILEY concentrated on the repair job. RILEY said "Mike" was arguing with a young man described as a "pleasant looking Samoyan" with dark skin. RILEY did say he heard the young male say something to the effect of, "You have no need to call me that!

RILEY said he tried to ignore the dispute between "Mike" and the younger male. RILEY said both began physically fighting. RILEY said Mike had a five foot 1 ¼ inch round stick. RILEY said the younger male was on top of "Mike" who was asking for RILEY to help him.. RILEY said he pulled the younger male off of "Mike" and took the stick away from "Mike."

RILEY said "Mike" was being aggressive and angry toward the younger male from the beginning and the younger male was being "cooperative." RILEY said he was able to get the two to calm down. RILEY said he decided to go back to his office and then returned with his personal vehicle and notice all of the police activity. RILEY said he asked an officer about what was going on but was told to leave the area.

RILEY said he was wearing a blue denim jacket , brown pants and a brown shirt. RILEY said "Mike" was wearing a black leather shiny coat and wears eye glasses. RILEY said he left shortly after breaking up the fight and did not hear any gunshots and did not see any gun.

After meeting with RILEY, Detectives JELCICK and COSTELLO met with PHILLIPS who was not able to identify anyone in the photo montages shown. BRIDGES was able to positively identified the shooting suspect as Michael J. REISE but was not able to identify anyone in the other photo montage as being involved.

A call was made to a witness initially contacted by Officer R. WILSON on 10/26/04, Jeremiah SOEBY. Detective Sgt. JOHNSON advised that SOEBY had called and was agreeable to being shown a photo montage. Detective JOHNSON advised that Detective KING would be assigned to this task. Detective KING later advised that SOEBY was shown a montage of REISE and identified him .

I called Thurston County Deputy Prosecutor Phil HARJU who was originally briefed about the incident on 10/26/04. I explained to him what information was obtained from witnesses and identifications of persons involved based on photo montages. HARJU

agreed that Probable Cause exists for the arrest of Michael J. REISE (10/02/1957) and also reviewed a telephonic search warrant. Both the warrant and an addendum which were later granted by Thurston County District Judge STILZ.

REISE was arrested from a traffic stop after Detective JELCICK observed the suspect's 1995 Ford Taurus leaving the suspect's residence. I advised REISE of his Miranda Warnings at 1445 hours which he understood and waived. REISE later gave consent to search his vehicle. REISE was taken into custody and questioned by myself and Detective GIES. He was again advised of his Miranda Warnings. REISE only admitted to being in an altercation with HARDISON. REISE said he was in a physical struggle when he was threatened by HARDISON with a large stick. REISE denied that a gun was involved.

It should be noted that REISE's wife also provided a statement regarding his involvement in the homicide incident on 10/26/04 at the Bailey Motor Inn.

APPENDIX  
F

**Olympia Police Department  
Follow-Up Report**

**Reporting Officer:** A. King  
**Date of Report:** 10-28-2004

**Case #** 04-8175

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On 10-26-2004, I was leaving Thurston County Superior Court in my detective issued vehicle. When I started my car, I heard dispatch say "shooting" and then I heard the address, 3333 Martin Way E. I recognized the address as being the Bailey Motor Inn. I did not advise radio I would be en route to allow for priority traffic. I started heading towards the address and en route contacted Sgt. Johnson by Nextel to let him know I was en route. I understood from radio traffic that there was a victim of a gunshot wound and a suspect had not been located. Dispatch also broadcast a suspect description.

Upon arrival into the area I pulled onto Stoll Rd. and contacted Officer Samuelson. He too advised me there was still a suspect at large. I stayed with Officer Samuelson for several minutes and attempted to reach Sgt. Hutchings, by Nextel, to determine his location to proceed there. I was unable to reach him. Officer Samuelson contacted him on the air and advised him I was on the scene and asked where he was. Sgt. Hutchings advised he was behind 3435 Martin Way. I started that direction, by going back onto Lilly Rd. and turning left onto Martin Way. As I drove by 3435 Martin Way I did not see Sgt. Hutchings so I continued to Bailey's where I contacted a Lacey officer on the perimeter. Sgt. Hutchings pulled up and we determined Sgt. Johnson was in the southwest area of the parking lot at Bailey's. I contacted him there and Detective Hirotaka was also present. I noticed the victim lying on his back near what I knew to be the pool area of Bailey's. Detective Hirotaka advised me he was, in fact, deceased. After talking briefly with them, I left the scene and returned to the detective office to gather some supplies. I then returned to Bailey's and re-contacted Sgt. Johnson. Detectives Costello and Lower had also arrived on scene. Sgt. Johnson told me there were several people at and/or en route to the police department that needed to be interviewed. He requested I return to the department and begin conducting the interviews.

Upon arrival at the police department I contacted Officer Seig in the report writing room. She briefly explained she had been at Bailey's on an unrelated incident earlier in the day. During that incident she contacted, Alissa E. Grip, and found Alissa was listed as a missing person out of Gig Harbor. As a result she was taken to the department to complete a statement about the incident. Officer Seig was investigating and await a ride home to Gig Harbor. Alissa was seated in the Sgt.'s office completing a written statement. Officer Seig said while Alissa was working on the statement, dispatch advised of the shooting and a description of the suspect. Alissa told Officer Seig she recognized the description of the suspect as someone she had seen standing outside room 112 earlier in the day. Alissa said she was staying in room 113, but went over to room 112 because of an "emergency". She didn't go into details, but said the "emergency" was from the incident Officer Seig responded to. Alissa said room 112 was occupied by a male and female. She said she didn't know either of them, but believed the female was "Suanna" or something similar. She said the male had a tattoo "JMS" on his forearm and was wearing a red shirt. The

male was later identified as, Jeremiah W. Soeby (DOB: 05-19-1982). Alissa said Jeremiah was outside room 112 smoking a cigarette and spoke briefly with another male, matching the suspect description. She said she wasn't sure if Jeremiah knew the male, but she knew they exchanged a few pleasantries. She said she also saw a black male that was further down on the same side of the motel as room 112 but closer to room 111. She could not provide any further description of the black male. Alissa said she heard some "aggressive" voices, but said they were coming from the other end of the motel nearer the restaurant. She said she did not see who the voices came from, but said they did not come from Jeremiah, the male he was near or the black male near room 111. Alissa said she could not hear what was being said, but the tone of the voices gave her the impression whoever it was, they were arguing. She said she couldn't tell more specifically where the aggressive voices were coming from.

Detective Jelcick also arrived at the department to assist with interviewing and joined me while I was talking to Alissa. After a short time he left and started an interview with Cole D. Bridges (DOB: 05-23-1982). After finishing with Alissa I contacted Detective Jelcick in the conference room. During his interview he received a phone call from Lt. Midthun. Detective Jelcick told me there was another unrelated suspicious death. He said he was going to have to leave and I would need to complete the interviews.

I then introduced myself to Cole and thanked him for his patience. I explained that Detective Jelcick had been called away and I would be conducting the interview. I explained that since I hadn't been present with him and Detective Jelcick, I would need him to start over from the beginning.

Cole said he and his girlfriend, Michelle K. Phillips (DOB: 11-25-1961) have been staying in room 408 at Bailey's for five days. Room 408 is located above the restaurant area on the south side of the building. Cole described a "balcony" that surrounds the building on the room level. He said Michelle woke him up between 1500hrs. and 1530hrs. on 10-26-2004 and he was hung over from the night before. He said right after waking up he wanted a cigarette and when he couldn't find any in their room, he went outside to their vehicle in search of one. He described the vehicle as being parked on the east side of the 400 building. He said when he walked out to the car he saw "Red". Cole said Red was on his bike near the northeast corner of the 400 building. He said Red is an acquaintance that he used to sell drugs to. He said he no longer sells drugs and hasn't seen Red since sometime in March. Cole said he doesn't know Red's real name. Red was later identified as, Austin Hardison. Cole said Austin asked him if he had anything referring to marijuana. Cole said he told him he didn't sell anymore. He said Austin then asked for a cigarette and Cole, after finding some, gave him one. He said they went over to the picnic table and smoked. Cole said Austin asked to use the phone and Cole agreed. He said they went into his room and Austin used the phone a couple of times. Cole said he didn't know who he was calling, but assumed it was to try and find some marijuana. Cole said he went back outside to smoke again while Austin was using the phone. Cole said Austin asked him for a ride downtown because he knew where they could get a "bag". Cole agreed and said he and Austin went to two places, but were not able to get any marijuana. Cole described the first place they went to as somewhere near the post office in Olympia. He said he stayed in the car and doesn't know if Austin made contact with anyone or not. He said when Austin got back into the car; he told Cole they needed to go somewhere else. Cole said he thought the place was about ten

blocks away. He couldn't provide exact addresses for either place. Austin told Cole he could come up to the door at the second place and Cole said he did, but there was no answer at the door. Cole said he told Austin to forget it and they went back to Bailey's. Cole said he and Michelle previously had plans to have dinner with his father anyway and so he needed to get back to get ready.

Cole said they returned to Bailey's and Austin wanted to use the phone in his room. Cole agreed and Austin used the phone to try and get some marijuana. Cole said he thinks Austin called room 200 because he mentioned that room as being a possible place to get some. Cole said he thought he got a hold of someone but wasn't sure. Cole said he went back outside to smoke and Austin joined him after using the phone. He said Austin mentioned he was going to "score some dope" and asked Cole if he still wanted to smoke some. Cole said he told him he couldn't because they needed to leave for dinner. Cole said he went back inside room 408 to check and see if Michelle was ready. He assumed Austin left.

Cole said he then heard arguing and the sounds of possibly a fight. He stepped outside and saw Austin on the stairs in between the building and the pool. He said he was down on the second or maybe third step. He also saw two other men closer to the bottom of the stairs. One male was holding the other up against the wall of the stairs and telling him something like "Forget it; just come help me on the furnace". The male being held up against the wall Cole said was the same person he later saw with the gun. The other male he could only describe as being a white male with about the same build as the suspect. The suspect and the other male left the area. Cole said he believes they continued down the stairs because they didn't come up the stairs. Cole said he asked Austin what was going on and Austin said he was looking to see if he dropped something. Cole said he noticed a lighter on the stairwell that he said wasn't there when he had just had a cigarette a few minutes prior. Cole said he pointed out the lighter to Austin and Austin said, "Okay". Cole said he doesn't remember if he walked over to the picnic table, which is located just north of the corner of the motel building (the 400 building), or if he stepped back into his room, but he ended up at the picnic table smoking another cigarette and was there when he saw the suspect. Cole said Austin was still in the area of the stairs, but came up to the area of the pool when the suspect showed up with the gun. He said he saw the suspect come from the east side of the building holding a gun in his right hand. Cole said when the suspect got to the corner of the building Austin was on the pool platform. He said the suspect said something like, "You still here nigger" and then, "I'll shoot you nigger". In Cole's taped statement he said Austin and the suspect had a bit of a confrontation. I asked Cole what he meant by a "confrontation". Cole said Austin replied and said, "Go ahead, pull it, pull it, pull it". He described a verbal confrontation.

Cole said during this exchange he got up from the picnic table and started back towards his room. He said he walked directly behind the suspect and before he made it to his room he heard a gunshot. He said he turned and saw Austin grab his chest area. Cole said he saw blood spurting out. Cole said he went into his room, locked the door and told Michelle they needed to call 911. Cole said their phone line was hooked up to a fax machine and so he had to change over the connection to use the phone. He said he did that and then told Michelle to call 911. Cole said he then looked outside to see if the suspect was still around. When he didn't see him, he went outside to Austin. He said Austin had fallen in the place officers found him upon

arrival. Cole said when he got to him, Austin had his head up and was still alive. He said he told Austin to hang on and was yelling for people to call 911. He said shortly Austin's head went limp and he believed Austin was dead.

Cole completed a taped statement. See attached.

I then spoke with Michelle K. Phillips. Michelle is Cole's girlfriend and she too said they have been staying at Bailey's in room 408 for five days. Michelle said after Cole woke up, he was looking for a cigarette and ended up going outside to the car to look for one because he couldn't find one in the room. Michelle said she was starting to get ready and she remembered Cole coming in and preparing her for someone to come into their room. Michelle said she just saw the side of his head, referring to Red(Austin). Cole later told her his name. She said she got into the shower. She said when she got out, Cole was there with Austin but she asked them to leave because she needed to finish getting ready. She said he and Cole left. She said she wasn't sure if they left the complex or if they were just outside. She said Cole returned, but she did not remember Austin coming back into their room. She said she and Cole heard an argument outside. She said she looked out the room window and saw two people near or at the bottom of the stairs. She said she could only see the back of one of the males head and he had blonde, wavy/curly hair. She said she did not see his face. She described the other male as having dark hair, collar length and big glasses. She said they were talking, but she couldn't hear what they were saying. She said she saw Austin near the top of the stairs.

Michelle said Cole went outside for another cigarette and the next thing she recalls is hearing a gunshot. She said she ran to the window and saw Austin grab his chest and she saw blood spurting out. She said she ran to the door and looked out to the left and saw the suspect with a gun in his hand. She said his hand was retracted near his side. She recognized him as the same person she saw earlier on the stairs. She said she couldn't remember if it was before the shot or after, but she heard the suspect say something like, "Nigger what're you doing around here" or "What are you doing here nigger?" Michelle also remembers saying something like "What's going on here?" but couldn't remember if it was before or after. She said she remembers the suspect looking at her after she said it.

She said she doesn't remember if Cole was already in the room or not, but she remembers that he was immediately with her after the shot. She said he told her they needed to call 911. She said because of their phone line being hooked up to the computer they needed to switch it. She said she was panicking and Cole had to do it. She said he then handed her the phone and she called 911.

Michelle described the suspect as a "big guy", 38-45years old, wearing a dark "bomber" style jacket. She said he had on "Elvis" style glasses with tinted lenses.

Michelle also completed a taped statement. See attached. It should also be noted that I made an error in documenting the time of the beginning of Cole's statement. I recorded the time as 2145hrs. It was, in fact, 2045hrs. I realized the mistake when beginning Michelle's taped statement that was completed after Cole's interview and statement.

On 10-27-2004 I was directed by Sgt. Johnson to re contact a witness, Jeremiah W. Soeby. Sgt. Johnson explained Jeremiah had been contacted the previous day by Officer R. Wilson at St. Peter's Hospital. See Officer Wilson's report.

I noted from Officer Wilson's report that Jeremiah had been staying at Bailey's in room 112. I did check room 112 and found the lights were on and it appeared the room was still occupied. I knocked several times and there was no answer. I could see there was no movement in the room through the window covering. The motel manager stopped and told me the occupants of room 112 had not yet checked out, but he didn't think they were there. I left a message on the phone number provided in Officer Wilson's statement asking Jeremiah to contact me as soon as he received the message.

I was then directed to check the suspects address at 2260 Division St. NW #17-A and see if both vehicles associated with him were there. I was told Detective Jelcick and Costello had checked earlier in the morning and found the truck was there, but Ford Taurus was moved from the parking space. They said it appeared to them that the vehicle had been parked there through the night because of the dry pavement under where the vehicle would have been. I arrived in the area of the address around 0945hrs. I advised the other detectives the Ford Taurus was there. I then parked where I could view the entrance/exit of the complex. I stayed in the complex until approximately 1300hrs. The vehicle had not left and Detective Costello took over my position. Detective Jelcick was also somewhere in the area on Division St.

I had received a return call from Jeremiah. He provided the address he was at as: 7617 19<sup>th</sup> Lane SE Lacey, WA #105 and another phone number: (360) 402-0618. I told Jeremiah I wanted to talk to him and I had a photo montage I would like him to look at. I told him I would contact him prior to being en route to his location. I also asked him to notify me if he was going somewhere else for a significant amount of time. He agreed.

I stopped by Detective Jelcick's location and obtained the two photo montages he had put together of Art Riley and Mike Reise. Art Riley is believed to be the blonde hair guy Michelle Phillips reported seeing with Mike on the stairs. See Detective Jelcick's report for more information about Art Riley. The photo montages were signed over from Detective Jelcick to me and then back to Detective Jelcick when I was done using them. Detective Jelcick logged the montages into evidence.

I called Jeremiah and got specific directions to his location in Lacey. I contacted Jeremiah and introduced myself. I immediately noticed Jeremiah seemed nervous and apprehensive. He asked to see some identification so he could be sure I was who I really said I was. I showed him my identification and then explained I would like to show him the montages, complete a taped statement and then have him return with me to the crime scene. Jeremiah immediately said he didn't want to go back to the crime scene. I noticed he became even more visibly upset at the suggestion of returning to the scene. I explained the reason I wanted him to return and he asked if there were still people at the scene and at Bailey's. I told him I thought there were still crime scene investigators there and I could only assume there were still guests at Bailey's. I told him I knew some of the guests had been moved to other rooms. Jeremiah still appeared reluctant. I suggested we just work on one thing at a time and deal with concerns as they arose.

I read the photographic line up admonition and then showed the photo montage containing the suspect to Jeremiah. I checked the time on my cell phone and noted it was 1348hrs. I checked the second hand on my watch and noted after turning the photos over for Jeremiah to see it took him approximately twenty seconds to pick the photo in the number two position which was the suspect, Mike Reise. I noticed immediately after turning the pictures over Jeremiah started to shake and had tears in his eyes. After he picked number two I showed him photocopy of the montage and explained I wanted him to circle the number below the picture he identified. Jeremiah continued to be visibly upset. He stared at the copy shaking with tears in his eyes until 1356hrs. before circling number two. He commented that, "Maybe it's number one, no it's two" and then circled number two. He said the hair of the suspect he recalled as similar to photo number one, but the suspect was number two in the montage.

I then repeated the procedure with the second montage containing Art Riley. Jeremiah took approximately five seconds to say he did not recognize anyone in the montage. I later logged the copies into evidence.

We then agreed to complete his taped statement in my detective vehicle since there were other people in the apartment.

Jeremiah said he was returning to Bailey's from the store and while walking back to his room the victim caught his attention. Jeremiah said he doesn't know what it was specifically that caught his attention, but he thought the guy looked "scared". He said the victim was standing up on the platform, referring to the pool area at Bailey's. Jeremiah said he then saw another male in the area that he cannot describe. He said as he knows it was a white male and at the time of the shooting the male was facing him. Jeremiah then described the suspect walking up with a gun in his right hand. He said all his attention was focused on the guy with the gun. He described him as having black hair (ear length), heavy set with big glasses that had a tint to them. Jeremiah described the glasses as silver frames because he remembered seeing a shiny reflection from them. He said the gun was a black semi-automatic and the suspect had a white cloth in his right jacket pocket. Jeremiah said the gun was in his right hand until he pointed it at the guy and shot him. He said he used both hands to shoot the gun.

Jeremiah said there was only one shot and after the suspect shot the victim, he didn't seem to be concerned at all. He said he didn't run away just put the gun down to his side and walked away. He said he walked back the way he had come. Jeremiah said he was shaking and wanted to help the victim because he was shaking, but he couldn't. He was too scared. Jeremiah said he went into his room and barricaded himself and called 911.

Jeremiah thought he may have seen the suspect in an older Buick earlier in the day, but wasn't sure. He also said he remembered hearing a male voice yell something prior to the shooting, but he didn't know who it came from or what was said.

Jeremiah and I then went to Bailey's to have his assistance in photographing the scene and where he recalled people standing. Evidence Technician, Chet Mackaben, took four photographs as follows:

- 1). Photo from Jeremiah's position in the parking lot looking to where the victim was standing when shot.
- 2). Position of victim when shot in relation to the area.
- 3). Position of the suspect when he shot victim.
- 4). Position of the white male also present during the shooting.

I had been signed into the crime scene by Officer Rick Smith. After completing the photographs, I escorted Cole Bridges and Michelle Phillips into the crime scene and into their room to collect their belongings. After they collected their items, we were all signed out and I transported Jeremiah back to Lacey.

On 10-26-2004, the night of the shooting, I assisted Detectives Costello and Jelcick in completing a search of room #408. Detective Jelcick obtained consent for a search of the room. See his report for additional details.

On 10-27-2004 based upon information Detective Jelcick and Hirotaka had received I assisted the detective unit in a executing a search warrant obtained by Detective Hirotaka behind the suspects residence. After executing the warrant, I went to Bailey's to assist in a warrant that had also been obtained there. I did not recover any property from either scene.

**OLYMPIA POLICE DEPARTMENT**  
**Olympia, Washington**

**Case number:** 04-8175  
**Date of interview:** October 26, 2004  
**Time of interview:** 2145 Hours  
**Location:** 900 Plum St. SE  
**Interviewer:** Detective Amy King  
**Being interviewed:** Cole D. Bridges (dob: 05/23/82) (witness)

This is Detective King. Also present is Cole D. Bridges. Birthdate is 05/23/1982.

- 1 Q: Cole, before I started this recording um, I advised you that this was gonna be taped  
2 statement, correct? And you know that in fact your voice is being recorded?  
3 A: Yes.  
4 Q: Okay. Also for the record, I'd like to state that the time is approximately 2145 hours, and  
5 Cole we've been talking for a time um, before turning on this tape recorder and it's  
6 correct that you've been staying at the Bailey's Motor Inn in Olympia for about five days?  
7 A: Yes.  
8 Q: And Bailey's is located at 3333 Martin Way.  
9 A: Yes.  
10 Q: And you've been staying in room number 408?  
11 A: Yes.  
12 Q: Okay, and you were staying in that room with who?  
13 A: My girlfriend Michelle.  
14 Q: Okay, Michelle Phillips?  
15 A: Yes.  
16 Q: Okay, and I asked you to tell me about the events that happened earlier in the day. Why  
17 don't you go ahead and tell me what it is that happened.  
18 A: Okay. I wake up, hung over, lookin' around my room for a cigarette. There isn't a  
19 cigarette in there.  
20 Q: What time did you wake up?  
21 A: About three, three thirty.  
22 Q: Okay.  
23 A: Walk out to the car to get...  
24 Q: Your car was parked on the east side of the 400 Building?  
25 A: I guess. It was parked in the parkin' lot.

1 Q: Okay. You drew me a little diagram earlier and you marked on there where your car  
2 was...

3 A: \_\_\_\_\_

4 Q: ..and that would be the east side of the building.

5 A: \_\_\_\_\_

6 Q: Okay. All right, go ahead.

7 A: And Red was sittin' right there on his bike leaned up against the pole, and uh...

8 Q: And when you say "right there" you're pointing to the diagram...

9 A: Yeah.

10 Q: ..just for the tape purposes, in this spot right here at this corner?

11 A: Yes.

12 Q: Okay, and this would be the northeast corner. Go ahead.

13 A: Northeast corner. He walks up to me, asks "Hey, you got anything?" I'm like no. Then he  
14 asked me for a cigarette.

15 Q: When he asked you if you got anything, what was he referring to?

16 A: Asked if I had a bag.

17 Q: Okay.

18 A: And I was like no, I don't sell no more.

19 Q: And you recognize Red and he recognized you, is that correct?

20 A: Yes.

21 Q: And why is it that you recognize him? How..what was your relationship with Red?

22 A: He's an acquaintance.

23 Q: Okay, and an acquaintance as a result of?

24 A: Drug activity.

25 Q: Okay, and when is the last time that you remember seeing Red?

26 A: About March.

27 Q: In March of this year?

28 A: Yes.

29 Q: Okay. All right, so he asked you for a bag. You said you didn't have any. He asked for a  
30 cigarette.

31 A: I gave him one.

32 Q: Okay.

33 A: We went over to the picnic table which is right there.

34 Q: Okay.

35 A: And we're smokin' and he asked if he could use the phone. He uses the phone a couple  
36 times.

1 Q: What did her use the phone for?  
2 A: Uh, call a few people.  
3 Q: Okay. What was he calling those people for?  
4 A: Um, tryin' to get a bag.  
5 Q: Okay, and did he get a hold of anybody?  
6 A: Mmm, no.  
7 Q: Okay, and then what happened?  
8 A: Um, he asked if I'd give him a ride downtown. I gave him a ride downtown and he went  
9 to one place and they said, go over to this place \_\_\_\_\_ at this house and no one was  
10 there.  
11 Q: Okay, and the first place that you went to, you told me was near the post office in  
12 Olympia?  
13 A: Yes.  
14 Q: Okay, and the second place was?  
15 A: Somewhere around that.  
16 Q: About a block or two away?  
17 A: About. At the most like ten blocks.  
18 Q: Okay. All right, and at the first place was there anybody there?  
19 A: Um, I stayed in the car so.  
20 Q: Okay, and he got back in the car and said you needed to go someplace else...  
21 A: Yeah.  
22 Q: ..and that's what brought you to the second location.  
23 A: Yeah.  
24 Q: Okay.  
25 A: And when we got to that one he knocked on..or before we even went up he's like, you can  
26 come up to this one with me. I was like, cool, whatever. I got outta the car, walked up to  
27 the door with him, no one answered.  
28 Q: Okay.  
29 A: So I was like, fuck this. Let's just go back.  
30 Q: Okay, so you both went back to Bailey's?  
31 A: Yeah.  
32 Q: Okay, when you get back to Bailey's, you parked in the same spot you said?  
33 A: Yeah.  
34 Q: Okay, and what happened next?  
35 A: Um, yeah, I said he could use our phone. \_\_\_\_\_ cool. He used it.  
36 Q: Who did he call?

1 A: I believe over to Room 200.  
2 Q: Okay, and he called over there because he was still looking for a bag?  
3 A: Uh, possibly. I believe so. Not a hundred percent, but...  
4 Q: Okay, are you a hundred percent that he called Room 200?  
5 A: That's what he said.  
6 Q: Okay. All right. So he makes the phone call. Does he get a hold of anybody?  
7 A: Yes.  
8 Q: Okay, and then what?  
9 A: Um...comes outside with me 'cause I'm smoking. He asks for a cigarette. I give him a  
10 cigarette. We get done smokin', and then uh, I go in to see if my girl's ready 'cause we're  
11 goin' to my dad's house to get somethin' to eat for dinner.  
12 Q: Okay. At this time when you go back inside um, before you went back inside um, in our  
13 conversation you, you said that there..Red asked you again about wanting to smoke a  
14 bowl.  
15 A: Yeah.  
16 Q: And you tell him that, I'm goin' to my dad's for dinner.  
17 A: Yeah, I was like...  
18 Q: So you go back in your room believing that he's leaving.  
19 A: Leavin', yeah.  
20 Q: Okay. All right, so you're back in your room and you believe that Red has left, and then  
21 what?  
22 A: I hear conversation goin' on outside.  
23 Q: Okay, was it a conversation or any...  
24 A: Confrontation.  
25 Q: Confrontation. Okay. All right. Sorry. All right, and then what happened?  
26 A: And I open my door to see what's goin' on, and it was between Red and the guy that shot  
27 him, the suspect.  
28 Q: Okay. Was there anybody else?  
29 A: Yeah, there was some guy holdin' the suspect up against the wall sayin', "Just let it go. It  
30 ain't worth it."  
31 Q: Okay.  
32 A: "Come on, just give me help with the furnace."  
33 Q: Okay. So you walk out and you're in front of your room, which is 408.  
34 A: Yes.  
35 Q: And you're on kind of a balcony...  
36 A: Kinda thing.

- 1 Q: ..kinda thing and that goes around the majority of that..of the building for 400...
- 2 A: Yes.
- 3 Q: ..at the Bailey's, and you see Red and he's standing...the other thing I should note is that
- 4 there's a staircase that you've drawn on your diagram and that you've explained to me
- 5 um, there's walls on both sides of the staircase and it is immediately behind the building
- 6 that you're room is in when you walk out.
- 7 A: Right next to it.
- 8 Q: So when you walk out your um, building, or your room door you can see the stairs right
- 9 there?
- 10 A: I can see the..yeah.
- 11 Q: And so you walk out and Red is where?
- 12 A: Red's up on top of the stairs.
- 13 Q: Okay, and the other two people are where?
- 14 A: At the bottom.
- 15 Q: Okay, and the argument is between Red and one of the other individuals at the bottom of
- 16 the stairs.
- 17 A: Yes.
- 18 Q: And the two people at the bottom of the stairs, tell me what's going on with them.
- 19 A: Um, the one guy had the other guy pinned up on the wall kinda thing sayin', "Let it go.
- 20 Come on, I need help. Just give me a hand on the furnace."
- 21 Q: Okay, and did you later see one of those individuals?
- 22 A: Yes.
- 23 Q: Okay, and so after the one guy says forget about it um, what happens next?
- 24 A: And uh, I go back in the room, shut the door, and come back out...or sumpin' like that,
- 25 and then uh...as far as \_\_\_\_\_ not positive but...
- 26 Q: You're not sure whether you went back in your room or not.
- 27 A: Yeah.
- 28 Q: Okay, and so um, not sure if you go back in your room or you stay out, but you then have
- 29 a conversation with...
- 30 A: With Red.
- 31 Q: ..Red, and what is that conversation?
- 32 A: It was like, what are you doin'? And he like, just seein' if he dropped anything, and I was
- 33 like, well there's the lighter that he dropped, you could tell 'cause it wasn't there before
- 34 'cause when I smoke my cigarette I did not see that lighter until after that happened.
- 35 Q: Okay, and so you point out the lighter and Red says okay?
- 36 A: Yes.

1 Q: All right, and what happens then next?

2 A: And then uh, I tell him \_\_\_\_\_ went over to the picnic table to smoke, to finish  
3 my cigarette 'cause I light one up.

4 Q: Okay.

5 A: And the suspect come back with a gun.

6 Q: Okay, and so Red had walked um, down the stairs while he was looking...

7 A: Further, yes.

8 Q: ..for whatever, but he has now come back up towards the top of the stairs.

9 A: Not yet. He's like still lookin'.

10 Q: Okay, so he's still lookin'.

11 A: Yes.

12 Q: You walk over to the picnic table?

13 A: Yeah.

14 Q: Okay, and at some point he does start to come back.

15 A: When the suspect comes out with a gun he starts to come up.

16 Q: Okay, and so as you're at the picnic table you see um, the suspect who you had seen  
17 earlier...

18 A: Yes.

19 Q: ..at the bottom of the stairs, and was that person the one that was being held up against  
20 the wall...

21 A: Yeah.

22 Q: ..or was doing the holding? He was being held up against the wall. Okay, and so he walks  
23 up um, and what happens next?

24 A: And then he walks up and he said, "You still here nigger?" and he's got a gun in his hand  
25 and...

26 Q: Okay, right hand or left hand?

27 A: Right hand.

28 Q: Okay, and can you describe the gun to me?

29 A: 9mm, black.

30 Q: Okay.

31 A: Semi-automatic.

32 Q: Okay, and so he says, "You're still here nigger?" And then what happens next?

33 A: And then they have confrontation a little bit and I'm walk..I walk behind the suspect  
34 because I didn't wanna be out for anything. If he gets shot I don't wanna be there and get  
35 shot myself.

36 Q: Okay.

1 A: So I'm tryin' to get back in my room.  
2 Q: Okay, and you said they had a little bit of a confrontation.  
3 A: Yeah.  
4 Q: What, what do you remember about that confrontation?  
5 A: Um, the suspect said, "I'll shoot you nigger," and then Red was like, go ahead, pull..go  
6 ahead pull it, pull it \_\_\_\_\_  
7 Q: And that is happening when you're walking back towards your room?  
8 A: Yes.  
9 Q: Okay, and then what happens as you are walking...  
10 A: I don't get to my room, just about gettin' to it, and I hear, hear, my ears start ringin' to the  
11 gunshot went off and it echoed into the, like where my room is, just zzzz..I was like, Oh  
12 fuck. I look and I see Red holdin' where he got shot, and he starts like stumble, almost a  
13 stumble to the side and I don't see the suspect anywhere, and Red like stumbled to where  
14 he fell and dropped dead.  
15 Q: Okay.  
16 A: It took him a little while to die.  
17 Q: And did you continue going into your room?  
18 A: Um, when the gunshot went off?  
19 Q: Right.  
20 A: I looked and I ran into my room and lock my door.  
21 Q: Okay.  
22 A: Unplug the computer 'cause we're on-line hooked up to the phone, and told my girlfriend,  
23 "Call 9-1-1."  
24 Q: Okay, and after you told her that, then what did you do?  
25 A: I opened the door back up, unlocked it, opened it back up, looked out. Didn't see the  
26 suspect. I ran over to Red to see how he was doin'.  
27 Q: Okay, and the person that you saw um, holding the gun you described him how to me?  
28 A: A white male, um, about six foot three. In between like six foot one, six foot three.  
29 Between like two thirty, two fifty pounds.  
30 Q: Okay.  
31 A: Black stringy hair \_\_\_\_\_  
32 Q: How long was it? Okay.  
33 A: Um, jacket, either black leather or like brown. Um, button up shirt. I believe it was white,  
34 and either dark pants, black or blue.  
35 Q: Okay, and about how old would you say he was?  
36 A: About late thirties, mid-forties.

1 Q: Okay, and um, you describe some glasses?  
2 A: Yeah, they were like the Elvis Presley box ones.  
3 Q: Okay, so square in shape?  
4 A: Yeah.  
5 Q: Okay. Clear lenses or were they sunglass type lenses?  
6 A: Uh...  
7 Q: Or do you not remember?  
8 A: ..I don't remember.  
9 Q: Okay, and his uh, face? Thin?  
10 A: It was plump.  
11 Q: Plump face and how about his build otherwise?  
12 A: Beer belly.  
13 Q: Okay, and that is the same person...  
14 A: That shot...  
15 Q: ..that you saw being held up against the wall...  
16 A: Yes.  
17 Q: ..in the initial confrontation between him and Red.  
18 A: Yes.  
19 Q: Okay, and the person that was holding him up against the wall, what can you say about  
20 his description?  
21 A: About the same age as him. About the same height and the same build.  
22 Q: Okay. White male?  
23 A: Yes.  
24 Q: Okay. Cole, is there anything else that I haven't asked you or that you think you should  
25 add to your statement here?  
26 A: Not that I can recall, and if there..I think of anything I'll give ya a call.  
27 Q: Okay. The time is approximately um, 2156. The date is still the 26th of October. This  
28 concludes our interview.

Transcribed:  
AK:jp

**OLYMPIA POLICE DEPARTMENT**  
**Olympia, Washington**

**Case number:** 04-8175  
**Date of interview:** October 27, 2004  
**Time of interview:** 2:04 p.m.  
**Location:** 7617 19th Lane SE, Lacey  
**Interviewer:** Detective Amy King  
**Being interviewed:** Jeremiah W. Soeby (dob: 05/19/82) (witness)

This is Detective King. Also with me is Jeremiah W. Soeby. Birthdate: 05/19/1982. We are in my Detective vehicle in the parking lot of 7617 19th Lane SE, Lacey.

- 1 Q: Jeremiah, before I started this recording I advised you that this was gonna be a taped  
2 statement, and you understand that you are being recorded, correct?
- 3 A: Yes.
- 4 Q: Okay, and Jeremiah, what I'd like ya..I know you spoke with Officer Wilson yesterday.  
5 Um, what I'd like you to do is, in your own words tell me um, what happened yesterday  
6 and what you saw.
- 7 A: I went to the store, get some cigarettes. I came back...
- 8 Q: Came back to where?
- 9 A: From the store.
- 10 Q: Right, and where were you \_\_\_\_\_
- 11 A: I, I was going to my motel room, 112. I um, this black guy was standing up on the  
12 platform. For some reason he caught my eye, and normally \_\_\_\_\_ you  
13 know, I don't..you know, I'm not concerned what other people are doing. There's  
14 somethin' about him just caught my eye like he was scared \_\_\_\_\_
- 15 Q: Okay, let me clarify that you were at um, your motel room at Bailey's, correct, in  
16 Olympia?
- 17 A: Yeah, I was at..in the motel room. I was there though...
- 18 Q: Right.
- 19 A: ..at Bailey's, yeah.
- 20 Q: Okay, continue.
- 21 A: Um, I wal..I was walkin' down and I seen him and I just stop for a second and then I seen  
22 one guy walk up and I..and then I seen the other guy walk up behind him, and he had the  
23 gun in his hand, and that's when I stopped and I had, I-I had to watch. I'm not, you know,  
24 like I wanted to watch it, but, you know, curious why the guy had a gun and he walked up  
25 and the one guy was facin' towards me, and the other guy walk up and just shot him.

1 Q: Okay, and can you describe the gun?  
2 A: Yeah, it, it was..to my knowledge it was a forty-five.  
3 Q: Okay, semi-automatic or revolver?  
4 A: Semi-automatic.  
5 Q: Okay, and color?  
6 A: Black.  
7 Q: Okay. Um, how many shots did you hear?  
8 A: One.  
9 Q: And did you see him pull the trigger?  
10 A: I did.  
11 Q: Okay, and then what happened after that?  
12 A: He didn't even look at the guy. He didn't even, you know, see if he did..what..I don't  
13 know what he was tryin' to do, kill him or what, I don't know. He didn't give no time to  
14 do nothin'. He shh..he shot, put it down to his side and walked..walk..didn't even run  
15 away, wasn't nervous walkin' away. He walked away like somebody was just goin' for a  
16 morning walk.  
17 Q: Okay, and which direction did he walk?  
18 A: The same direction he came in.  
19 Q: Which was?  
20 A: Down towards the bar, 'cause he came up from the bar part and he walk ex..exact same  
21 way that he came..  
22 Q: Okay..  
23 A: ..is down.  
24 Q: Okay.  
25 A: And he didn't..  
26 Q: Did he go down the stairs?  
27 A: Yes.  
28 Q: Okay, and these are the stairs that are..  
29 A: Leadin' to the restaurant and to the bar, down um, on the left side of the um, apart..or the  
30 motel.  
31 Q: Okay.  
32 A: Well, depends how you look at it, right or left.  
33 Q: Okay. He, he did not walk um, towards Martin Way? You're familiar with what..  
34 A: Yeah, he didn't..no, he walked..  
35 Q: He went..  
36 A: Yeah.

1 Q: Okay.

2 A: Down towards Frankie's way. You know what I'm sayin'? That way. He didn't go up  
3 Mar..Martin Way, he went down.

4 Q: Okay. All right, towards Fatso's? Is that what you're referring to?

5 A: Yeah, Fatso's. Fatso's, sorry.

6 Q: Okay. All right.

7 A: And out on the street. He walk down the stairs, and I didn't see him from there. I, I ran in  
8 the room after I couldn't see him no more.

9 Q: Okay, and the other person that um, you said was there. Where did that person go?

10 A: I don't know.

11 Q: Okay.

12 A: I-I couldn't..I couldn't tell you because I was so focused on that, and then after I couldn't  
13 see that guy no more, I was jus..I wish I coulda walked up and help that guy that was  
14 layin' on the ground.

15 Q: Okay.

16 A: He was shakin' and stuff. I-I couldn't bring myself to go up there and help him. I don't  
17 know why.

18 Q: Okay, and so you went into your room?

19 A: Yes.

20 Q: And were you in front of your room during this entire incident, in front of the door, or  
21 where were you?

22 A: No, I was in the middle of the road. I was walkin' down and I seen the guy up on the  
23 platform, and that's what bring me closer to the guy.

24 Q: Okay.

25 A: You know, 'cause I've seen him walkin' around there before. I never talked to him, but  
26 then I seen the guy with the gun so I kinda went off acrossed from my room onto the um,  
27 the um, sidewalk kind of area, the cement thing.

28 Q: Okay.

29 A: And I was just wonderin' what was goin' on, and I don't know..they had to of seen me.

30 Q: Okay.

31 A: The guy that was lookin'..the guy that was lookin' looked straight at me.

32 Q: Okay. Did you hear any conversation between either the, the victim um, the person who  
33 had the gun or this other person that was...

34 A: No, I didn't hear no conversation, but I heard..did hear somebody shout out something.

35 Q: Okay.

36 A: I don't know who it was.

1 Q: Okay. Do you remember what it was?  
2 A: Um, like a...no we're..I-I-I don't know. I can't explain it. I really can't.  
3 Q: Okay. Could you tell if the voice was male or female that you heard?  
4 A: Oh yeah, it was male.  
5 Q: Okay. Is there um, anything else that you think you should tell me, or that you wanna tell  
6 me? Are there any questions that \_\_\_\_\_  
7 A: Yeah, I seen the guy that shot the guy earlier.  
8 Q: Okay.  
9 A: Mm, excuse me. He was driving a brown Buick.  
10 Q: Okay. Know the license plate on that Buick?  
11 A: There was. I didn't get it. I didn't know I had to 'cause I didn't know he was gonna try to  
12 do that.  
13 Q: I understand. Um, older Buick or newer Buick?  
14 A: Older. It's..there's one parked over there if you wanna look at it \_\_\_\_\_ the  
15 number.  
16 Q: Okay, and...  
17 A: It's a four-door.  
18 Q: ..when you saw him in that Buick, was that at Bailey's or somewhere else?  
19 A: Bailey's.  
20 Q: Okay, and do you recall if he was in the car by himself or was there somebody...  
21 A: By himself.  
22 Q: Okay, um, and was he coming to Bailey's or leaving Bailey's?  
23 A: He was driving..do you know where the rooms are up..up and...  
24 Q: Yes.  
25 A: He was driving down there 'cause you can go around the circle.  
26 Q: Yes.  
27 A: Okay, he was driving down there. He drove by twice.  
28 Q: Okay, as though he was going out to Martin Way?  
29 A: Yeah.  
30 Q: Okay. Um, is there anything else that you can think to add?  
31 A: Um...  
32 Q: When you went in your room after this, what did you do?  
33 A: Fuckin' barricaded..excuse me, I barricaded myself in there 'cause I, I didn't know 'cause  
34 the, the people seen me. I didn't know if they're gonna come up and try to shoot me or  
35 not, and my girlfriend. I push the desk in front of the door and the chair and I called 9-1-  
36 1.

- 1 Q: Okay. All right. Um, anything else that you wanna add?  
2 A: Um, no.  
3 Q: Okay. That concludes this statement. Um, the time is um, fourteen minutes after two. Still  
4 the 27th.

Transcribed:  
AK:jp

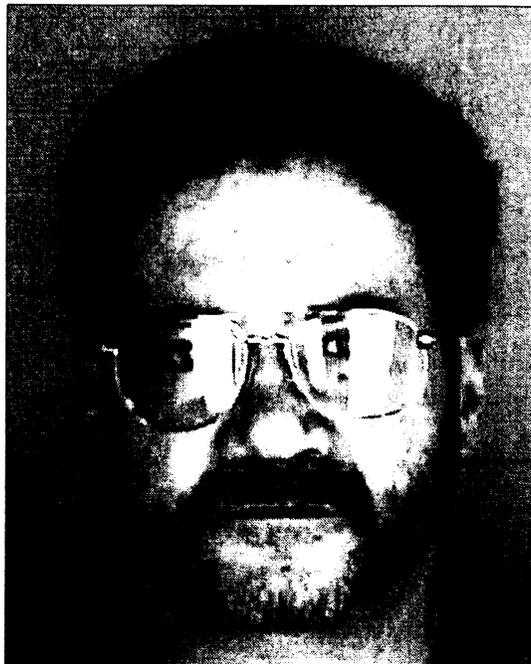
APPENDIX  
G

PERSON

PERSON:  
Name: REISE, MICHAEL JOHN  
DOB: 10/2/1957 Age: 47  
SSN: 565-19-7381  
DL Num: REISEMJ437PB DL State: WA  
Home Phone: (360) 534-9837  
Place Of Birth: DETROIT, MI  
FBI Number: 958941P8  
SID: WA22500695

HOME ADDRESS:  
2260 NW DIVISION ST UNIT 17A  
OLYMPIA, WA 98502

CHARACTERISTICS:  
Height: 5' 11" Weight: 200lb  
Race: WHITE Sex: MALE  
Hair: BLACK Eyes: BROWN  
Hair Style: COLLAR LENGTH Hair Type: WAVY  
Handed: RIGHT Facial Hair: BEARD  
Build: MEDIUM Complexion: MEDIUM



Number: Z0056150 Status: PRE-TRIAL  
CUSTODY: REISE, MICHAEL JOHN is CURRENTLY IN CUSTODY  
Housing Location: GENERAL POPULATION Number: E Bed: 25 Security Level: MAXIMUM  
Classify: MAXIMUM  
Bin Number: 104C

\*\*\*\*\*  
ACTIVE BOOKINGS: 1

1. Active Booking Number: C0127968 Arrest Type: PROBABLE CAUSE Cause Number: 04119625  
Case Number: 04-8175  
Booking Status: PRE-TRIAL  
Booking Date: 10/27/2004 19:44:37 Arrest Date: 10/27/2004 14:30:00 Arrest Location: 900 BLOCK  
COOPER POINT RD SW

Arresting Officer: HIROTAKA, R 2P65 Booking Officer: ASPERIN, R 1J86  
Arresting Agency: OLYMPIA POLICE DEPARTMENT Booking Agency: THURSTON COUNTY SHERIFFS  
OFFICE

Court: SUPERIOR COURT Court Date: 10/27/2004  
Conditions Of Release: RTN FOR CONDITIONS IF POSTED

Charge 1 - Status: FILED Count: 1 Bail Type: BONDABLE Bail Amount: 250,000.00  
Type: F Description: MURDER 1ST DEGREE Section: 9A.32 Sub Section: .030

Charge Bail Subtotal- \$250,000.00

Current Days In Custody: 6

\*\*\* BAIL TOTALS FOR ACTIVE BOOKINGS \*\*\*

\*\*\* WARRANTS \*\*\*

APPENDIX  
H

# THURSTON COUNTY CORONER'S REPORT

**Thurston County Coroner's Office**  
**Mailing Address: Courthouse, Olympia, WA 98502-6045**  
**Physical Address: 2925 37<sup>th</sup> Ave SW, Tumwater, WA 98512**  
**(360) 586-2091 Fax (360) 357-2485**

<b>Case Number:</b> 04-1401-10  <b>Decedent:</b> Austin Gardell Hardison  <b>Address:</b> 7720 Pippit Ct SE Olympia, WA 98513  <b>Phone:</b>	<u>Report Information</u>  <b>Reported by:</b> Capcom - M-4 <b>Location:</b> Bailey's Motor Inn <b>Report Date:</b> 10/26/04 <b>Time:</b> 1645h <b>Arrival Date:</b> 10/26/04 <b>Time:</b> 1735h	<u>Death Information</u>  <b>Manner:</b> Homicide <b>Place:</b> Motel <b>City:</b> Olympia <b>Date of death:</b> 10/26/04 <b>Time of death:</b> 1640h <b>Date pronounced:</b> 10/26/04 <b>Time pronounced:</b> 1640h
<u>Personal Information</u>  <b>Occupation:</b> Construction <b>Birth date:</b> 11/5/1972 <b>Age:</b> 31 Years <b>Birthplace:</b> Anson Cty, NC <b>Sex:</b> Male <b>Marital:</b> Never married <b>Race:</b> Black <b>SS#:</b> 243-37-6884	<u>Incident</u>  <b>Date:</b> 10/26/04 <b>Time:</b> 1615h <b>Address:</b> 3333 Martin Way E Olympia, WA 98506  <b>Found by:</b> <b>Address:</b> 3333 Martin Way E <b>Phone:</b> (360) 491-7515	<u>Law Enforcement</u>  <b>Officer:</b> Hiroataka <b>Agency:</b> Olympia Police Dept. <b>Case No:</b> 04-08175-10
<u>Next of Kin</u>  <b>Name:</b> Myrtle Hardison <b>Address:</b> 1121 Bethel Rd, Rt 3 Box 257 D Wadesboro, NC 28170-7310 <b>Phone:</b> (704) 694-6676 <b>Relationship:</b> Mother	<u>Other Kin</u>  <b>Name:</b> Diana McBride-Holmes <b>Address:</b> 2020-A 37th St SE Washington, DC 20020 <b>Phone:</b> (202) 575-4990 <b>Relationship:</b> Sister	<u>Contacted by</u>  <b>Name:</b> Madelyn Schwartz <b>Address:</b> c/o TCCO <b>Phone:</b> (360) 586-2091 <b>Date:</b> 10/29/04 <b>Time:</b> 0955h
<u>History</u>  <b>Physician:</b> Tacoma VA Hospital <b>Phone:</b> (253) 582-8440 <b>Last seen by MD:</b> 8/9/04 <b>Medications:</b> Anabuse, Disolferan, Trazadone, Velproic acid.  <b>History:</b> Seen as in-patient only in June, July, August for alcohol abuse and bi-polar disorder. No assigned MD.  <b>Cause of death:</b> Perforating gunshot wound to the chest  <b>Contributory cause:</b>		
<u>Autopsy/Toxicology Information</u>  <b>Pathologist:</b> Lacsina, Emmanuel <b>Date:</b> 10/28/04 <b>Time:</b> 0830h <b>Assistant:</b> Evans, Jermane <b>Also Attended:</b> West, Joseph Vargas, Heike  <b>Tox Lab:</b> WA State Tox Lab <b>Date sent:</b> 10/28/04  <b>Samples Stored:</b> <b>Blood:</b> N <b>Urine:</b> N <b>DNA:</b> N <b>Other:</b> <b>Tests Requested:</b> <b>BA:</b> Y <b>Drugs:</b> Y <b>CO:</b> N <b>Other:</b>	<u>Photos</u>  <b>Scene:</b> JW <b>Morgue:</b> JW  <u>Records</u>  <b>X-rays:</b> 10/26/04 <b>RIF/RT:</b> Full by WSP <b>Dental:</b>  <b>L&amp;I case?</b> No  <b>ID by:</b> WSP prints  <b>Funeral Home:</b> American Memorial Funeral Directors	

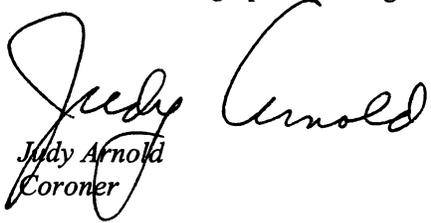
H: ALTERCATION APPARENTLY LED TO SHOOTING

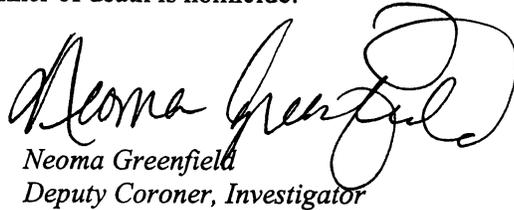
On October 26, 2004 at 1645h, Matt Gantenbein of Medic 4 reported he attended the victim of a shooting at Bailey's Motor Inn. The perpetrator was still at large so he was pulling out to a safe distance. A scene response was made to a staging area.

I observed an unidentified medium build light-skinned black male, appearing to be between 25 and 35 years of age, supine on the concrete at the rear of a building that housed the restaurant and bar. He was fully clad. His shirt and jacket were hiked up above his abdomen. There was a medic pad on his lower left torso. There was blood on his face. There was blood on the front of his jacket. He was photographed. The Washington State Patrol Crime Lab processed the scene. The best access point was off the concrete on a steep slope. With the assistance of the Crime Lab, he was lowered into an envelope-style body bag and the bag was taped and strapped to a body clam. He was removed to the transport vehicle. He was then placed in a clean white zippered bag. Head, hands and feet were bagged at this point as the incline of the slope and poor lighting conditions did not allow for safe working conditions. He was removed from the scene, taken to St. Peter Hospital for x-ray and then secured in the county morgue.

According to police, there was apparently an altercation between this gentleman and one of the employees. It escalated, ending in the victim being shot once. The perpetrator escaped on foot. Tentative identification was obtained using digital photography.

Autopsy revealed cause of death to a perforating gunshot wound to the chest. Toxicology results indicated he was positive for illicit substances. He was positively identified as Austin Gardell Hardison via fingerprints through the Washington State Patrol. Manner of death is homicide.

  
Judy Arnold  
Coroner

  
Neoma Greenfield  
Deputy Coroner, Investigator

EMMANUEL Q. LACSINA, M.D.  
Forensic Pathologist  
4109 Bridgeport Way, Suite E4  
University Place, Washington 98466-4328  
(253) 564-9187 FAX (253) 564-9177

AUTOPSY REPORT

AUTOPSY #: Thurston 04-1401

DECEASED: Austin G. Hardison

AGE: 31 SEX: Male

DATE OF AUTOPSY: 10/28/04

PLACE OF AUTOPSY: Thurston County Coroner's Office, Tumwater, Washington

AUTOPSY PERFORMED BY: Emmanuel Q. Lacsina, M. D., Forensic Pathologist

ASSISTED BY: Jermane Evans, Joe West & Heike Vargas

PHOTOGRAPHS BY: Joe West

IN ATTENDANCE: Evidence Technician Chester T. Mackaben, Detective Russ Gies and Detective Amy King, all from of the Olympia Police Department and Deputy Prosecutor Steve Straume

PATHOLOGIC DIAGNOSIS

Perforating gunshot wound to the chest with hemothorax and aspiration of blood.

CAUSE OF DEATH

Perforating gunshot wound to the chest with hemothorax and aspiration of blood.

OPINION

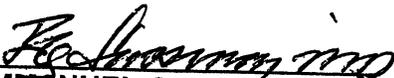
This 31 year-old African-American male, Austin G. Hardison, died of a single perforating gunshot wound to the chest. The entrance wound over the left front chest shows no evidence of close range firing on the clothing or on the skin. The wound track is front to back, downwards and inwards. There is no missile or part of a missile recovered from the wound track. The manner of death is classified as a HOMICIDE.

ard/eql 10/29/04

**RECEIVED**

NOV 1 2004

Thurston County  
Coroner

  
EMMANUEL Q. LACSINA, M. D.  
Forensic Pathologist

**THURSTON COUNTY AUTOPSY  
CASE #TC-04-1401  
AUSTIN G. HARDISON**

**REPORT OF AUTOPSY**

An autopsy was performed on the body of AUSTIN G. HARDISON, on the 28<sup>th</sup> day of October at the Thurston County Coroner's Office in Tumwater, Washington.

The autopsy was authorized by Neoma Greenfield, Deputy Coroner. No restrictions or limitations are expressed. Jermane Evans, Joe West & Heike Vargas assisted with the autopsy. Joe West took photographs. Also in attendance in the viewing room are Evidence Technician Chester T. Mackaben, Detective Russ Gies and Detective Amy King, all from of the Olympia Police Department and Deputy Prosecutor Steve Straume.

**EXTERNAL EXAMINATION**

The body was received inside a white plastic body bag and plastic white sheet. It is fully clothed with a tight hooded sweatshirt, two tee shirts, jeans, two pairs of socks and brown shoes. The upper and lower garments are covered with blood. Holes corresponding to the entrance and exit wounds are noted on the sweatshirt and tee shirts. No visible gunpowder is noted on the holes corresponding to the entrance wound. The body is that of a medium built, well developed, apparently well nourished, young African-American male appearing to be of the stated age of 31 years. The body measures 5 feet 9 inches and weighs 172 pounds. The body rigidity is fully developed in all joints. The lividity is fixed, prominently noted over the back, except in those areas exposed to pressure. The body shows no decomposition.

The body hair distribution is that of a normal male. The scalp hair is black, very short and kinky with a receding hairline on the sides. The deceased wears a mustache and a beard. The eyes are natural and show no pathological changes. There are no conjunctival petechial hemorrhages. The ears, nose, lips and oral mucosa are not remarkable except for the presence of blood coming out of the nose. The upper and lower jaws contain natural teeth. There are no tattoos noted.

The relevant presentation is that of a single gunshot wound and blunt force injuries to be described further below.

The scalp, forehead, face, neck, trunk and extremities show no evidence of other injuries or significant medical surgical changes except as described elsewhere.

**THURSTON COUNTY AUTOPSY  
CASE #TC-04-1401  
AUSTIN G. HARDISON**

There is a faint linear superficial scar lateral to the entrance wound, a faint superficial scar medial to the exit wound, a healed surgical scar over the right iliac region, scattered skin tags over both axilla and healing deep abrasions on the dorsum of the left hand. Blood is present on the dorsum of the left hand and the lateral surface of the right hand. Swabs from both hands were taken. EKG pads are noted over the front shoulders and sides of the abdomen.

There are no needle marks or needle tracks noted.

**EVIDENCES OF INJURIES**

**GUNSHOT WOUND**

Over the left front chest is a gunshot wound of entrance located 15 ½ inches below the top of the head, 3 inches to the left of the anterior midline, measuring 3/8 inch in diameter. There is no soot or gunpowder noted on the skin.

Subsequent internal examination demonstrated a wound track proceeding from this injury and entering the chest cavity through the left 4<sup>th</sup> anterior intercostal space, perforating the anterior surface of the upper lobe of the left lung, perforating the lower lobe of the left lung and exiting the back through the 9<sup>th</sup> intercostal space in a wound showing partial marginal abrasion and located 19 inches below the top of the head and 2 inches to the left of the midline. The wound measures ¼ inch in diameter.

Tissue fragmentations and infiltrating hemorrhage along the wound track, as well as approximately 3 liters of predominantly clotted blood inside the left chest cavity are noted.

The wound track is front to back, downwards and inwards.

There is no missile or part of a missile recovered from the wound track.

**BLUNT FORCE INJURIES**

1. Superficial faint purplish bruise over the right upper arm measuring 1 ½ by 1 inches. Incision into this bruise revealed superficial dermal hemorrhages. Microscopic section is taken from this wound.
2. Circular abrasion over the dorsum of the left 5<sup>th</sup> finger.
3. Superficial abrasion over the front of the left knee ½ by ¼ inch in diameter.

**INTERNAL EXAMINATION**

**BODY CAVITIES:**

The usual "y" shaped thoraco-abdominal incision is made; skin flaps are retracted and breast plate is removed. There is no excess fluid or adhesions in the body cavities noted except as described under injuries.

All body organs are appraised in positions and by transections after removal; there is nothing of significance that is observed except as indicated further below.

**CARDIOPULMONARY SYSTEM:**

The pericardium is membranous. The heart is of normal size and shape. The coronary arteries pursue their normal courses. The serial cross sections reveal no significant atherosclerotic changes with widely patent lumen. The cut surface of the myocardium shows no special note. The valves are normal in character and circumference. The aorta and its main branches show no special note and are patent. The lungs are generally well expanded, soft in consistency and crepitant. The cut sections show diffuse and severe aspiration of blood. There are no endobronchial lesions noted. The pulmonary arteries are free of blood clots.

**HEPATO-SPLENIC SYSTEM:**

The gallbladder contains approximately 10 cc of dark green viscid bile. The liver is of normal size and shape. The external surface is reddish-gray, smooth, shiny and rubbery-firm. There is no evidence of extra-hepatic biliary obstruction noted. The pancreas is unremarkable. The spleen is of normal size and shape. The cut sections are unremarkable.

**ALIMENTARY SYSTEM:**

The esophagus, stomach, small and large intestines are unremarkable. The appendix is surgically absent. The stomach is free of food and contains an estimated 100 cc of swallowed blood.

**GENITOURINARY SYSTEM:**

The kidneys are of normal shape and size and are symmetrical. The capsule strips with ease from a pale reddish-gray, smooth cortical surface. The cut surface is unremarkable.

**THURSTON COUNTY AUTOPSY  
CASE #TC-04-1401  
AUSTIN G. HARDISON**

The papillae, pelves, ureters and urinary bladder are not remarkable. The urinary bladder contains approximately 100 cc of straw-colored urine.

Other pelvic organs and external genital organs are examined and revealed no evidence of trauma or significant pathological changes.

**MUSCULOSKELETAL SYSTEM:**

Unremarkable.

**ENDOCRINE SYSTEM:**

The pituitary, thyroid and adrenal glands are unremarkable.

**HEAD:**

The scalp and skull are incised and retracted; the brain is removed. The scalp, skull, leptomeninges and brain show no evidences of trauma or significant changes on transections. The vessels at the base of the brain are unremarkable.

**NECK:**

Layerwise dissection is made; mouth contents and neck structures are removed as a single unit in continuity; within process appraisal of regional neck tissue; there is no evidence of trauma or significant abnormality observed. The air passages are essentially patent.

**TOXICOLOGY:**

Blood for ethanol and urine for drug screen are submitted to the State Toxicology Laboratory.

**X-RAYS:**

Postmortem x-ray of the body did not reveal any foreign metallic objects.

**OTHER MATERIALS COLLECTED:**

Vitreous fluid, blood in red top tube and blood droplets for DNA, are collected and saved.

THURSTON COUNTY AUTOPSY  
CASE #TC-04-1401  
AUSTIN G. HARDISON

**CRIME LAB:**

The following materials are collected and transferred to Detective Mackaben:

1. Body bag and plastic sheet.
2. Paper bags from the head, hands and feet.
3. All articles of clothing with jewelry and jean pocket contents as listed on the evidence sheet.
4. Pulled scalp and pubic hairs.
5. Fingernail clippings from both hands.
6. Swab from blood on both hands.
7. Blood in gray, red and purple top tubes.
8. Nasal, oral and anal swabs.
9. Fingerprints from the right hand.

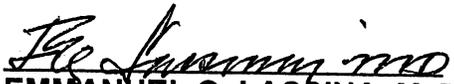
**DIAGNOSIS**

Perforating gunshot wound to the chest with hemothorax and aspiration of blood.

**OPINION**

This 31 year-old African-American male, Austin G. Hardison, died of a single perforating gunshot wound to the chest. The entrance wound over the left front chest shows no evidence of close range firing on the clothing or on the skin. The wound track is front to back, downwards and inwards. There is no missile or part of a missile recovered from the wound track. The manner of death is classified as a HOMICIDE.

ard/eql 10/29/04

  
EMMANUEL Q. LACSINA, M. D.  
Forensic Pathologist

MICROSCOPIC DESCRIPTION

BRAIN: No diagnostic changes.

HEART: No diagnostic changes.

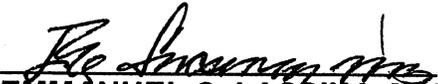
LUNGS: Focal edema and prominent aspiration of blood. In one area there is mechanical disruption with infiltrating hemorrhage.

LIVER: Mild focal fatty changes.

KIDNEYS: No diagnostic changes.

BRUISE OF RIGHT  
UPPER ARM: Small area of infiltrating hemorrhage in lower dermis and subcutis consisting chiefly of red blood cells.

ard/eql 11/13/04

  
EMMANUEL Q. LACSINA, M. D.  
Forensic Pathologist

**RECEIVED**

NOV 17 2004

Thurston County  
Coroner



WASHINGTON STATE PATROL  
IDENTIFICATION SECTION  
PO BOX 42633  
OLYMPIA, WASHINGTON 98504-2633  
(360) 705-5132

## TENPRINT REPORT

**REQUESTING AGENCY:**

Thurston County Coroner's  
Attn: Neoma Greenfield  
2925 37<sup>th</sup> Ave SW  
Tumwater, WA 98512

**WASIS TP #:** 04-D014  
**AGENCY CASE#:** 04-1401-10

**SUSPECT:**  
HARDISON, AUSTIN G.  
**DOB:** 11-5-72

**DOCUMENT DESCRIPTION:**

Post mortem fingerprints taken by Robbin Espiritu and Bill McAllister, WSP Identification Section dated 10-28-2004 of HARDISON, AUSTIN G., date of birth 11-5-72

**EXAMINATION RESULTS:**

A name and date of birth search was conducted through the Washington State Identification System (WASIS) on HARDISON, AUSTIN G., date of birth 11-5-72, with negative results.

Prints were requested by phone from the FBI on HARDISON, AUSTIN G., date of birth 11-5-72.

The photostatic copy of fingerprints bearing the FBI number 72529AC9, and bearing the name HARDISON, AUSTIN GARDELL, were received by fax from the FBI and were compared to the post mortem prints and identified as HARDISON, AUSTIN GARDELL, date of birth 11-5-1972.

*Robbin L. Espiritu*

Robbin L. Espiritu, Fingerprint Lead Technician

*10-29-04*

Date

*Carol G. Rawls*

Carol G. Rawls, Tenprint Supervisor

*10-29-2004*

Date

APPENDIX  
I



1 Detective Lower and Detective Costello knocked on Mr. Reise's door and after about 30  
2 seconds a male voice answered and asked who it was. Detective Lower replied that it was the  
3 police department. The male voice asked the detectives to wait a minute. After about 2 or 3  
4 minutes, a male came to the front door and was identified as Michael J. Reise. Mr. Reise invited  
5 the detectives in and then sat down at a kitchen table in the dining room area. Ms. Cheryl L.  
6 Fahlgren was present.

7 Mr. Reise appeared intoxicated to Detective Costello. Mr. Reise and Detective Costello  
8 went into the living room area of the apartment to talk while Detective Lower and Ms. Fahlgren  
9 stayed in the dining/kitchen area. Detective Costello started the conversation at about 7:35 pm on  
10 October 26, 2004. Detective Costello told Mr. Reise that there had been a shooting at the  
11 restaurant today. Mr. Reise acknowledged that he had known about the shooting. Mr. Reise stated  
12 he could not remember how he'd heard about the shooting. Mr. Reise said he had arrived at work  
13 at about 5:00 am. Mr. Reise stated he left about 3:00pm. Mr. Reise left with Ms. Fahlgren when  
14 "Denny" arrived.

15 Detective Costello asked if Mr. Reise had been drinking at work. Initially, Mr. Reise stated  
16 he had not been drinking. After further questioning, Mr. Reise admitted he had been drinking  
17 most of the day while he had been working. Mr. Reise denied having problem with the furnace at  
18 the restaurant. Mr. Reise denied a City of Olympia employee was present nor was there anyone  
19 present who drove a city car or truck. Mr. Reise denied that anyone from a power company or  
20 someone else driving a similar looking truck had been present.

21  
22 Mr. Reise did not have any problems with anyone at the restaurant that night. Mr. Reise had  
23 not been in a physical fight with anyone. Mr. Reise related that he had a lot of problems with  
24 transients at the restaurant, but not today. Mr. Reise was asked if he had any problems with any  
25 black men today. Immediately, Mr. Reise became louder and stood up. Mr. Reise related that his  
26 daughter had been dating a male named Erick Manning. Mr. Manning had been involved in a  
vehicle transaction where Mr. Reise felt his daughter had been defrauded. Ms. Fahlgren came

1 around the corner and told him to calm down and be quiet about that because it was not related to  
2 this crime. Detective Costello directed Mr. Reise back to the incident today and Mr. Reise stated  
3 that he knew nothing about a shooting or a fight of any kind.

4 Mr. Reise received a phone call from some one identified as "Denny." Detective Costello  
5 talked with "Denny." Detective Costello and Detective Lower concluded their interviews.  
6 Detective Costello left Mr. Reise and Ms. Fahlgren Detective Costello's business card asking them  
7 to call, if either of them remembered anything. The detectives left the residence.

8 As the investigation continued, Olympia Police came to understand that Mr. Reise was more  
9 involved than he had first stated. Olympia police developed probable cause for the arrest of Mr.  
10 Reise. On October 27, 2005 at 2:45 pm, Mr. Reise was arrested. Mr. Reise was read his Miranda  
11 warnings by Detective Hirotaka, which he indicated he understood and waived. Mr. Reise was  
12 transported to the Olympia police station where he was advised of his Miranda Warnings again,  
13 which he stated he understood and waived. Detectives Hirotaka and Guise interviewed Mr. Reise.

14 Mr. Reise stated that he had called his friend, Art Riley, to help with the heat problems in the  
15 restaurant. Mr. Reise and Mr. Riley went down a set of stairs to go to the electrical room and to  
16 access breaker switches. Mr. Reise stated a black male attacked him with a long 4 to 5 foot stick.  
17 Mr. Reise was lying on his back on the stairwell as the black male was on top of him with the stick  
18 against Mr. Reise's neck. Mr. Reise called for Mr. Riley's help. Mr. Riley returned and helped  
19 get the black male off him. Mr. Reise stated he did not say anything to the black male to cause  
20 him to attack Mr. Reise. According to Mr. Reise, he was only in a physical struggle when the  
21 black male with a large stick threatened him. Mr. Reise denied that a gun was involved and he did  
22 not shoot anyone.

23  
24 On October 28, 2005, Detective Hirotaka and Detective Jelcick received a phone call from  
25 Lt. Bailey advising them that Mr. Reise wanted to be contacted regarding the case. Detective  
26

1 Hirotaka and Detective Jelcick contacted Mr. Reise and read him his Miranda Warning, which he  
2 stated he understood and waived.

3 Mr. Reise admitted to being in an altercation with the victim, Mr. Hardison. Mr. Reise said  
4 Mr. Hardison attacked him on a whim with a large "club." Mr. Reise was able to get away with  
5 the assistance of Arthur Riley. After the initial altercation, Mr. Reise went to get a .380 semi  
6 automatic handgun, which was in a file cabinet in the restaurant office portion of the building. Mr.  
7 Reise said he had his cellular phone in his left hand and the pistol in the right outside jacket  
8 pocket. Mr. Reise stated he called "911" in the restaurant while walking toward the entryway to  
9 exit and confront Mr. Hardison. Mr. Reise went up the exterior staircase and confronted Mr.  
10 Hardison. Mr. Reise said the "911" call may not have been connected and he did not recall "911."

11 Mr. Reise stated he was going to make a "citizen's arrest" of Mr. Hardison and told Mr.  
12 Hardison to remain where he was and that the police were called. Mr. Reise indicated that Mr.  
13 Hardison advanced on him quickly holding the large "club." Mr. Reise said he was afraid he was  
14 going to be assaulted again so he produced the pistol and pointed it at Mr. Hardison. Mr. Hardison  
15 told Mr. Reise to shoot and continued to advance. Mr. Hardison advance to the point where he felt  
16 he could not escape. Mr. Reise fired one shot at Mr. Hardison and Mr. Hardison took one more  
17 step toward him. Mr. Reise turned and left.

18 Mr. Reise said he went back into the restaurant, located Ms. Fahlgren within several minutes,  
19 and they both left in his 1995 Ford Taurus sedan. Mr. Reise left the scene on Martin Way E going  
20 westbound and went directly home. Mr. Reise saw several emergency vehicles going east on  
21 Martin Way as they went home. Mr. Reise said he did not talk to Ms. Fahlgren until they were at  
22 home. Mr. Reise stated that the shooting was broadcasted on the television news. Mr. Reise said  
23 Ms. Fahlgren asked him about the incident at Bailey's and he told her not to ask him about it. Mr.  
24 Reise did not talk with Ms. Fahlgren anymore about the incident.  
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1 Mr. Reise said the handgun was in his right front pocket of his black leather jacket prior to  
2 confronting Mr. Hardison. Ms. Reise said the handgun was put back in his jacket pocket as he left  
3 after the shooting. Mr. Reise was afraid and did not know what to do so he placed the handgun in  
4 a "Target" store plastic bag and put the plastic bag in the woods 50 feet back from his residence.  
5 Mr. Reise said he only kicked some dirt over the plastic bag and did not bury it. Mr. Reise  
6 disposed of the black leather jacket in a bag at a Texaco station dumpster. Finally, Mr. Reise said  
7 he was intoxicated at the time of the shooting and was in a panicked state. Mr. Reise admitted he  
8 might not be able to find the gun again.

### 9 III. AUTHORITY

10 Criminal Rule 3.5(a) states: "When a statement of the accused is to be offered in evidence, the  
11 judge...shall hold ...a hearing...for the purpose of determining whether this statement is admissible."  
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13 Criminal Rule 3.5(c) goes on to state:

14 After the hearing, the court shall set forth in writing:

- 15 (1) the undisputed facts;  
16 (2) the disputed facts;  
17 (3) conclusions as to the disputed facts; and  
18 (4) conclusions as to whether the statement is admissible and, the reasons therefore.

19 There is no requirement under the Fifth Amendment that law enforcement stop a person who  
20 wishes to confess to a crime or offers any other statement. "Volunteered statements of any kind are  
21 not barred by the Fifth Amendment...." Miranda v. Arizona, 384 U.S. 438, 478, 16 L.Ed. 2d 694,  
22 726, 86 S.Ct. 1602, 1630 (1966). "Moreover, a defendant's incriminating statement that is not a  
23 response to an officer's question is freely admissible." State v. Bradley, 105 Wn.2d 898, 904, 719  
24 P.2d 546 (1986); See also State v. Ortiz, 34 Wn.App. 694, 698, 664 P.2d 1267 (1983).  
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1 Court decisions have also concluded that general background and biographical questions  
2 necessary to complete booking are an exception to the Miranda rules. State v. Bradley, 105 Wn.2d at  
3 904; State v. Wheeler, 43 Wn.App. 191, 201, 716 P.2d 902 (1986).

4 Miranda involves the protection of an individual's privilege against self-incrimination when  
5 taken into custody. Miranda v. Arizona, 384 U.S. 478. Prior to any custodial interrogation, an  
6 individual must be warned he or she has the:

8 Right to remain silent, that anything he says can be used against  
9 him in a court of law, that he has the right to the presence of an attorney,  
10 and that if he cannot afford an attorney one will be appointed for him  
prior to any questioning if he so desires.

11 Miranda, 384 U.S. at 479. After being advised of these Miranda rights, the individual may knowingly  
12 and intelligently waive these rights, and the State has the burden to prove waiver by a preponderance  
13 of the evidence. State v. Gross, Wn.App. 319, 323, 597 P.2d 894 (1979).

14 Miranda warnings are not required unless the individual is in custody. The Supreme Court has  
15 set forth the test for determining whether a person is "in custody" for purposes of Miranda. Berkemer  
16 v. McCarthy, 468 U.S. 420, 104 S.Ct. 3138, 3151, 82 L.Ed.2d 317 (1984). "[T]he safeguards  
17 prescribed by Miranda become applicable as soon as a suspect's freedom of action is curtailed to a  
18 degree associated with formal arrest." Berkemer, 104 S. Ct. at 3151. The Washington Supreme Court  
19 follows this same analysis in determining whether a person is "in custody" for purposes of Miranda.  
20 State v. Harris, 106 Wn.2d 784, 789-90 (1986).

21 Every question posed to a person in a custodial setting is not necessarily interrogation. "The  
22 test is whether under all of the circumstances involved in a given case, the questions are reasonably  
23 likely to elicit an incriminating response from the suspect." State v. Bradley, 105 Wn.2d at 904. An  
24 example is State v. Grisby, 97 Wn.2d 493, 504-05, 647 P.2d 6 (1982), where statements were held to  
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1 not be interrogation. Grisby involved officers counting money and the suspect asked where the money  
2 was from. The officer told him and the suspect made further incriminating statements. These  
3 statements were held to not constitute interrogation. Id.

4 A defendant may waive his or her right to remain silent provided such waiver is made  
5 knowingly, voluntarily, and intelligently. Miranda, 384 U.S. 436. "A valid waiver may be expressly  
6 made by a suspect or implied from the facts of custodial interrogation." State v. Terrovona, 105  
7 Wn.2d 632, 646, 716 P.2d 295 (1986).

8  
9 The Supreme Court has not required an express statements by  
10 the accused for an effective waiver, but rather has forbidden the  
11 presumption that an intelligent waiver was made simply form the fact  
12 that a statement was eventually extricated from the accused after he was  
13 warned of his rights. Some additional showing is required that the  
14 inherently coercive atmosphere of custodial interrogation has not  
15 disabled the accused from making a free and rational choice.

16 State v. Adams, 76 Wn2d 650, 671, 458 P.2d 558 (1969).

17 The determination of waiver must be made on the basis of the whole record before the court.  
18 State v. Cashaw, 4 Wn.App. 243, 247, 480 P.2d 528 (1971). A trier of fact may draw all reasonable  
19 inferences from the evidence and circumstances. State v. Gross, 23 Wn.App. At 324. The refusal to  
20 sign a written waiver is not dispositive, Id.; State v. Mark, 34 Wn.App. 349, 353, 661 P.2d 982 (1983).

21 Implied waiver has been found where a defendant was arrested, read his rights, said he  
22 understood those rights and then made incriminating statements. State v. Gross, 23 Wn.App. at 321.  
23 Gross initially refused to sign the waiver portion of a rights from at the station and testified he did not  
24 understand his rights until his lawyer explained them to him. The officer told Gross he did not have to  
25 sign the waiver portion of the form and further interrogation revealed more incriminating statements.  
26

1 The court said all of the statements were admissible because Gross said he understood his rights and  
2 participated freely in the conversation with the officers. State v. Gross, 23 Wn.App. at 324.

3 A waiver has been inferred where a defendant answers freely and voluntarily without duress,  
4 promise or threat, with a full understanding of his or her constitutional rights. State v. Adams, 76  
5 Wn.2d 650. Another case involved a situation where the defendant was arrested, read his rights  
6 (which he said he understood), and then made incriminating statements in response to police  
7 questioning. The court held these statements admissible since there was no evidence of coercion  
8 while the defendant was in custody. State v. Terrovona, 105 Wn.2d at 647. The failure of the  
9 defendant to realize the full consequence of his actions does not affect the voluntariness of the  
10 statement. State v. Heggins, 55 Wn.App. 591, 599 (1989).

11 A waiver of Miranda rights may be found when a defendant freely and selectively responds to  
12 police questioning after initially asserting Miranda rights. State v. Coles, 28 Wn.App. 563, 567, 625  
13 P.2d 713 (1981); State v. Gross, 23 Wn.App. 319. The state must show this was an intelligent and  
14 voluntary waiver by a preponderance of the evidence. *Id.*

15 To determine an intelligent and voluntary waiver after a defendant has initially asserted his or  
16 her right to remain silent, the court may consider:  
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- 18 (1) whether the right to cut off questioning was scrupulously honored;
- 19 (2) whether the police engaged in further words or action amounting to  
20 interrogation before obtaining a waiver;
- 21 (3) whether the police engaged in tactics tending to coerce the suspect to  
22 change his mind; and
- 23 (4) whether the subsequent waiver was knowing and voluntary.

24 State v. Wheeler, 108 Wn.2d 230, 238, 737 P.2d 1005 (1987).  
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1 Examples of this concept include State v. Heggins, 55 Wn.App. at 598 (statements by a  
2 defendant who asserts his rights but then volunteers information or freely answers questions are  
3 admissible) and State v. Wheeler, 108 Wn.2d at 238.

4 There are three statements which the defendant gave to the Olympia Police Department. The  
5 first statement was given shortly after the murder. The defendant was not read his Miranda warnings  
6 but he was not under arrest. Olympia police went to Mr. Reise's home. Mr. Reise invited them into  
7 his house. The police treated him as a witness. When the defendant was done with his statement, the  
8 police gave him their business card. The police said if Mr. Reise could remember anything else to  
9 give them a call. The Olympia police left. Mr. Reise's freedom of movement was not curtailed to a  
10 degree associated with formal arrest. Therefore, Miranda did not need to be read to Mr. Reise and his  
11 statement is admissible. In the second and third interviews, Mr. Reise was in custody and his rights  
12 were read to him. Mr. Reise acknowledged his rights and waived them. Mr. Reise voluntarily spoke  
13 with the police. Therefore, Mr. Reise's second and third statements are admissible at trial as well.

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15  
16 III. Conclusion

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18 The State asks the Court to admit all of Mr. Reise's statements at trial.

19 DATED this 29 day of March, 2005.

20 Respectfully Submitted,  
21 EDWARD G. HOLM

22 

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