

COPY

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COURT OF APPEALS

05 SEP 28 PM 12:03

STATE OF WASHINGTON

BY [Signature]
DEPUTY

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

34093-3

NO. _____
[Leave blank. Court
will assign number.]

Sean Schwab,
(put your name here)

PERSONAL RESTRAINT PETITION

Petitioner.

[If there is not enough room on this form, use the back of these pages or use other paper. Fill out all of this form and other papers you are attaching before you sign this form in front of a notary.]

A. STATUS OF PETITIONER

I, Sean Schwab Western State Hospital
(full name and address)

9601 Steilacoom Blvd SW Tukwila WASHINGTON

98498-7213

apply for relief from confinement. I am am not now in
custody serving a sentence upon conviction of a crime. (If not
serving a sentence upon conviction of a crime) I am now in custody

PERSONAL RESTRAINT PETITION
FOR PERSON CONFINED BY STATE
OR LOCAL GOVERNMENT [RAP Form 17]

- 1 PETITIONER MAY FILE THE
PETITION WITHOUT PAYMENT OF
A FILING FEE

[Signature]
COURT CLERK

10f-28/05

11. All the bills I owe are listed here.

Name of creditor you owe money to	Address	Amount
Fines	Prison	\$3000

D. REQUEST FOR RELIEF

I want this court to:

vacate my conviction and give me a new trial.

vacate my conviction and dismiss the criminal charges against me without a new trial.

other: Change my plea from not guilty
(specify) to guilty to a
1st degree murder with a trial of guilty if I have to
innocent with one Johnie and I will
live my mom - I am sick - I am
I wanted to see her she name
is Julie Strommala. Please give me
a new lawyer Mike Strommala is right
for me and Mike Strommala is supposed to give me
a change of plea but he would not let up
he's missing me petition if I want my change
of plea because I want a different lawyer
and I want to change my plea because it's my right
and my case # is 03-1-00787-2 I also want to see

PERSONAL RESTRAINT PETITION FOR PERSON CONFINED BY STATE OR LOCAL GOVERNMENT [RAP Form 17] I should be able to see my mother and I should be able to see my mother and I should be able to see my mother

Please write me back with a court date you want to see me
 Address: 1030 1st St. Seattle WA 98101 Phone: 206-465-5557

E. OATH OF PETITIONER

THE STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

After being first duly sworn, on oath, I depose and say: That I am the petitioner, that I have read the petition, know its contents, and I believe the petition is true.

Sean Schwab
[sign here]

SUBSCRIBED AND SWORN to before me this 23 day of September, 2005.

Notary Public in and for the State of Washington, residing at _____ My commission expires: _____.

If a notary is not available, explain why none is available and indicate who can be contacted to help you find a notary: none available 769-6961

Pierce County, WA

Then sign below:

I declare that I have examined this petition and to the best of my knowledge and believe it is true and correct.

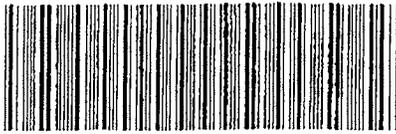
Dated this 23 day of September, 2005.

Sean Schwab
[sign here]

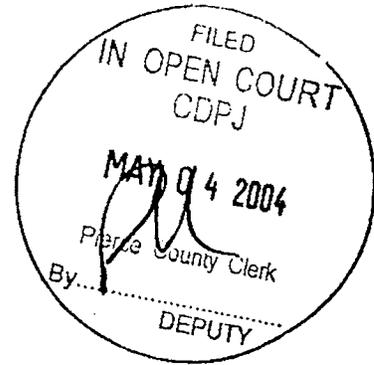
Step 1. I want to change my plea bargain

To The Judge I want to change my plea bargain because I don't want Not guilty by reason of insanity because I didn't understand it And I don't want a life sentence when I don't have a three strike felony law keeping me for life I only have one felony on my record one more felony won't keep me for life Not guilty by reason of insanity dose I want to change my plea bargain The lawyers made me late And they made me wait And to give me the right information I needed on time for my change of a plea bargain And I didn't understand all the rules for not guilty by reason of insanity with a life sentence I don't want a life sentence for anything I want to do my time in prison and do probation for a couple of years I didn't understand not guilty by reason of insanity being a life sentence I didn't understand it And what it was please your honor let me change my plea bargain I don't want a life sentence when I don't need one I don't want a life sentence when I'm innocent plus I didn't give me a mental illness they gave me a mental illness when I don't have one plus my mom who I assaulted is healed And Oh please give me a change of plea bargain I don't want life I want prison it's my right plus NOT guilty by reason of insanity is a rip off they say they'll let you go but it never happens I don't want a life sentence plus I don't want to spend the rest of my life in prison

I don't want to spend the rest of my life in prison I don't want to spend the rest of my life in prison I don't want to spend the rest of my life in prison I don't want to spend the rest of my life in prison I don't want to spend the rest of my life in prison



03-1-00787-2 20944090 JDARI 05-05-04



MAY 05 2004

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 03-1-00787-2

vs.

SEAN PAUL SCHWAB,

FINDINGS OF INSANITY, JUDGMENT OF ACQUITTAL, AND ORDER OF CONDITIONAL RELEASE

Defendant.

THIS MATTER having come before the court on 4th day of May, 2004, for hearing on the defendant's motion for Judgment of Acquittal by Reason of Insanity pursuant to RCW 10.77.080, the defendant being present with his attorney, MICHAEL R. KAWAMURA, the State appearing by KEVIN A. MCCANN, Deputy Prosecuting Attorney. Upon stipulation of the parties, the court considered the following mental health evaluations of the defendant:

1. The March 3, 2003 evaluation by Dr. Margaret D. Dean, M.D. and Linda J. Thomas, Psy.D.
2. The June 18, 2003 evaluation by Dr. Brian Waiblinger, M.D. and Linda J. Thomas, Psy.D.
3. The November 13, 2003 evaluation by Dr. C. Tartalia, M.D. and Linda J. Thomas, Psy.D.

03-1-00787-2

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3 The court also having reviewed the records and files herein, and being in this matter fully
4 advised, enters the following findings of facts by a preponderance of the evidence and
5 conclusions of law regarding the defendant's motion:

6 FINDINGS OF FACT

7 I.

8 1. The defendant was charged by Information with the crime of Assault in the First Degree-
9 Domestic Violence, with a deadly weapon sentence enhancement. The incident took place in
10 Tacoma Washington on or about the 14th day of February 2003. The victim was the defendant's
11 mother, Julie Scomadeau.

12 2. The defendant committed the crime as follows:

13
14 Victim Julie Scomadeau is the mother of the defendant. On February 14, 2003, Julie
15 Scomadeau and the defendant were walking on 6th Avenue, near Proctor Street, in
16 Tacoma Washington. The defendant stated that he needed some money and Julie told
17 him that she would give him \$20.00, but he would be required to pay her back.

18 Suddenly, the defendant brandished a serrated knife with a 4 inch blade and came at Julie
19 in a stabbing motion. Julie fell into the street and the defendant continued to attack her.
20 The responding officer observed a 6 inch laceration to her left cheek, a 1 inch laceration
21 to her tongue and a 1 inch laceration to the right side of her neck.

22 Several civilian witnesses stopped their cars. The defendant fled and was chased by
23 several civilians. A group of civilians detained the defendant until the police arrived. A
24 witness got the knife away from the defendant and gave it to the officers.

25 The defendant stated that he was stabbing his mother because she was being raped by a
26 guy named "Tom."

27 3. The defendant has been diagnosed with a major illness, Schizophrenia, and that at the
28 time of the commission of the crime, as a result of mental disease or defect, his mind was
affected to such an extent that he was unable to perceive the nature and quality of the act with
which he is charged.

03-1-00787-2

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4. The Defendant presently understands the nature of the proceedings against him and is able to assist his attorney in his own defense. The defendant also understands the elements of the crime with which he is charged. He has waived his right to a trial and is aware and understands that if acquitted he could be committed to a state hospital for the criminally insane for a term up to the maximum possible penal sentence for the offense charged. The maximum possible penal sentence for the crime of Assault in the First Degree is life imprisonment.

5. The defendant is a substantial danger to himself or other persons unless kept under further control by the court or other persons or institution.

6. The defendant presents a substantial likelihood of committing felonious acts jeopardizing public safety or security unless kept under further control by the court or other persons or institution.

It is not in the best interest of the defendant and others that the defendant is placed in the treatment that is less restrictive than detention in a state mental hospital.

JUDGMENT OF ACQUITTAL

In view of the Foregoing findings of fact the court hereby enters a Judgment of Acquittal of SEAN PAUL SCHWAB by reason of insanity as defined by RCW 9A.12.010 is therefore entered.

ORDER OF CONDITIONAL RELEASE

It is Now, Therefore,

ORDERED that the defendant, SEAN PAUL SCHWAB, be committed to the custody of the Secretary of the Department of Social and Health Services, under the provisions of RCW 10.77.120. The Secretary shall forthwith provide adequate care and treatment at such facility as

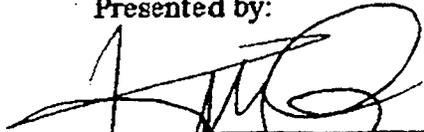
03-1-00787-2

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2 he may direct. The Secretary shall provide reports of periodic examination as required under
3 RCW 10.77.40 and shall not discharge the defendant except upon further order of the court.
4

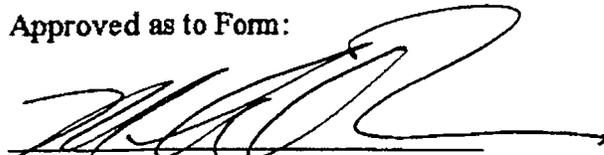
5 DONE IN OPEN COURT this 4th day of May, 2004.

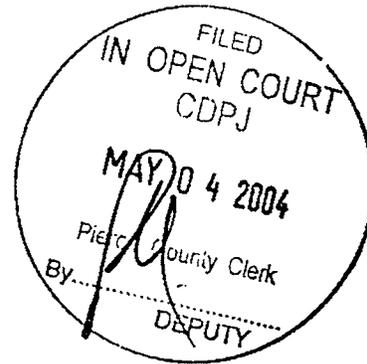
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7 
8 JUDGE

9 Presented by:

10 
11 KEVIN A. MCCANN
12 Deputy Prosecuting Attorney
13 WSB#25182

14 Approved as to Form:

15 
16 MICHAEL R. KAWAMURA
17 Attorney for Defendant
18 WSB#17202

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2. I have \$ none in my prison or institution account.

3. I do do not ask the court to appoint a lawyer for me because I am so poor I cannot afford to pay a lawyer.

4. I am am not employed. My salary or wages amount to \$ none a month. My employer is

(name and address)

5. During the past 12 months, I did did not get any money from a business, profession or other form of self-employment. (If I did, it was _____ and the total income I got was \$ _____.)
(kind of self-employment)

6. During the past 12 months, I:
did did not get any rent payments. If so, the total amount I got was \$ _____.

did did not get any interest. If so, the total amount I got was \$ _____.

did did not get any dividends. If so, the total amount I got was \$ _____.

did did not get any other money. If so, the amount of money I got was \$ _____.

7. did did not have any cash except as said in answer 2. If so, the total amount of cash I have is \$ _____.

did did not have any savings accounts or checking accounts. If so, the amount in all accounts is \$ _____.

did _____ did not own stocks, bonds, or other notes. If so, their total value is \$ _____.

8. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what each item of property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

Items	Value
None	

9. I am _____ am not married. If I am married, my wife or husband's name and address is _____

10. All of the persons who need me to support them are listed here.

Name and Address	Relationship	Age

because of the following type of court order:

Not guilty by reason of insanity - conviction

(identify type of order)

1. The court in which I was sentenced is

Superior Court

2. I was convicted of the crime(s) of 1st degree assault

3. I was sentenced after trial _____, after plea of guilty _____ on not guilty by reason of insanity. The judge who
(date of sentence)

imposed sentence was

Stephen D. Arnold
(name of trial court judge)

4. My lawyer at trial court was MIHO KAWAMURA

798-6961
PIPER COURT TRAIL
(name and address if known; if none, write "none")

5. I did did not appeal from the decision of the trial court. (If the answer is that I did) I appealed to

I WANT A CHANGE OF PLEA BARGAIN AND HAVE ONE YEAR TO CHANGE MY PLEA TO GUILTY. I AM THE ONLY ONE WHO WANTS TO
(name of court or courts to which appeal was taken)

My lawyer on appeal was _____
(name and address if known; if none, write "none")

The decision of the appellate court was _____ was not _____ published. (If the answer is that it was published, and I have

this information), the decision is published in _____

(volume number, Washington Appellate Reports or

Washington Reports, and page number)

6. Since my conviction I have ✓ have not ✓ asked a court for some relief from my sentence other than I have already written above. (If the answer is that I have asked) the court I asked was I ASKED my lawyer for a change of plea

because I had one year to do that and the judge made it so I had to do it in this so I had to do it in this
(name of court or courts in which relief was sought)

Relief was denied on change of plea bargain

(date of decision or, if more than one, dates of all decisions)

7. (If I have answered in question 6 that I did ask for relief), the name of my lawyer in the proceeding mentioned in my answer to question 6 was MIKE KAWAMURA 798 6900

(name and address if known; if none, write "none")

8. If the answers to the above questions do not really tell about the proceedings and the courts, judges and attorneys involved in your case, tell about it here:

I'm asking for a change of Plea bargain
AND I want to go in front of the judge
And I will represent myself if I have to
for change of plea bargain I don't want not
guilty by reason of insanity its a life sentence

And my lawyer told me I can change my plea bargain
in one year and the lawyer made me wait for
a year and what was legal information I'd
get in 10-12 years. I didn't have three things
that give me life = I did not want I was doing terms and guilty plea in it

B. GROUNDS FOR RELIEF In my wife's case I don't want a
life sentence when I don't have to

(If I claim more than one reason for relief from confinement,
I attach sheets for each reason separately, in the same way as the
first one. The attached sheets should be numbered "First Ground",
"Second Ground", "Third Ground", etc.) I claim that I have
_____ reason(s) for this court to grant me relief
(number)

from the conviction and sentence described in Part A.

_____ Ground
(First, Second, etc.)

1. I should be given a new trial or released from
confinement because [Here state legal reasons why you think there
was some error made in your case which gives you the right to a new
trial or release from confinement.]:

I didn't know what I was doing taking a life sentence
of not guilty by reason of insanity when my record
has only one felony and the lawyers didn't tell
me that please let me change my plea bargain
from a life sentence to a little bit of time
in prison I was also blind to taking a life sentence
and then finding out I didn't have to have life sentence in

Innocent with one felony And I dont comprehend
a life sentence And what it could do to me
And I'm not suffering from any illness And
please dont treat me like an insane person
I dont want a life sentence I want to vacate
me not guilty I dont want to go to jail

[You may attach other sheets or a brief if you choose.]

plus I

thought I had three felonies I only have one

2. The following facts are important when considering my
case [After each fact statement, put the name of the person or
persons who know the fact and will support your statement of the
fact. If the fact is already in the record of your case, indicate
that also.]:

MIKE HAWAIIAN AND I DONT WANT
A LIFE SENTENCE IF NOT GUILTY BY REASON OF
INSANITY AND I WANT A DIFFERENT LAWYER
MIKE DISAGREES ALL WE DONT AGREE ON WHAT I
SAY GAS AND MY AUNT IS A CHANGE OF PLEA DENIAL MIKE
WANTS ME TO PETITION IT ITS MY RIGHT TO HAVE A CHANGE OF PLEA DENIAL

[You may attach affidavits or other supporting documents if you chose.]

I also want to be on my own I was arrested on Feb 14 2002 I plead not guilty by reason of
insanity I was advised that 4/2004 I want to change my plea with 3 months

3. The following reported court decisions [include citations
if possible] in cases similar to mine show the error I believe
happened in my case [If none are known, state "None known".]:

None