

II. STATEMENT OF FACTS

Like all inmates in the custody of the DOC, Mr. Monta is subject to the rules of the prison disciplinary code which sets forth a broad range of prison misconduct. WAC 137-28. Violations of the code can result in a number of sanctions including isolation, segregation, and loss of good conduct time and earned time. WAC 137-28-350.

On April 6, 2006, Mr. Monta was infractioned for possession, introduction, or transfer of any narcotic, controlled substance, illegal drug or unauthorized drug or drug paraphernalia contrary to WAC 137-28-260(603). Exhibit 2, Declaration of Tonya Gould, Attachment A, Initial Serious Infraction Report. The infraction resulted from information obtained from confidential sources that Mr. Monta took substantial steps with another person to conspire, promote and facilitate the introduction of illegal drugs into MICC by having a member of his family send money to an address in the Lakewood, Washington area used as a money drop for drugs. Id.

On April 18, 2006, Monta received a copy of the Hearing Notice/Appearance Waiver informing him of the charge against him and of his procedural rights. Exhibit 2, Attachment B, Notice/Appearance Waiver Form. Mr. Monta was informed he could request witness statements in his defense. Id. Mr. Monta asked that Chief Investigator, George Gilbert, and the confidential informant appear as witnesses. Id. Mr. Monta's request for the confidential informant to appear was denied, and Mr. Gilbert responded to the request for a witness statement by submitting an email stating that the

initial infraction report was his statement. Exhibit 2, Attachment, B; Attachment C, April 26, 2006 Email from George Gilbert.

Prior to the hearing, Mr. Monta submitted a public disclosure request, requesting copies of evidence pertaining to the infraction, including but not limited to copies of the envelope and money orders. Exhibit 2, Attachment D, Public Disclosure Request. On May 10, 2006 the DOC responded, notifying Mr. Monta that because the hearing was still pending he would not be provided any information through his request, but would be allowed to see any non-confidential information, and a summary of any confidential information to be used at the hearing. Exhibit 2, Attachment E, May 10, 2006 Letter from Joni Aiyeku. On June 6, 2006 Mr. Monta received a second letter informing him that nine pages of documents responsive to his public disclosure request had been located. Exhibit 2, Attachment F, June 6, 2006 Letter from Joni Aiyeku. This letter also stated that while DOC could not provide the documents due to his appeal, Mr. Monta could request the documents after the hearing process had concluded. Id.

Mr. Monta's disciplinary hearing was held on May 22, 2006.¹ Exhibit 2, Attachment J, Serious Infraction Report. At the Hearing, Mr. Monta submitted witness statements by Larry Monta, Johnna Hibdon and the

¹ While the hearing was originally set for April 24, 2006, Mr. Monta was granted two continuances to allow him time to collect evidence, extending the hearing date first to May 2, 2006, and then to May 22, 2006. Exhibit 2, Attachment G, Request for Continuance; Attachment H, April 24, 2006 Hearing Continuance Memorandum; Attachment I, May 2, 2006 Hearing continuance Memorandum.

email from Chief Investigator, George Gilbert was submitted. Exhibit 2, Attachment K, Witness Statement of Larry Monta; Attachment L, Witness Statement of Johnna Hibdon; Attachment C; Attachment J. In his own defense, Mr. Monta stated “no where does any of the information state my name on it was on the money orders or envelope. The return address listed is a trailer court with many residents in it. There is nothing to connect me to any of these money orders, other than my dad living in the trailer court. I did not have any involvement with any drugs at MICC.” Exhibit 2, Attachment M, Disciplinary Hearing Minutes and Findings. He otherwise denied the charges. Id.

Lieutenant Jurgensen, after reviewing the confidential information, determined that it was reliable and creditable, and that the information needed to be kept confidential for security reasons, and that a summary of the confidential information was given to Mr. Monta. Exhibit 2, Attachment N, Confidential Information Review Checklist. Based upon the confidential information and the witness statements Lieutenant Jurgensen found Mr. Monta guilty of the infraction and imposed 90 days lost good conduct time and 30 days confinement to quarters. Exhibit 2, Attachment M. Mr. Monta appealed and on June 6, 2006, the designee of the Superintendent, Ron Van Boeing, denied the appeal finding Mr. Monta had been afforded all requisite due process. Exhibit 2, Attachment O, May 24, 2006 Appeal Letter; Attachment P, Disciplinary Hearing Appeal Decision.

In his petition to this Court, Mr. Monta contends that he was denied due process because he did not see the evidence present at the hearing and he was denied all reports from confidential informants that were used against him. See Petition, pg. 2.

III. STATEMENT OF ISSUES

1. Was Mr. Monta afforded all requisite due process?
2. Was the hearing officer's finding of guilt supported by some or any evidence in the record?
3. Were the standards for use of confidential information met by the hearings officer?

IV. STANDARD OF REVIEW

In order to maintain a personal restraint petition, Mr. Monta must prove actual and substantial prejudice resulting from constitutional error or non-constitutional error that inherently results in a complete miscarriage of justice. In re Myers, 91 Wn.2d 120, 122, 687 P.2d 532 (1978), cert. denied, 442 U.S. 912, 99 S. Ct. 2828 (1979), overruled on other grounds, 99 Wn.2d 80, 660 P.2d 263 (1983); In re Gronquist, 138 Wn.2d 388, 978 P.2d 1083 (1999), cert. denied, 528 U.S. 1009, 120 S. Ct. 507 (1999). A failure to meet this threshold burden should necessarily result in a court's refusal to reach the merits of the petition. Id. Mr. Monta must not only be presently restrained, that restraint must be due to a constitutional error. Myers, 91 Wn.2d at 122; RAP 16.4.

To determine whether Mr. Monta has been actually prejudice by the claimed error, the merits of his constitutional claim must first be examined.

Conclusory allegations of constitutional violations are insufficient to support a personal restraint petition. In re Cook, 114 Wn.2d 802, 813, 792 P.2d 506 (1990). In addition, the review of internal disciplinary proceedings is properly limited to a determination of whether the action taken was so arbitrary and capricious as to deny Mr. Monta a fundamentally fair hearing. In re Plunkett, 57 Wn. App. 230, 237, 788 P.2d 1090 (1990); In re Reismiller, 101 Wn.2d 291, 294, 678 P.2d 323 (1984). It is not sufficient for him to simply allege a violation of disciplinary rules. In re Burton, 80 Wn. App. 573, 585, 910 P.2d 1295 (1996). He must present evidence that is more than speculation, conjecture, or inadmissible hearsay to support his contentions. Gronquist, 138 Wn.2d at 395; In re Rice, 118 Wn.2d 876, 828 P.2d 1086, cert. denied, 506 U.S. 958, 113 S. Ct. 421 (1992).

After establishing the appropriateness of collateral review, Mr. Monta still has the ultimate burden of proof. He must show the existence of an error, and must show by a preponderance of the evidence that he was prejudiced by the asserted error. Cook, 114 Wn.2d at 814; In re Lord, 123 Wn.2d 296, 303, 868 P.2d 835 (1994), cert. denied, 513 U.S. 849, 115 S. Ct. 146 (1994); In re Williams, 111 Wn.2d 353, 365, 759 P.2d 436 (1988); State v. Kitchen, 110 Wn.2d 403, 413, 756 P.2d 105 (1988); State v. Brune, 45 Wn. App. 354, 363, 725 P.2d 454 (1986). Mr. Monta must state in his petition the facts underlying the claim of unlawful restraint and the evidence available to support the factual allegations. In re Rice, 118 Wn.2d at 886. Bald assertions and conclusory allegations are insufficient. In re Williams, 111 Wn.2d 353, 759 P.2d 436 (1988).

V. ARGUMENT

A. **MR. MONTA WAS AFFORDED ALL REQUISITE DUE PROCESS OF LAW AT HIS PRISON DISCIPLINARY HEARING.**

An inmate subject to a disciplinary hearing resulting in a loss of liberty, unlike the accused in a criminal trial, is entitled only to minimal due process protection. In re Plunkett, 57 Wn. App. 230, 235, 788 P.2d 1090 (1990). In Wolff v. McDonnell, 418 U.S. 539, 94 S. Ct. 2963, 41 L. Ed.2d 935 (1974), the Supreme Court set forth the due process rights of a prison inmate at a disciplinary proceeding where state created liberty is at issue. Although the court held that such prisoners do not enjoy the full panoply of due process safeguards, it also held that prisoner is entitled to: (1) written notice of the charges against him at least 24 hours in advance of the hearing; (2) an opportunity to call witnesses and present documentary evidence in his defense, provided that doing so will not be unduly harmful to institutional safety or correctional goals; and (3) a written statement setting forth the disciplinary board's findings of fact. Wolff, 418 U.S. at 563-66, 94 S. Ct. at 2978-79.

Here, all of the due process requirements were met at Mr. Monta's hearing. The record clearly shows he was given notice of the charges against him on April 18, 2006, and the hearing was held more than 24 hours later on May 22, 2006. Exhibit 2, Attachments A and J. He was given the opportunity to request witness statements in his defense and he was given a

written statement setting forth the findings of the hearings officer. Exhibit 2, Attachments B, C, J, K, L, and M.

Mr. Monta has supplied no evidence to support his claim that his due process rights were violated. Conclusory allegations of constitutional violations are insufficient to support a personal restraint petition. In re Cook, 114 Wn.2d 802, 813. He has failed to meet even the threshold requirement of showing actual and substantial prejudice resulting from any alleged failure to present evidence. In re Burton, 80 Wn. App. at 589. Since Mr. Monta has failed to establish constitutional error resulting in actual prejudice or a complete miscarriage of justice, his petition must be dismissed. In re Rice, 118 Wn.2d 876, 884, 828 P.2d 1086 (1992).

B. THE HEARING OFFICER'S DECISION WAS SUPPORTED BY SOME EVIDENCE.

In his petition, Mr. Monta alleges that there is insufficient evidence of misconduct to rely upon. Petition at 3. This claim fails.

Implicit in the due process requirement that an inmate receive a written decision is the requirement that the disciplinary finding be supported by "some evidence in the record." Superintendent v. Hill, 472 U.S. 445, 105 S. Ct. 2768, 86 L. Ed. 2d 356 (1985). "Ascertaining whether the 'some evidence' standard is satisfied does not require examination of the entire record, independent assessment of witnesses, or weighing of the evidence." Id. "Instead, the relevant question is whether

there is any evidence in the record that could support the conclusion reached by the disciplinary board.” Id. (emphasis added). A hearing is not arbitrary or capricious if some evidence supports the decision. In the Matter of Anderson, 112 Wn.2d 546, 772 P.2d 510 (1989). When a prison disciplinary committee finds an inmate guilty of an infraction, that finding must be based on some evidence linking the inmate to the infraction. In re Reismiller, 101 Wn.2d at 297; See also Burton, 80 Wn. App. at 586.

The hearing officer’s responsibility is to weigh the evidence and determine what evidence is reliable for use in making his decisions. The hearing officer’s decision should be granted deference. Hill restricts this Court’s inquiry to an examination of the record for evidence supporting the findings of guilt and rejects the re-evaluation of evidence and re-determinations regarding weight to be granted a given piece of evidence by the reviewing court. Hill, 472 U.S. at 455.

Here, the hearing officer based his decision on confidential information, reports, and evidence determined to be reliable and credible and where safety concerns justify the nondisclosure of the information. Exhibit 2, Attachments J, M and N. The evidence demonstrates that the MICC Investigation Unit obtained an envelope that had been mailed to a person in Lakewood, Washington containing two \$50.00 money orders. Exhibit 2, Attachments A and J. A confidential informant identified the

Lakewood address as an address where inmates sent money as a payment for drugs that were being brought into the facility and the return address on envelope was linked to Mr. Monta. Id.

Based on this evidence, Mr. Monta was found guilty of taking “substantial steps with another person to conspire, promote and facilitate the introduction [of] illegal drug[s] into a correctional facility” in violation of WAC 137-28-260 (603). Exhibit 2, Attachment J at 2.

The evidence clearly indicates that Mr. Monta had a family member send money to an address known as a money drop for drugs to be brought into MICC. The hearing officer correctly found Mr. Monta guilty of the 603 violation based on the confidential evidence and information, demonstrating that there was some evidence for the hearing officer’s guilty finding.

C. THE USE OF CONFIDENTIAL INFORMATION WAS NOT ARBITRARY AND CAPRICIOUS, AND THUS, DID NOT DENY MR. MONTA THE RIGHT TO A FUNDAMENTALLY FAIR HEARING.

The use of confidential information in prison disciplinary proceedings is within the sound discretion of prison officials. Wolff, 418 U.S. at 568-69. In Washington, it is specifically authorized by WAC 137-28-300 (7). In Zimmerlee v. Keeney, 831 F.2d 183, 186 (9th Cir. 1987), the Ninth Circuit set forth the test for establishing whether information supplied by confidential informants is reliable. In Zimmerlee, a two-part test was set

out for determining if a disciplinary committee's decision satisfies due process requirements and the "some evidence" standard when that decision is based on information received by a confidential informant. Zimmerlee held that due process is satisfied when: (1) there is a showing of reliability; and (2) there is an affirmative statement by a prison official stating that safety considerations prevent the disclosure of the informant's name. Review of both of these prongs is to be deferential. Zimmerlee, 831 F.2d at 186.

The hearing officer's decision and reliance on information supplied by the confidential informants, satisfies due process requirements and fulfills the standards set forth in Zimmerlee. First, addressing the reliability prong of the Zimmerlee test, the hearing officer determined the confidential information to be reliable and credible, as the sources (1) had no motive to fabricate the information; (2) would not benefit from providing the information, and; (3) were providing first hand information. Exhibit 2, Attachment N. The information was also internally consistent and is consistent with and corroborated by other known facts and evidence. Id. Thus, the decision is in compliance with the first prong of the Zimmerlee test.

Turning to the second prong of the Zimmerlee test, the due process requirements are likewise met. The hearing officer made a determination

that “safety concerns justify nondisclosure of the sources of information.” Exhibit 2, Attachment J, M and N. Therefore, both prongs of Zimmerlee were met at Mr. Monta’s hearing.

Mr. Monta was aware his infraction was based upon confidential information as the infraction itself so states. Exhibit 2, Attachment A. Mr. Monta has failed to demonstrate any prejudice resulting from the infraction report’s reliance on confidential information.²

The finding of reliability coupled with the fact that safety considerations prevented disclosure of the confidential information provided Mr. Monta with sufficient due process. The use of confidential information during Mr. Monta's disciplinary hearing did not deprive him of a fundamentally fair hearing.

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² While Mr. Monta claims that he was denied due process by not being able to have Investigator Gilbert present, WAC 137-28-300 allows staff members to provide written statements rather than testify in person, when they are unavailable, even when their statements are provided to introduce confidential information. WAC 137-28-300(7)(b). As Mr. Gilbert worked at a facility on the other side of the state, it was determined that he was unavailable, and therefore was allowed to introduce confidential information via a written statement. Exhibit 2, Attachments J and M.

VI. CONCLUSION

For the reasons stated above, Respondent respectfully requests the Court deny Mr. Monta' Personal Restraint Petition.

RESPECTFULLY submitted this 20th day of February, 2007.

ROBERT M. MCKENNA
Attorney General



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PO Box 40116
Olympia WA 98504-0116
(360) 586-1445

CERTIFICATE OF SERVICE

I certify that I served a copy of RESPONSE OF THE DEPARTMENT OF CORRECTIONS on all parties or their counsel of record as follows:

- US Mail Postage Prepaid
- United Parcel Service, Next Day Air
- ABC/Legal Messenger
- State Campus Delivery
- Hand delivered By: _____

TO:

JOHNATHON MONTA, #743150
WASHINGTON STATE PENITENTIARY
1313 NORTH 13TH AVENUE
WALLA WALLA WA 99362

FILED
COURT OF APPEALS
DIVISION II
07 FEB 21 AM 9:24
STATE OF WASHINGTON
DEPT. OF CORRECTIONS

I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED this 20th day of February, 2007 at Olympia, WA.

Laura Graham
LAURA GRAHAM

EXHIBIT 1

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

JOHNATHON MONTA,

Petitioner.

DECLARATION OF
LAURA GRAHAM

I, LAURA GRAHAM, make the following declaration:

1. I am a legal secretary employed by the Criminal Justice Division of the Attorney General's Office in Olympia, Washington.

2. I am familiar with the Offender Based Tracking System (OBTS) used by the Department of Corrections (DOC) and am authorized by the DOC to retrieve information from the OBTS. Among other things, information regarding an offender's location, custody, birth date, sentence, infractions and grievances are entered and tracked on OBTS.

3. I printed a true and correct copy of the Legal Face Sheet screen from OBTS regarding Johnathon Monta, DOC #743150, to be used as an Exhibit.

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

SIGNED this 20th day of February, 2007 at Olympia, Washington.



LAURA GRAHAM

ATTACHMENT A

IISO100

LEGAL FACE SHEET

TIME 09:38

DOC NO: 743150 NAME: MONTA, JOHNATHON K. ("AD") STATUS: ACTIVE ***
BED NO: E018D152 COUNSELOR: CF52 WARNEKA, FRED C.

CURRENT LOCATION: WASH STATE PEN MXED: 03/07/2011 MNED: 11/05/2002
SEX: M AGE: 29 FBI NO: 319119AB5 ERD : 02/19/2009 ADJ.: 02/19/2009
RACE : WHITE SID NO: 17690414 NRD : 06/07/2007 SCORE: 39
HISP ORIG : NO CUS.: CLO MFED: 02/19/2005
HEALTH RECORD REVIEW : NOT REQUIRED COMM. CONCERN: N RMI: RMA
VICTIM WRAP AROUND: N

NAMES: MONTA, JOHNATHAN K. (COMM) VW ELIGIBLE: YES COMM. PLACEMENT: YES
MONTA, JOHN K. (AKA) LSI-R: 42 AND LSI LEVEL : HIGH
PEREZ, JOHN K. (AKA) SSA NO: BIRTH:
MONTA, KAINA (AKA)
MONTA, JONATHAN K. (AKA)
PEREZ, JOHN (AKA)
MONTA, JOHNATHON K. (AKA)
MONTA, JOHNATHAN K. (AKA)

P. PREL: SUPT REFR DIRECT 708 P. WTR: SUPT REF DIR 718
P. MFED: SUPT APP-REFER MFSC P. REL: N/A
P U L H E S D X T DATE REGISTERABLE OFFENDER : N
1 1 1 1 1 2 1 1 01/03/2007

Table with columns: COM., COUNTY, GTL TIME START RECEIVED OC, MIN. TERM CC CS, REL. DATE STATUS, CMP. CO./CAUSE OFFENSE DESC., V OC CNTS, MIN. TERM CC CS, MANDATORY JAIL. Rows include offense details for PIERCE.

TOTAL MONETARY OBLIGATION: ORDERED \$***4049.27 ;AS OF 12/07/06 PAID \$****795.33
SCHEDULE: 0 SET BY: SPECIAL CONDITIONS: YES
STAT MAX: LIFE

COMMENTS: PIERCE 951030019/951041550 TO LKWD OMMU ASSIGN 11/29/95
TRANSFER-FILE TO LAKEWOOD OMMU ON 10/10/97 CW/TACOMA
SENT FIELD FILE TO LAKEWOOD 03/30/98 WR/TACOMA
PSI ORDER PIERCE 971043885 TO LAKEWOOD ASSIGN 7/28/98 KB/TAC
JS TO LKWOOD 9-22-98 DB REQ FOR I/M TO I/M CORRES SENT
ON 10-20-04. KLP

Table with columns: MOVEMENT DATE & TYPE, DESTINATION, REASON FOR, ORIGIN. Rows show movement history from PIERCE to STAFFORD CREEK.

IISO100

LEGAL FACE SHEET

TIME 09:38

DOC NO: 743150 NAME: MONTA, JOHNATHON K. ("AD") STATUS: ACTIVE ***

MOVEMENT DATE & TYPE	DESTINATION	REASON FOR	ORIGIN
07/07/00 TRANSFERRED TO	AIRWAY HEIGHTS	DISC. PROBLEM	STAFFORD CREEK
07/07/00 IN TRANSIT AT	STAFFORD CREEK	DISC. PROBLEM	WA COR CTR RC
07/12/00 IN TRANSIT TO	AIRWAY HEIGHTS	DISC. PROBLEM	WA COR CTR RC
09/09/04 TRANSFERRED TO	MICC MIN SECUR	PROGRAM CHANGE	AIRWAY HEIGHTS
09/09/04 IN TRANSIT AT	AIRWAY HEIGHTS	PROGRAM CHANGE	WA COR CTR RC
09/16/04 IN TRANSIT TO	MICC MIN SECUR	PROGRAM CHANGE	WA COR CTR RC
09/16/04 IN TRANSIT AT	WA COR CTR RC	PROGRAM CHANGE	MICC MIN SECUR
09/01/05 TRANSFERRED TO	MCNEIL IS CORR	PROGRAM CHANGE	MICC MIN SECUR
09/19/05 TRANSFERRED TO	MICC MIN SECUR	CUSTODY CHANGE	MCNEIL IS CORR
10/27/05 TRANSFERRED TO	MCNEIL IS CORR	RETURN FR COURT	MICC MIN SECUR
02/16/06 TRANSFERRED TO	WSP MED SEC CP	POOR ADJUSTMENT	MCNEIL IS CORR
02/16/06 IN TRANSIT AT	MCNEIL IS CORR	POOR ADJUSTMENT	WA COR CTR RC
02/23/06 IN TRANSIT TO	WSP MED SEC CP	POOR ADJUSTMENT	WA COR CTR RC
05/25/06 TRANSFERRED TO	WASH STATE PEN	PROGRAM CHANGE	WSP MED SEC CP

HOUSING DATE & LOCATION	COUNSELOR	WORK ASSIGN.	SUPERVISOR
09/15/98 C01-1H03U	POSITION BS96		
10/20/98 C01-5F05F	POSITION BR77		
10/21/98 C01-5F04U	POSITION BR77		
11/05/98 H01-PE14U	POSITION 0516		
11/25/98 H01-PE14U	POSITION 0516	STUDENT-HIGH SC	POSITION 9001
12/03/98 H01-PE14U	POSITION 0516	STUDENT-HIGH SC	POSITION 9001
		STUDENT-HIGH SC	POSITION 9001
12/08/98 H01-PE14U	POSITION 0516	STUDENT-HIGH SC	POSITION 9001
02/11/99 H01-PE14U	POSITION 0516	STUDENT-HIGH SC	POSITION 9001
02/11/99 H01-PE14U	POSITION 0516	LAUNDRY WORKER	POSITION BS10
06/12/99 H01-PE14L	POSITION 0516	LAUNDRY WORKER	POSITION BS10
06/14/99 H01-PE14L	POSITION BS36	CUSTODIAN I	POSITION 1569
09/22/99 H01-PE14L	POSITION BS36	STUDENT/VOC FUL	POSITION 9002
10/01/99 H01-PE14L	POSITION BS36	STUDENT/VOC PAR	POSITION 9002
		STUDENT-HIGH SC	POSITION 9001
10/19/99 H01-PE14L	POSITION BS36	STUDENT/VOC PAR	POSITION 9002
11/05/99 H01-PE14L	POSITION BS36	STUDENT/VOC PAR	POSITION 9002
11/10/99 H01-PE14L	POSITION BS36	UNASSIGNED	POSITION BS16
11/13/99 H01-PF04L	POSITION BS36	UNASSIGNED	POSITION BS16
11/30/99 H01-PF04L	POSITION BS36	UNASSIGNED	POSITION BS16
		STUDENT-HIGH SC	POSITION 9001
12/01/99 H01-PF04L	POSITION BS36	CLERK, GENERAL	POSITION B677
		STUDENT-HIGH SC	POSITION 9001
01/19/00 P01-NA17U			
01/19/00 P01-NA17U	POSITION 2930		
01/22/00 P01-MB24U	POSITION 2970		
01/28/00 P01-MB24U	POSITION 2970	UNASSIGNED-WAIT	

IISO100

LEGAL FACE SHEET

TIME 09:38

DOC NO: 743150 NAME: MONTA, JOHNATHON K. ("AD") STATUS: ACTIVE ***

HOUSING DATE & LOCATION	COUNSELOR	WORK ASSIGN.	SUPERVISOR
02/01/00 P01-SA19L	POSITION 2970	UNASSIGNED-WAIT	
02/04/00 P01-MA33U	POSITION 2970	UNASSIGNED-WAIT	
02/05/00 P01-MB24U	POSITION 2970	UNASSIGNED-WAIT	
04/26/00 E02-BA2052	POSITION BK71	UNASSIGNED-WAIT	POSITION 1120
04/27/00 S01-GD27L	POSITION S209		
05/08/00 S01-H1125L	POSITION S208		
06/01/00 S01-GA20L	POSITION S209		
06/12/00 S01-GA20L	POSITION S208		
07/07/00 C01-5G02F	POSITION BR77		
07/12/00 P01-NA02U		UNASSIGNED-WAIT	
07/12/00 P01-NA02U	POSITION 2930	UNASSIGNED-WAIT	
07/13/00 P01-NA02U	POSITION 2930	UNASSIGNED-WAIT	
07/15/00 P01-TA33T		UNASSIGNED-WAIT	
07/15/00 P01-TA33T	POSITION 3132	UNASSIGNED-WAIT	
08/08/00 P01-TB26U	POSITION 3129	UNASSIGNED-WAIT	
09/08/01 P01-TB48L	POSITION 3129		
11/30/02 P01-TB53U	POSITION 3129		
03/20/03 P01-TB43L	POSITION 3129		
07/02/03 P01-TB42U	POSITION 3129		
10/15/03 P01-TB42U	POSITION 3128		
09/09/04 C01-5B10U	POSITION BR77		
09/16/04 I03-E1341			
09/16/04 I03-E1341	POSITION 0108		
09/21/04 I03-E1362	POSITION 0108		
01/05/05 I03-E1361	POSITION 0108		
09/01/05 I01-E1362			
09/19/05 I03-E1362	POSITION 0108		
10/27/05 I01-FA20			
11/04/05 I01-D3014	POSITION HG55		
11/15/05 I01-D3132	POSITION HG55		
01/19/06 I01-FA03	POSITION HG55		
02/16/06 C01-7B07U			
02/23/06 E02-BA2071	POSITION BK71		
02/27/06 E02-AC2071	POSITION BK71		
03/01/06 E02-RB2071	POSITION 1144		
05/25/06 E01-7A064	POSITION BG59		
05/30/06 E01-8D152	POSITION BK65		
07/06/06 E01-8D152	WARNEKA, FRED C		

DATE	PROGRAM-POSITION	--WEEK--	-----DAY-----	---TIME----	STATUS
11/24/98	B099F112 BASIC SKILLS	1 2 3 4	M W	17:30-20:00	CMP
11/24/98	B099K215 BASIC SKILLS				CMP
11/24/98	B099K317 BASIC SKILLS				CMP

IISO100

LEGAL FACE SHEET

TIME 09:38

DOC NO: 743150 NAME: MONTA, JOHNATHON K. ("AD") STATUS: ACTIVE ***

DATE	PROGRAM-POSITION	--WEEK--	-----DAY-----	---TIME---	STATUS
12/08/98	B099A801 BASIC SKILLS	1 2 3 4	T TH	17:30-20:00	CMP
09/22/99	J103015A CLERK II	1 2 3 4	M T W TH F	08:00-15:00	DRP
09/22/99	V110L402 JANITORIAL MA	1 2 3 4	M T W TH F	12:30-15:25	CMP
09/22/99	V210L202 BUILDING MAIN	1 2 3 4	M T W TH F	09:15-11:10	CMP
09/27/99	B405L608 JOB READ.IND.	1 2 3 4	M T W TH F	14:40-15:20	CMP
09/27/99	V021L101 FIRST AID	1 2 3 4	M T W TH F	08:15-15:25	CMP
12/01/99	B410H106 JOB READ.COMP	1 2 3 4	M T W TH F	08:10-09:00	CMP
12/01/99	B415F211 JOB READ.JOB	1 2 3 4	M T W TH F	09:15-10:10	TRN
01/13/00	V041L111 VOC TRN CUSTO	1 2 3 4	M T W TH F	08:15-09:15	TRN
05/03/00	J326J008 CUSTODIAN I	1 2 3 4	SU M TH F S	00:30-06:00	TRN
05/09/00	J326J008 CUSTODIAN I	1 2 3 4	SU M TH F S	00:30-06:00	DRP
08/14/00	V251A208 COMPUTER LITE	1 2 3 4	T TH F	08:00-11:00	DRP
11/29/00	J121A005 STOCK I CLERK	1 2 3 4	W	12:00-18:30	TER
01/23/01	B415A017 JOB READ.JOB	1 2 3 4	M T W TH F	08:00-11:00	CMP
08/29/01	V355Z113 UPHOLSTERY	1 2 3 4	M T W TH F	08:00-11:00	DRP
08/29/01	V355Z213 UPHOLSTERY	1 2 3 4	M T W TH F	11:30-14:30	DRP
02/22/02	V355Z122 UPHOLSTERY	1 2 3 4	M T W TH F	08:00-11:00	DRP
02/22/02	V355Z222 UPHOLSTERY	1 2 3 4	M T W TH F	11:30-14:30	DRP
05/02/02	J360017C MATERIAL HAND	1 2 3 4	M T W TH F	08:00-17:00	TER
10/23/03	J326B010 CUSTODIAN I	1 2 3 4	M T W TH F	08:00-10:00	TER
09/27/04	J360M128 MATERIAL HAND	1 2 3 4	M T W TH F	07:00-14:00	TER
11/17/04	J307E207 AUTO MECHANIC	1 2 3 4	M T W TH F	07:00-14:00	DRP
01/10/05	C032U802 VICTIM AWAREN	1 2 3 4	M W	18:00-20:30	RSH
01/24/05	J307E205 AUTO MECHANIC	1 2 3 4	M T W TH F	07:00-14:00	TRN
01/27/05	C032V813 VICTIM AWAREN	1 2 3 4	M W	18:00-21:00	CMP
02/11/05	C003S715 STANDARDIZED				CMP
01/06/06	V026W713 VOCATIONAL WR	1 2 3 4	T	18:00-21:00	TRN
01/06/06	V027M010 GENERAL EDUCA	1 2 3 4	M T W TH	09:10-11:10	TRN
01/19/06	V365W110 WELDING TECHN	1 2 3 4	M T W TH	07:10-12:10	TRN
01/19/06	V365W410 WELDING TECHN	1 2 3 4	M T W TH	12:40-13:40	TRN
03/03/06	I744G066 CI2-MACH OPRT	1 2 3 4	M T W TH F	07:00-15:30	TRN
06/14/06	V253M047 INFORMATION T	1 2 3 4	M W F	08:00-11:00	RSH
06/14/06	V253010B INFORMATION T	1 2 3 4	T TH	12:30-15:30	RSH
07/18/06	J731L002 TRAINEE CUSTO	1 2 3 4	SU M T W S	06:00-12:15	DRP
07/18/06	V253M007 INFORMATION T	1 2 3 4	M W	18:00-20:30	TER
07/20/06	J213L037 FOOD SERV I W	1 2 3 4	SU M T F S	06:00-12:30	TER
10/20/06	J705J111 RECREATION AS	1 2 3 4	SU M T W TH S	08:00-09:00	ASG
10/20/06	J705J211 RECREATION AS	1 2 3 4	F	08:00-10:30	ASG
10/20/06	J705J311 RECREATION AS	1 2 3 4	SU M T W TH F S	12:30-13:00	ASG
10/20/06	J705J411 RECREATION AS	1 2 3 4	SU M T W TH F S	18:00-19:00	ASG
03/26/07	V475003A HVAC	1 2 3 4	M T W TH F S	08:00-11:00	ASG
03/26/07	V475027A HVAC	1 2 3 4	M T W TH F	12:30-15:30	ASG

IISO100

LEGAL FACE SHEET

TIME 09:38

DOC NO: 743150 NAME: MONTA, JOHNATHON K. ("AD") STATUS: ACTIVE ***

EARNED EARLY RELEASE DATE & TYPE	DOC	ISRB	STATUS	LOCATION
09/15/98--11/01/98 EARNED TIME	7.83	0.00	PENDING	WCCRC
AD	7.83	0.00		
11/01/98--08/01/99 EARNED TIME	45.50	0.00	PENDING	WCCRC
AD	45.50	0.00		
08/01/99--01/01/00 EARNED TIME	25.50	0.00	PENDING	WCCTC
AD	25.50	0.00		
01/01/00--04/01/00 EARNED TIME	15.17	0.00	PENDING	WCCTC
AD	15.17	0.00		
04/01/00--09/01/00 EARNED TIME	25.50	0.00	PENDING	AHCC
AD	25.50	0.00		
09/01/00--09/01/01 EARNED TIME	60.83	0.00	PENDING	AHCC
AD	60.83	0.00		
09/01/01--11/05/02 EARNED TIME	71.67	0.00	PENDING	AHCC
AD	71.67	0.00		
11/05/02--01/01/03 EARNED TIME	9.50	0.00	PENDING	AHCC
AD	9.50	0.00		
01/01/03--01/01/04 EARNED TIME	60.83	0.00	PENDING	AHCC
AD	60.83	0.00		
01/01/04--09/01/04 EARNED TIME	40.67	0.00	PENDING	AHCC
AD	40.67	0.00		
09/01/04--03/01/05 EARNED TIME	30.17	0.00	PENDING	AHCC
AD	30.17	0.00		
03/01/05--02/01/06 EARNED TIME	56.17	0.00	PENDING	MICCMSU
AD	56.17	0.00		
02/01/06--06/01/06 EARNED TIME	20.00	0.00	PENDING	MICC
AD	20.00	0.00		

INFRACTION DATE & TYPE	CELL	DOC	ISRB	STATUS	SANCTIONS	LOCATION
01/11/00 657 4 GENERAL INFRA.	N	0	0	APPLIED	ANY 1A-1E	WCCTC
					05	
					40	

* INMATE HAS BEEN FOUND GUILTY OF FOUR OR MORE INFRACTIONS WITHIN THE PREVIOUS SIX MONTHS. LDH. 2-23-00

02/01/00 563 TAMPER FIRE EQU.	N	0	0	APPLIED	2L SUSPEND	AHCC
					30	
					90	
					90	
					ANY 1A-1E	

* INMATE WAS SMOKING IN HIS CELL. SANCTIONED 40 HOURS EXTRA DUTY. LDH. 1-16-00

05/31/00 704 ASSAULT/STAFF	N	120	120	APPLIED	MAX SECUR.	SCCC
					20	
					DENY GCT	

IISO100

LEGAL FACE SHEET

TIME 09:38

DOC NO: 743150 NAME: MONTA, JOHNATHON K. ("AD") STATUS: ACTIVE ***

INFRACTION DATE & TYPE	CELL	DOC	ISRB	STATUS	SANCTIONS	LOCATION
* OFFENDER ASSAULTED AN OFFICER BY THROWING HIS SHOULDER INTO THE OFFICER * WHEN WALKING AROUND THE TRACK. BP. 06/13/00.						
11/19/00 657 4 GENERAL INFRA.	N	0	0	APPLIED	2L SUSPEND 10 60	AHCC
* I/M MONTA FOUND GUILTY OF FOUR GENERAL INFRACTIONS WITHIN SIX MONTH * PERIOD. NEGOTIATED SANCTION: 10 DAYS LOSS GCT SUSPENDED FOR 60 DAYS. LRA * 11-30-00						
02/23/01 710 TATTOO/PARA.	N	0	0	APPLIED	2L SUSPEND 10 60	AHCC
* INMATE WAS FOUND TO HAVE FRESH TATTOOS DURING A STRIP SEARCH. LDH. 3-9-01						
10/20/01 657 4 GENERAL INFRA.	N	0	0	APPLIED	ANY 1A-1E 01	AHCC
* I/M HAS BEEN FOUND GUILTY OF FOUR OR MORE MINOR INFRACTIONS WITHIN SIX * MONTH PERIOD. APPEAL DENIED 11-9-01. LRA 11-9-01						
10/27/05 752 POSITIVE DRG TST	N	30	30	APPLIED	DENY GCT MAX SECUR. 10	MICC
* 10 DAYS D SEG, CREDIT 5 DAYS TIME SERVED AND 30 DAYS LOSS GCT. POSITIVE * RESULTS OF UA FOR THC.						
01/19/06 752 POSITIVE DRG TST	N	60	60	APPLIED	DENY GCT MAX SECUR. 20 CUST./PGM	MICC
* POSITIVE UA TEST RESULTS FOR THC. SECOND 752 WITHIN 90 DAYS. 20 DAYS D * SEG, CREDIT 6 DAYS TIME SERVED. 60 DAYS LOSS GCT AND REFER TO UNIT TEAM * FOR CUSTODY SUITABILITY REVIEW.						
02/21/06 603 POSS. CONT. SUB.	N	90	90	APPLIED	CONFINEM'T 30 DENY GCT	WCCRC
* 0800 MICC IIU OBTAINED SEVERAL ENVELOPES CONTAINING MO'S, MAILED TO PERSON * IN LAKEWOOD, WA FROM OFFENDERS & OFFENDERS FAMILIES. PERSON IN COMMUNITY * TURNED OVER TO LAKEWOOD PD. ADDITIONAL ENVELOPES RECV'D TURNED OVER TO * MICC IIU. INVESTIGATION REVEAL BY RTN ADDRESS LINKED TO MONTA WHICH * CONTAINED 2 \$50.00 MO FOR DRUGS BEING BROUGHT IN.						
09/11/06 741 FOOD THEFT > \$5	N	0	0	APPLIED	LOSE PRIV. 30	WSP
* 1220 CO F. BROWN PROCESSING P'S OUT OF KITCHEN & CO LOGAN NOTICED BULGE IN * P'S SHORTS. ASKED P WHAT HE HAD & HE REMOVED APPROX 3 1/2# OF CHEESE. * STILL A BULGE & WHEN CONFRONTED W/THIS HE REMOVED APPROX 3# OF PEANUT * BUTTER FROM SHORTS. P UNASSIGNED FROM KITCHEN.						

IISO100

LEGAL FACE SHEET

TIME 09:38

DOC NO: 743150 NAME: MONTA, JOHNATHON K. ("AD") STATUS: ACTIVE ***

HOLDS: DATE	REASON FOR HOLD	TRANSFER	LOC	STAFF	UNTIL
07/17/06	MI1 - MINIMUM 1 TARGETED	N	E01	CF52	08/20/08
07/17/06	MI2 - MINIMUM 2 TARGETED	Y	E01	CF52	02/22/08
02/12/07	VED - VOC - ED	Y	E01	BH31	04/01/08

CUSTODY DATE	SCORE	TYPE	ASSIGNED	CUSTODY	OVERRIDE	LOCATION
10/20/1998	30	INITIAL	10/29/1998	MEDIUM	POLICY	WA COR CTR RC
09/14/1999	57	REVIEW	09/14/1999	MINIMUM	TIME TO	WA COR CTR TC
06/16/2000	47	PLC ELIG	06/23/2000	MEDIUM		STAFFORD CREEK
09/01/2000	47	REVIEW	10/12/2000	MEDIUM		AIRWAY HEIGHTS
09/17/2001	57	REVIEW	12/28/2001	MEDIUM	INSTITUT	AIRWAY HEIGHTS
01/09/2003	57	PLAN RVW	01/23/2003	MINIMUM		AIRWAY HEIGHTS
01/13/2004	62	PLAN RVW	02/12/2004	MINIMUM		AIRWAY HEIGHTS
08/24/2004	62	PLC ELIG	08/24/2004	MINIMUM		AIRWAY HEIGHTS
03/16/2005	62	REVIEW	03/24/2005	MINIMUM		MICC MIN SECUR
02/06/2006	00	PLC ELIG	02/07/2006	MEDIUM		MCNEIL IS CORR

C USTODY DEMOTION, FRMT PRESENT CC2 HERROD, CUS SWAIN, AND P. RECOMMENDATION: 1) . DEMOTE IN CUSTODY AND TRANSFER TO A MEDIUM CUSTODY FACILITY. 2) . REFER TO O C O FOR TRANSFER TO A MEDIUM CUSTODY FACILITY. 3) . RETAIN IN AD/SEG PENDING CLASSIFICATION APPROVAL. P STATES THAT HE UNDERSTOOD THE FRMT COMMENTS AND RECOMMENDATIONS AND WOULD LIKE PLACEMENT AT TRU/SCCC.

05/25/2006 00 PLC ELIG 05/25/2006 CLOSE WASH STATE PEN
 BAR UNIT FRMT, CHAIR C PEASE, SGT DAVENPORT, COUNSELORS MEYER, DENNY, GAINES, ROBERTS AND MYSELF. AFTER LENGTHY INVESTIGATION P HAS BEEN FOUND GUILTY OF WAC 603 NECESSITATING THE DEMOTION OF CUSTODY TO CLOSE, CRS 00, TRANSFER TO MAIN INSTITUTION.

06/07/2006 39 PLAN RVW 06/20/2006 CLOSE WASH STATE PEN
 FRMT: UM JACOBSON CHAIRMAN, COUNSELORS MEDUTIS AND MYSELF PRESENT. CONUR WITH RECOMMENDATIONS: RETAIN CLOSE CUSTODY AT WSP/MI, CRS 39, ERD 02/19/2009. TARGET MIP AT CCCC ON/AFTER 02/22/08, WHEN SCORES MINIMUM AND NO DRUG RELATED INF. TARGET MI1 AT TACOMA W/R ON/AFTER 08/20/08, WHEN HE SCORES MINIMUM AND NO DRUG RELATED INF. INMATE COMMENTS: NONE.

IISUI012 NO WARRANTS OR DETAINERS FOUND

IISUI005 NO OUT TIME FOUND

IISUI009 NO ISR BOARD INFO FOUND

EXHIBIT 2

NO. 35657-1-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

JOHNATHON MONTA,

Petitioner.

DECLARATION OF
TONYA GOULD

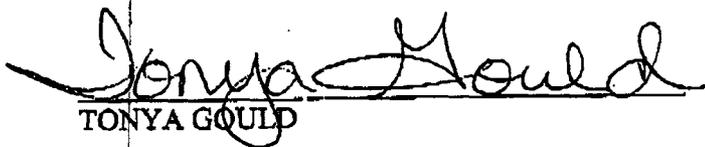
I, TONYA GOULD, make the following declaration:

1. I have knowledge of the facts herein, am over (18) years old, and am competent to testify to such facts.
2. I have been a Secretary Senior for the Washington State Penitentiary (WSP) in Walla Walla, Washington, since July 1, 1997.
3. As a secretary at WSP, one of my job duties is to retrieve and/or maintain records kept by the facility in the ordinary course of business.
4. It is the regular business practice of DOC to make a record of documents used, considered, or generated after any inmate infraction hearing at which the inmate is found to have committed an infraction.
5. According to DOC records, Johnathon Monta, DOC #743150, had a prison disciplinary hearing on May 22, 2006. Attached to this declaration are true and correct copies of the following documents pertaining to this hearing which came from the inmate's file:

- Attachment A: Initial Serious Infraction Report;
- Attachment B: Hearing Notice/Appearance Waiver;
- Attachment C: April 26, 2006 Email from George Gilbert;
- Attachment D: Public Disclosure Request;
- Attachment E: May 10, 2006 Letter from Joni Aiyeku;
- Attachment F: June 6, 2006 Letter from Joni Aiyeku;
- Attachment G: Request for Continuance;
- Attachment H: April 24, 2006 Continuance Memorandum;
- Attachment I: May 2, 2006 Continuance Memorandum;
- Attachment J: Serious Infraction Report;
- Attachment K: Larry Monta Witness Statement;
- Attachment L: Johnna Hibdon Witness Statement;
- Attachment M: Disciplinary Hearing Minutes and Findings;
- Attachment N: Confidential Information Review Checklist;
- Attachment O: Inmates May 24, 2006 Appeal Letter; and
- Attachment P: Disciplinary Hearing Appeal Decision;

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

SIGNED this 20th day of February, 2007, in Walla Walla, Washington.


TONYA GOULD

ATTACHMENT A



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

RECEIVED
APR 07 2006
MICC
HEARING OFFICE

INITIAL SERIOUS INFRACTION REPORT



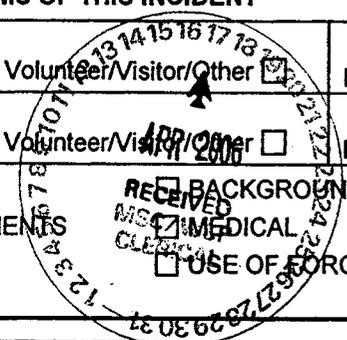
HT
9/20
4/17/11
W
RMA

OF INFRACTION 04-06-2006	OFFENDER NAME (LAST, FIRST) Monta, Jonathan	DOC NUMBER 743150	HOUSING ASSIGNMENT D-313-2
RULE VIOLATION #(S) 603 - Possession, introduction, or transfer of any narcotic controlled substance, illegal drug, unauthorized drug or drug paraphernalia.			
TIME OCCURRED 8:00am	PLACE OF INCIDENT (BE SPECIFIC) McNeil Island Corrections Center	DATE OCCURRED 02-21-2006	
WITNESS (1)	DAYS OFF	WITNESS (3)	DAYS OFF
WITNESS (2)	DAYS OFF	WITNESS (4)	DAYS OFF

MICC IIU obtained several envelopes that contained money orders, which were mailed to a person in the Lakewood Washington area from offenders and offender's family members. The person in the community who received the money orders turned them over to the Lakewood Police Department. Additional envelopes were received and turned over to MICC IIU. One envelopes received from the person in the community was post marked January 24, 2006 with a return address of 18829 Pacific Ave. Spanaway WA 98387. During the course of this investigation, I was able to link the return address to inmate Jonathan Monta #743150. The envelop contained two \$50.00 money orders. One dated November 21, 2005 and the other dated January 10, 2006. Information received from a confidential informant states the address in Lakewood Washington was for inmates to send money to, which was payment for drugs that were being brought into the facility. Inmate Jonathan Monta #743150 had a family member send money to an address in the Lakewood Washington area, which information received indicates the address to be a money drop for drugs. Inmate Jonathan Monta #743150 took substantial steps with another person to hire, promote and facilitate the introduction of illegal drugs into a correctional facility.

The above information is a summary of confidential information which was received and deemed reliable and creditably.

REPORTING STAFF NAME (LAST, FIRST) Gilbert, George	SHIFT Days	DAYS OFF Sat/Sun
EVIDENCE TAKEN <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	EVIDENCE CASE NUMBER	EVIDENCE LOCKER NUMBER
DISPOSITION OF EVIDENCE (IF NOT PLACED IN LOCKER)		PHOTO SUBMITTED <input type="checkbox"/> YES <input type="checkbox"/> NO
NAME(S) OF ALLEGED VICTIMS OF THIS INCIDENT		PLACED IN PRE-HEARING CONFINEMENT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
LAST, FIRST 1)	Staff <input type="checkbox"/> Volunteer/Visitor/Other <input checked="" type="checkbox"/>	Inmate <input type="checkbox"/> DOC#
LAST, FIRST 2)	Staff <input type="checkbox"/> Volunteer/Visitor/Other <input type="checkbox"/>	Inmate <input type="checkbox"/> DOC#
RELATED REPORTS ATTACHED	<input checked="" type="checkbox"/> SUPPLEMENTAL <input type="checkbox"/> STAFF WITNESS STATEMENTS <input type="checkbox"/> TELE-INCIDENT <input type="checkbox"/> OTHER (SPECIFY)	
<input type="checkbox"/> BACKGROUND MEMOS <input type="checkbox"/> MEDICAL <input type="checkbox"/> USE OF FORCE		



REPORTING STAFF SIGNATURE <i>George Gilbert</i>	DATE 4-6-06
INFRACTION REVIEW OFFICER SIGNATURE <i>D. Simons</i>	DATE 040606

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.17, and RCW 40.14.

A

ATTACHMENT B



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

Evidence#:

Cell#: RB2071

Hearing ID# 0128



HEARING NOTICE / APPEARANCE WAIVER

CellTag:

OFFENDER NAME	MONTA, JOHNATHON	DOC NUMBER	743150	FACILITY	WSP	DATE	4/17/2006
TYPE OF REVIEW	DISCIPLINARY	HEARING SCHEDULED FOR	4/24/2006	LOCATION	Hearings Office- B40-	TIME	8:00 AM

REASON FOR HEARING (INCLUDING ALL ALLEGATIONS OF MISCONDUCT IF APPROPRIATE)

603 Posses/hitro or transfer of narcotic/controlled sub/illegal drug/authorized drug or paraphernalia

I HAVE BEEN PROVIDED A CERTIFIED SIGN LANGUAGE INTERPRETER

INTERPRETER NAME/DATE

I HAVE BEEN PROVIDED WITH A SPANISH TRANSLATION OF THE CHARGES AGAINST ME OR SE ME HA DADO UNA TRADUCCION AL ESPANOL DE LOS CARGOS EN ME CONTRA EL DIA

OFFENDER RIGHTS:

DATE/FECHA

AT

TIME/HORA

OFFENDER SIGNATURE/FIRMA DE OFENSOR

- YOU HAVE THE RIGHT TO REMAIN SILENT AT THE HEARING. IF YOU CHOOSE TO REMAIN SILENT, YOUR SILENCE MAY BE USED AGAINST YOU AND THE DECISION WILL BE BASED ON THE EVIDENCE PRESENTED.
- YOU MAY WAIVE YOUR APPEARANCE AT THE HEARING.
- YOU MAY REQUEST WITNESS STATEMENTS: (List Witnesses Below)
- YOU DO NOT HAVE THE RIGHT TO CROSS EXAMINE WITNESSES, HAVE THE INFRACTING STAFF PRESENT AT THE HEARING, OR HAVE A POLYGRAPH OR OTHER SUPPLEMENTAL TESTS.

Requested 4/25/06 gta

STAFF NAME	POSITION	OFFENDER NAME	DOC NUMBER
<i>Sulbert George</i>	<i>MICC</i>	<i>Confidential informant</i>	
		<i>denied,</i>	

CRIMINAL CHARGES MAY BE PENDING. ANYTHING YOU SAY HENCEFORTH MAY BE USED AGAINST YOU IN A COURT OF LAW

STATUS OF CRIMINAL CHARGES: NONE UNKNOWN PENDING IN

YOU HAVE THE RIGHT TO REVIEW ALL RELATED REPORTS AND A SUMMARY OF ANY CONFIDENTIAL INFORMATION.

YOU MAY REQUEST A STAFF ADVISOR (if approved by the Hearing Officer).

YOU MAY REQUEST AN INTERPRETER (if unable to speak and/or understand the English language).

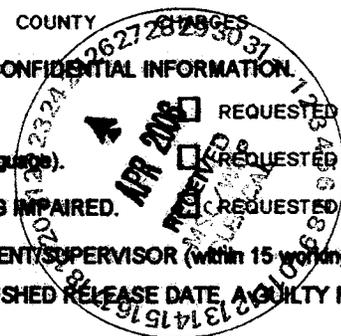
YOU MAY REQUEST A CERTIFIED SIGN LANGUAGE INTERPRETER IF YOU ARE HEARING IMPAIRED.

YOU MAY APPEAL THE DECISION AND/OR SANCTIONS TO THE FACILITY SUPERINTENDENT/SUPERVISOR (within 15 working days).

IF YOU ARE AN INDETERMINATE SENTENCE CASE AND WITHIN 60 DAYS OF AN ESTABLISHED RELEASE DATE, A GUILTY FINDING COULD RESULT IN THE CANCELLATION OF YOUR RELEASE DATE.

I, _____ DOC# _____ WAIVE MY RIGHT TO THE REQUIRED 48 HOURS NOTICE PRIOR TO BEING SEEN BY THE (CLASSIFICATION/ADMINISTRATIVE/SEGREGATION) HEARING OFFICE AND AUTHORIZE THE HEARING OFFICER TO MAKE A DISPOSITION REGARDING THE INFORMATION AND EVIDENCE PRESENTED TO THE HEARING OFFICER AS PERTAINS TO MY PARTICULAR SITUATION.

I, **MONTA, JOHNATHON** DOC **743150** WAIVE MY RIGHT TO THE REQUIRED 24 HOURS NOTICE PRIOR TO BEING SEEN BY THE (DISCIPLINARY) HEARING OFFICER AND AUTHORIZE THE HEARING OFFICER TO MAKE A DISPOSITION REGARDING THE INFORMATION AND EVIDENCE PRESENTED TO THE HEARING OFFICER AS PERTAINS TO MY PARTICULAR SITUATION.



COPY OF THIS FORM AND INFRACTION, WITH ATTACHMENTS, RECEIVED

ATTACHMENT **B**

J. Monta 4-18-06
OFFENDER/WITNESS SIGNATURE DATE TIME

[Signature] 4/18/06 1538
STAFF SIGNATURE DATE TIME

DISTRIBUTION: WHITE -Central File CANARY-Unit Supervisor PINK- Hearing Officer GOLDENROD-Offender
DOC 05-093 (REV 10/18/04) POL

DOC 320.100 DOC 320.201
DOC 450.500 DOC 481.001

ATTACHMENT C

ATTACHMENT D

263

REQUEST FOR PUBLIC RECORDS DISCLOSURE

TO: Washington St. Penitentiary, Public Disclosure Officer; Hearing Officer; Designee
1313 Nth 13th AVE
WALLA WALLA WA 99362

REQUESTOR: Johnathon K. Monda #743150 name
W.S.P. R-B-207-1 address
1313 Nth 13th AVE
WALLA WALLA WA 99362

I am requesting disclosure, pursuant to the Revised Code of Washington (RCW) 42.17, Washington's Public Disclosure Act, the following listed document(s):

Hearing ID # 9128

Evidence pertaining to Major Infraction (Hearing ID # 9128)

- 1) Envelope (S)
- 2) money order (S)
- 3) Any And ALL Documents relevant to (Hearing ID # 9128)

Dated: 1st day of MAY, 2006



Johnathon K. Monda #743150
Signature

Johnathon K. Monda #743150
Typed Name

ATTACHMENT E

Monta J 263 DE



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF CORRECTIONAL OPERATIONS
WASHINGTON STATE PENITENTIARY
1313 N. 13th Avenue • Walla Walla, Washington 99362-1065 • (509) 525-3610

May 10, 2006

Inmate Johnathon K. Monta #743150
Rainier B-207-1
Washington State Penitentiary
1313 N. 13th Ave.
Walla Walla, WA 99362

Dear Mr. Monta:

This letter is in response your request dated May 1, 2006 for a copy of evidence pertaining to Major Infraction Hearing ID #9128. Your request was received in this office on May 8, 2006 for response in accordance with WSP 280.510, Public Disclosure of Records.

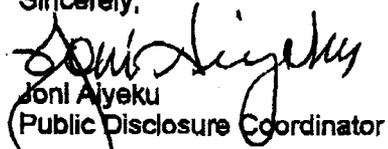
I have contacted the Hearings Lieutenants at WSP. According to their records, this is a hearing that has been continued twice to allow you the opportunity to obtain documentation. You will be able to review the evidence, if any, at the hearing that is scheduled for May 17, 2006. The evidence contains confidential information and you will be given a summary, but will not be given the documents at the hearing.

I will obtain copies of the documents after your hearing. At that time, I will contact you with cost and postage information. Please be aware however, that per RCW 42.17.310(1)(e), victims and witnesses to crimes where disclosure of the information would endanger the life, liberty and personal property of any individual is exempt from disclosure. RCW 42.17.310(1)(d) exempts specific intelligence and investigative records for ongoing investigations.

I anticipate that it will take approximately 10 business days after the date of your hearing to gather and process any responsive documents for this request. Per WAC 137-08-110, there will be a charge of 20 cents per copy. Per RCW 42.17.280, the agency will charge for the actual postage used to mail the public records to you. At that time (on or before June 1, 2006) I will contact you with copy cost and postage information.

Please refer to Public Disclosure Request #263-050806 in any future correspondence regarding this request.

Sincerely,


Joni Aiyeku
Public Disclosure Coordinator

WSP-PD 263

"Working Together for SAFE Communities"



ATTACHMENT E

ATTACHMENT F



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF CORRECTIONAL OPERATIONS
WASHINGTON STATE PENITENTIARY
1313 N. 13th Avenue • Walla Walla, Washington 99362-1065 • (509) 525-3610

June 6, 2006

Inmate Johnathon K. Monta #743150
Rainier B-207-1
Washington State Penitentiary
1313 N. 13th Ave.
Walla Walla, WA 99362

Dear Mr. Monta:

This letter is in response your request dated May 1, 2006 for a copy of evidence pertaining to Major Infraction Hearing ID #9128. Your request was received in this office on May 8, 2006 for response in accordance with WSP 280.510, Public Disclosure of Records.

I have located nine pages of documents responsive to your request. However, I have been informed that you have an appeal pending on this infraction. This means that the investigation of this matter is still ongoing. Therefore, at this time the documents are exempted from disclosure under RCW 42.17.310(1)(d). That RCW exempts specific intelligence and investigative records for ongoing investigations.

This request is now closed. You may request the same documents after your hearing process is concluded.

If you wish to appeal this decision, you may do so by sending a written appeal to the Department of Corrections Public Disclosure Administrator, Ms. Kay Wilson-Kirby. The address is P.O. Box 41114, Olympia, WA 98504-1114.

Please refer to Public Disclosure Request #263-050806 in any future correspondence regarding this request.

Sincerely,


Joni Aiyaku
Public Disclosure Coordinator

WSP PD 263

cc: Lt. Chuck Pease, Hearing Lt.

"Working Together for SAFE Communities"



ATTACHMENT F

ATTACHMENT G

REQUEST FOR CONTINUANCE

WAC 137-28-420 (1) At any time during the disciplinary process, the hearing officer may continue the hearing for any reasons, including the following:

(h) To obtain crime lab reports or other documentation.

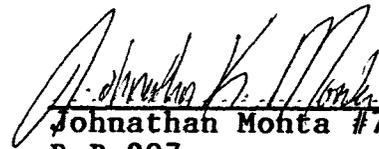
(k) A reasonable request by the inmate.

(2) Continuances shall be for no longer than necessary, but shall not exceed twenty working days, unless approved by the superintendent.

WAC 137-28-430 EVIDENCE. (1) Physical evidence of infractions shall be secured and protected from contamination, loss, or damage, when possible.

(2) A documented record of the chain of custody of physical evidence shall be maintained by the evidence custodian. The evidence custodian shall be supervised by the hearing officer.

Under the WAC rules I am requesting a continuance until May 22, 2006. During this time I would ask that I be provided with any and all reports, and or evidence. The name(s) of any informant redacted to comply with WAC 137-28-270(g). I request this time so that I may review any evidence, such as envelopes that these alleged money orders came in; the actual money orders themselves. Are these relevant documents, reports, supplemental reports available at the present time for review? This will also give me time to contact witnesses who live at the address listed as the sending address and present my finding to this hearing as to the facts of this hearing. Having this hearing now will not allow me to completely present the truth of the matter which will exonerate me completely.


Johnathan Monta #743150
R-B-207
Wa. State Pen.
1313 N.13th
Walla Walla, Wa.99362

ATTACHMENT G

ATTACHMENT H

WASHINGTON STATE PENITENTIARY
Walla Walla, Washington



MEMORANDUM

TO: KEN JURGENSEN
MSC/IMU Major Hearings Lt.

DATE: April 24, 2006

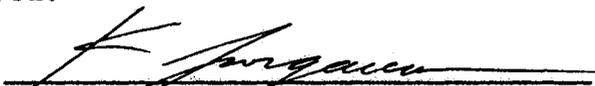
FROM: J. Hoppen
Major Hearings Clerk

SUBJECT: Continuance of a
Disciplinary Hearing

I am requesting a continuance of the DISCIPLINARY HEARING on 04/24/06, due to inmate request for witness statements.

<u>Unique #</u>	<u>Inmate Name</u>	<u>Inmate Number</u>	<u>Inmate Housing</u>	<u>Disciplinary Hearing Date Rescheduled</u>
9128	MONTA, Johnathon	743150	RB2071	Within 20 days

Approved:



Ken Jurgensen, Hearings Lt.

Jh
CC: Inmate

ATTACHMENT H

ATTACHMENT I

WASHINGTON STATE PENITENTIARY
Walla Walla, Washington



MEMORANDUM

TO: KEN JURGENSEN
MSC/IMU Major Hearings Lt.

DATE: May 2, 2006

FROM: J. Hoppen
Major Hearings Clerk

SUBJECT: Continuance of a
Disciplinary Hearing

I am requesting a continuance of the DISCIPLINARY HEARING on 04/26/06, due to inmate request to obtain documents.

<u>Unique #</u>	<u>Inmate Name</u>	<u>Inmate Number</u>	<u>Inmate Housing</u>	<u>Disciplinary Hearing Date Rescheduled</u>
9128	MONTA, Johnathon	743150	RB2071	Within 20 days

Approved:


Ken Jurgensen, Hearings Lt.

jh
CC: Inmate

ATTACHMENT I

ATTACHMENT J



Hearing ID# 9128

Hearing Date 5/22/2006



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

SERIOUS INFRACTION REPORT

Case#: _____

Cell#: RB2071

CellTag: _____

CONTINUATION

FINDING DURING HEARING

Was inmate informed of right to remain silent? **Yes** Date of Hearing: 5/22/2006

PLEA - NOT GUILTY: **603**
GUILTY:

Did the inmate make a statement after being informed of his/her rights? **Yes** If so, what?

Infraction report, confidential information. Monta submitted a typed request for continuance. Granted. 4/24/06 - Cont. I/M request to obtain documents. 5/2/06 - Cont. I/M request for time to obtain documents and prepare a defense. 5/22/06 - Monta submitted statements by Larry monta & Johanna Hibdon. Witness statement by George Gilbert. Confidential information - source of confidential information works at another facility and is unable to attend the hearing. In my review of the confidential information, I determined that: 1. the sources will not be revealed to protect their safety and well being. 2. The information is credible, reliable and consistent, and 3. A summary of the confidential information was provided.
No where does any of the information state my name on it, was on the money orders or envelopes. The return address listed is a trailer court with many residents in it. There is nothing to connect me to any of these money orders, other than my dad living in the trailer court. I did not have any involvement with any drugs at MICC.

DECISION

FINDING - NOT GUILTY: _____ DISMISSED _____
GUILTY: **603** REDUCED: _____
Facts and evidence found: _____ to: _____

603 Guilty Did conspire to introduce drugs into MICC.

Sanction(s):	Days	Suspended
2L Loss of Good Conduct Time	90	2/19/2009
2F Confinement to Quarters	30	

Reason for sanction(s): **Tape #1. Seriousness of conspiracy.**

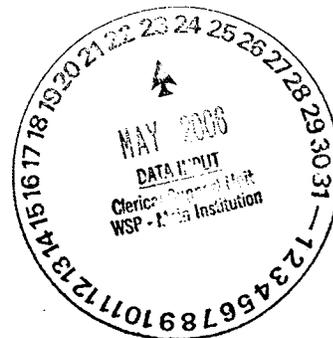
HEARING OFFICER: _____

SUPERINTENDENT: _____

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.17, and RCW 40.14.

Distribution: WHITE-Central File GREEN-Offender CANARY- Board PINK-Counselor GOLDENROD- Hearings Officer
DOC 20-051 (F&P 06/17/03) POL

DOC 461.000



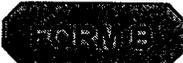
ATTACHMENT J



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

Hearing ID# 9128

Hearing Date 5/22/2006



SERIOUS INFRACTION REPORT

Institution#:

Cell#: RB2071

Cell tag:

Institution: WSP

NAME	MONTA, JOHNATHON	DOC#	743150	DATE:	2/21/2006
Number of rules(s) violated:	603			TIME	8:00
Infraction Location	McNeil Island Corrections Center				

Details in full:

MICC IIU obtained several envelopes that contained money orders, which were mailed to a person in the Lakewood Washington area from offenders and offender's family members. The person in the community who received the money orders turned them over to the Lakewood Police Department. Additional envelopes were received and turned over to MICC IIU. One envelope received from the person in the community was post marked January 24, 2006 with a return address of 18829 Pacific Ave., Spanaway, WA 98387. During the course of this investigation, I was able to link the return address to inmate Jonathan Monta #743150. The envelope contained two \$50.00 money orders. One dated November 21, 2005 and the other dated January 10, 2006. Information received from a confidential informant states the address in Lakewood Washington was for inmates to send money to, which was payment for drugs that were being brought into the facility. Inmate Jonathan Monta #743150 had a family member send money to an address in the Lakewood Washington area, which information received indicates the address to be a money drop for drugs. Inmate Jonathan Monta #743150 took substantial steps with another person to conspire, promote and facilitate the introduction of illegal drugs into a correctional facility. The above information is a summary of confidential information which was received and deemed reliable and credible.

Gilbert, George

REPORTING STAFF

Gilbert, George

REPORTING STAFF SIGNATURE

2/19/2009



ATTACHMENT K

AFFIDAVIT

STATE OF WASHINGTON)

) ss:

COUNTY OF _____

I, Larry Monta, declare under penalty of perjury that the following statements within this affidavit are true and correct to the best of my knowledge and has been executed on this 10 day of MAY, 2006, at

_____ in the County of PRINCE, Washington:

I have recently been a resident of the address 18829 Pacific Ave. Spanaway Washington 98387.

At no time during my residence at this address did I send any money order to any residence in the Lakewood Community.

Johnathon Monta #743150 is a member of my family. I have written many letters to the Penitentiary, to him.

The address that is in question is a Trailer Court, we have many residents that use this address.

There were no "Money Orders" sent from this address for Johnathon Monta, to any address.

Larry Monta
(Affiant's Name)

Affidavit pursuant to 28 U.S.C. 1746, Dickerson v. Wainwright, 626 F.2d 1184 (1980); Affidavit sworn as true and correct under penalty of perjury and has full force of law and does not have to be verified by Notary Public.

ATTACHMENT K

ATTACHMENT L

ATTACHMENT M



Evidence#:

Cell#: RB2071

CellTag:

Hearing ID# 9128

FORM D

STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS

DISCIPLINARY HEARING MINUTES AND FINDINGS

Handwritten numbers: 3, 4, 5, 1

OFFENDER NAME: MONTA, JOHNATHON

DOC NUMBER: 743150

DATE OF HEARING: 4/24/2006 TIME OF HEARING: 8:00 AM INFRACTION DATE: 2/21/2006 WAVED 24 HOURS NOTICE: [] YES [X] NO WAVED APPEARANCE: [] YES [X] NO

OFFENDER'S PLEA: GUILTY NOT GUILTY 603

INTERPRETER: [] YES [X] NO NAME: _____

STAFF ADVISOR: [] YES [X] NO NAME: _____

COMPETENCY CONCERN: [] YES [X] NO HEARING IMPAIRED: [] YES [X] NO

WITNESS STATEMENT RETURNED: [X] YES [] NO WITNESS STATEMENT DENIED: [] YES [X] NO

REASON NOT RETURNED: _____ REASON DENIED: _____

SUMMARY OF TESTIMONY (LIST WITNESSES TESTIFYING/EVIDENCE USED/FINDINGS/REASONS FOR CONTINUANCES, DECISIONS, AND SANCTIONS/ RELEVANT INFORMATION):

Infraction Report, Confidential informants, Monta submitted a typed request for Continuance, Granted, 4-24-6 Cont. - I/M request to obtain documents, 5-2-6 Cont. - I/M request for time to obtain documents & prepare a defense, 5-22-6 Monta submitted statements by Larry Monta & Pamela Hudson, witness statement by George Gilbert, Confidential Information - Disclosure of confidential information while at another facility and is unable to attend the hearing.

EVERY BACKLOGGED RULE VIOLATION SEPARATELY

Table with columns: INFRACTION NO., GUILTY, NOT GUILTY, DISMISSED, REDUCED, REASON. Row 1: 603, X, [], [], [], Did conspire to introduce Drugs into MCLC.

SANCTIONS: 10 Days FSO, 30 days CTR, Total of 90 Days of blood time.

REASON FOR SANCTION(S): Seriousness of conspiracy.

I HAVE RECEIVED A COPY OF THIS FORM

Offender or Staff Witness Signature: [Signature]

Hearing Officer Signature: [Signature]

DATE: 5-2-6

TIME: 0958

DATE: 4-24-6

TIME: 0918

DATE: 5-22-6

TIME: 0927

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ATTACHMENT: M



DISCIPLINARY HEARING MINUTES AND FINDINGS (continued)

INMATE NAME (LAST, FIRST) MONTA, JOANNATHON	DOC NUMBER 743150	DATE OF HEARING 5-22-6	PAGE 2 OF
------------------------------------------------	----------------------	---------------------------	-----------

SUMMARY OF TESTIMONY (LIST WITNESSES TESTIFYING/EVIDENCE USED/FINDING/REASONS FOR CONTINUANCES, DECISIONS AND SANCTIONS/ANY RELEVANT INFORMATION:

Hearing. In my review of the confidential information, I determined that: 1. the sources will not be revealed to protect their safety and well being, 2. the information is veridical, reliable and consistent, and 3. a summary of the confidential information was provided.

Go where does any the information stand state & my name on it. was on the money orders or envelopes. The return address listed is a trailer court with many residents in it. There is no thing to connect me to any of these money orders, other my ~~had~~ living in the trailer court. I did not have any involvement with any drugs at MICC.

ATTACHMENT N



9128

DATE: 5-3-06

TO: WIC

FROM: *H. K. [Signature]*

SUBJECT: CONFIDENTIAL INFORMATION REVIEW

I reviewed the confidential information and the circumstances surrounding its receipt concerning: *CI 06-062*

OFFENDER NAME <i>MONTA, JONATHAN</i>	DOC NUMBER <i>743150</i>
-----------------------------------------	-----------------------------

I have determined that the confidential information was reliable and credible for the following reason(s):

- 1. The confidential source(s) had previously given reliable information;
- 2. The confidential source(s) had no apparent motive to fabricate the information;
- 3. The confidential source(s) received no benefit from providing the information;
- 4. The confidential source(s) are providing first-hand information;
- 5. The confidential information is internally consistent and is consistent with other known facts;
- 6. Other evidence corroborates the confidential information, and;
- 7. Safety concerns justify nondisclosure of the source(s) of confidential information.
- 8. Other:

ATTACHMENT O

Johnathon Monta # 145100

W.S.P. M.I.C.

R.B-207-1

- 5/24/06 10:30am -

Johnathon K. Monta # 743180

Hearing ID # 9128

I would like to appeal the 603 major infraction I was found guilty of on 5/23/06. I was found guilty of an infraction that supposedly contained evidence.

The evidence being (1) Envelope & (2) money orders. WAC (137-28-300 # 3) An inmate shall be appraised of the content of that evidence and shall be allowed to rebut that evidence during the hearing.

During the course of this major infraction (4) weeks I asked the Lt. (Jorgensen) to see the evidence. Lt. Jorgensen was unable to provide evidence: (1) Envelope & (2) money orders. Lt. Jorgensen told me I would have to file a public disclosure to see any and all evidence. 5/2/06 I sent to W.S.P. & M.I.C.C. requesting any and all evidence. I never received any information pertaining to Evidence from Lt. Jorgensen, W.S.P. or M.I.C.C.

On 5/22/06 I went in front of Lt. Jorgensen for a hearing on a (603). Lt. Jorgensen clearly stated he had no evidence pertaining to the matter at hand, and asked M.I.C.C. to send it to him. (Infraction clearly states Evidence Taken), they did not.

During the course of the hearing, I introduced (2) witness affidavits from the Pierce County area. (1) from a lady named Phang H. Bion presently of (18829 Pacific Ave (Sp # 1) Spanaway Wa. 98387) The other was from my father Larry Monta, that no longer resides at (18829 Pacific Ave (Sp # 1) Spanaway Wa. 98387). They state at no time did anybody from that address send any money orders to another address for me. These affidavits were sworn as true and correct under penalty of perjury and has full force of law and does not have to be verified by notary public. W.S.C. 1746, Dickerson v. Wainwright

ATTACHMENT

Also the witness affidavits go on to testify that the address in question (major infraction 603 Hearing ID # 9128 - 18829 Pacific AVE, Sparroway WA 98387) is a trailer court with many residents.

After the hearing was heard by LT. Jurgensen he said that he would send me the findings in the mail within (72) hrs. He needed to review the confidential info without myself being present. LT. Jurgensen reviewed evidence off the record. Evidence I was not able to rebut (WAC 137-28-300 #3)

On 5/22/06 (9:00 pm) mail call I received a letter from W.S.P. public disclosure office. Letter went on to say that (Joni Ariyaku, public Disclosure Coordinator) talked to LT. Jurgensen and that I would be able review the evidence (if any) at the hearing scheduled for May 17th 2006. The next paragraph says that (Joni Ariyaku) will obtain copies of the documents (After) the hearing. At that time I will be contacted with the cost and postage info. (WAC 137-28-300 #3)

On 5/23/06 at (10:30 am) I was called into LT. Jurgensen's office. Off the record LT. Jurgensen found me guilty of a 603.

(WAC 137-28-310 # 2) In reaching a decision of guilt or Innocence, Hearing officer must rely solely on Evidence considered at hearing. No Evidence was obtained by myself or LT. Jurgensen.

LT. Jurgensen's reason for a guilty finding was: Did conspire to introduce drugs into MITC. A (603) says ^{#44611} that I possessed a narcotic or paraphernalia. I did not. It says that I introduced a narcotic or paraphernalia. I did not. It says that I transferred a narcotic or paraphernalia. I did not. (WAC 137-28-310 # 2)

Ashrafa Morla #743150 5/25/06 10:30AM

ATTACHMENT P



To: Monta, Johnathon	Number 743150	Date: 06/06/06
From: Charles Pease, Unit Manager	Superintendent's Designee Ron Van Boening, Associate Superintendent	

On 05/22/06 a DOC Hearing was held for the WAC violation(s) listed: 603

The hearing officer found you guilty of committing one or more infractions and imposed the following sanction (s): 90 days Loss of Good Conduct Time, 30 days CTQ

On 05/31/06 an appeal of this hearing was received from you in which you requested review of the hearing officer's decision and /or sanction. 90 days Loss of Good Conduct Time, 30 days CTQ

You appealed:
Your finding of Guilty for a 603 and sanctions imposed; 90 days Loss of Good Conduct Time, 30 days CTQ

- The finding(s) of guilt
- The sanction(s) imposed

In summary, your appeal states:

You are not guilty of the 603 infraction based upon your interpretation of WAC 137-28-300 #3 and WAC 137-28-310 #2. Your reasoning is you did not see the evidence present to the Hearing Officer for him to make his finding, which you feel you are entitled to see during the hearing based on the two above mentioned WAC's. You explained the contacting of WSP Public Disclosure Coordinator to see any evidence related to your infraction could be seen, of which you received a reply. You explain the witness affidavits submitted during the hearing and the reason they were submitted. Closing your appeal, you again state you had no evidence present at your disciplinary infraction hearing that you feel would allow the Hearing Officer to make the finding of guilty on said infraction of WAC 603.

In reviewing your appeal, I have made the following determination(s):

- The disciplinary hearing process was conducted in accordance with Due Process and WAC 137-28.
- At least 24 hours advance written notice was provided or you waived the 24 hour advance notice in writing/with witness.
- You were provided an opportunity to call witnesses and present documentary evidence on your behalf. If witness(es) were denied, the Hearing Officer provided you with written reason(s) for the denial.
- The finding was made by an impartial (not viewed as biased or having witnessed the incident being heard) Hearing Officer.
- A written statement of the finding(s) and sanction(s) imposed was provided to you and includes the evidence relied on and the reason(s) for the decision.
- Sanction(s) are in accordance with Presumptive Sanction Guidelines WAC 137-28.

If confidential information was submitted, I have confirmed:

- The Hearing Officer made an independent determination regarding reliability of the confidential source(s), credibility of the information and, safety concerns that justify non-disclosure of the confidential source(s) of information.
- The above information was documented on DOC form 21-962, Confidential Information Review Checklist.

On behalf of the Superintendent, I have investigated your appeal and find that:

Your infraction hearing for the WAC 603 was conducted by policy by the Hearing Officer. Investigation of material related to this infraction supports the major hearing finding. Your appeal letter provided information that supported the Hearing Officer's decision. You provided no information or evidence to change that decision. By policy, while you are still in the infraction appeal process and may have pending issues, per the WSP Public Disclosure Coordinator, your request for viewable information that you may receive by policy from them is currently on hold. There will be a letter sent to you explaining those details. Therefore, it is the finding of this investigator that your Disciplinary Hearing was conducted by policy and procedures outlined in WAC Title 137, Charter 137-28, and the decision of the Hearing Officer is affirmed.

- You were found guilty as explained above;
- There was insufficient evidence for a finding of guilt as explained below;
- A procedural error occurred as explained below;
- The sanction was appropriate, and you were provided with the Hearing Officer's written report;

AND THEREFORE, the decision of the Hearing Officer is:

Affirmed the finding of Guilty of WAC 603; Sanctions of 90 days Loss of Good Conduct Time, 30 days CTQ

- Affirmed
- Remanded for a new hearing. (You will be notified of the hearing date).
- Reversed
- Modified as follows:

Distribution: **Original (W)**– Offender, **Superintendent (P)** - Central File **CUS/Counselor (G)** D. Seg. CUS (if in segregation)

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.17, and RCW 40.14.

DOC 09-197 Rev (11/16/05)POL

DOC 461.000