

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

NO. 34377-1-II *Cono to 35947-2-II*

STATE OF WASHINGTON

Respondent,

vs.

PATRICK BOYD DRUM,

Petitioner.

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STATE OF WASHINGTON  
BY  CLERK  
COURT OF APPEALS

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ON APPEAL FROM THE SUPERIOR COURT  
OF THE STATE OF WASHINGTON  
FOR JEFFERSON COUNTY  
Cause Number: 04-1-00110-8

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**SUPPLEMENTAL RESPONSE TO  
PERSONAL RESTRAINT PETITION**

JUELANNE DALZELL  
Jefferson County Prosecuting Attorney  
Attorney for Respondent

P.O. Box 1220  
Port Townsend, WA 98368  
(360) 385-9180

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### **A. STATEMENT OF THE CASE**

On August 1, 2006, the Court of Appeals ordered the State to file a supplemental response to Petitioner's Personal Restraint Petition addressing the assertions of (1) loss of right to appeal due to his attorney's failure to file a notice of appeal and (2) insufficiency of the evidence to convict. A copy of the Judgment and Sentence in Petitioner's case is attached as Appendix 1 to this supplemental response. On September 18, 2006, the State provided Petitioner's trial defense counsel a copy of the PRP and requested a Declaration regarding the assertion of loss of right to appeal. On September 26, 2006, the State received a copy of the requested Declaration and it is attached as Appendix 2. The trial defense counsel forwarded the original of the Declaration directly to the Court of Appeals for filing.

## **B. ARGUMENT**

INSUFFICIENCY OF THE EVIDENCE: The standard of review for sufficiency of the evidence claims is well known. It is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found essential elements of crime beyond a reasonable doubt. State v. Smith, 155 Wn. 2d 496 (2005). A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom. Smith, 155 Wn. 2d at 501. The State may use evidentiary devices such as inferences to assist it in meeting its burden of proof. State v. Deal, 128 Wn. 2d 693, 698 (1996).

Residential burglary has two elements. First, an unlawful entry and, second, an accompanying intent to commit a crime while unlawfully entering or remaining therein. RCW 9A.52.025(1). Here the police report (Attachment 5 of the PRP) relied on by the trial judge clearly showed an unlawful entry. The homeowner was in her office when she heard her kitchen screen door close. Hearing no "hello" or other explanation she came out of her office and found the Petitioner standing in the kitchen about six feet away from the door leading outside. She then ran from the house and called the police. She was still crying and shaking when they arrived. The police apprehended the Petitioner at the scene and noted that he had a strong odor of what appeared to be spray paint.

At the bench trial (Attachment 3 of the PRP) both the petitioner and his attorney conceded the unlawful entry and argued that either his intoxication or his stated desire to merely ask the homeowner to use the phone precluded a finding that he had any intent to commit a crime. The trial judge first found that the police report did not adequately set forth the elements of intoxication. He then found the “I only intended to ask to use the phone” defense unconvincing. The trial judge first noted that the Petitioner did not, upon entry, say anything like “Gee, may I use your phone?” The trial judge then specifically cited the permissive inference (RCW 9A.52.040) of intent to commit a crime arising from an unlawful entry as the basis for finding beyond a reasonable doubt that the Petitioner was guilty of the residential burglary. The fact that the judge considered this statutory inference permissive is clearly reflected by his earlier statement that “you can - and I will infer the intent to commit a crime when you entered there because there’s no other reason for you to be in there.” In his findings of fact and conclusions of law the trial judge also cited the “permissive inference” as his basis for finding the requisite intent to commit a crime. Attachment 6 of Petitioner’s PRP.

As long as the permissive statutory inference remains the law and is used in concert with the beyond a reasonable doubt to convict standard as it was in this case the Petitioner’s insufficiency assertion must fail.

LOSS OF RIGHT TO APPEAL: Our state constitution grants criminal defendants an appeal as a matter of right. State v. Tomal, 133 Wn. 2d 985, 988 (1977). In re Frampton, 45 Wn. App. 554, 560 (1986). There is no presumption in favor of waiver of a constitutional right. State v. Kells, 134 Wn. 2d 309, 314 (1998). The state bears the burden of showing that a convicted defendant has made a voluntary, knowing, and intelligent waiver of the right to appeal. Tomal, 133 Wn. 2d at 989. In other words, the State is required to “make some affirmative showing the Defendant understood his right to appeal and chose not to exercise it.” Kells, 134 Wn. 2d at 315.

At his bench trial the Petitioner unequivocally stated his desire to appeal. He told the court at sentencing, “And, if there’s any form of appeal on a bench trial after Drug court I would like to do that.” RP 6 (Attachment 3 of PRP). The court identified an appeal issue for him by stating, “I think he can appeal the - my inference of the intent to commit a crime based on Exhibit One.” RP 8 (Attachment 3 of PRP). The court further stated in regards to doing some unidentified administrative action that, “I think we should, because I do believe, you know he’s gonna appeal it.” RP 8 (Attachment 3 of PRP). The court then advised the Petitioner of his appeal rights and had him sign an acknowledgment thereof.

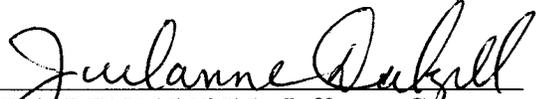
Inexplicably, a notice of appeal was not timely filed. The trial defense

counsel's Declaration only states that the Petitioner never communicated a post trial intent to appeal. A fair reading of the record and the Declaration leads to the conclusion that the Petitioner did not knowingly, voluntarily, and intelligently relinquish his right to appeal his conviction for residential burglary.

**C. CONCLUSION**

The Petition should be granted to the extent it reinstates  
Petitioner's right to appeal. All other aspects of his Petition should be  
denied on the merits or on the basis that other forms of relief are now  
available - the direct appeal.

Respectfully submitted this 28<sup>th</sup> day of September, 2006.

  
\_\_\_\_\_  
JUELANNE DALZELL, Jefferson County  
Prosecuting Attorney, WSBA #21508

1  
2 IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
3 DIVISION II

4 STATE OF WASHINGTON,  
5 Respondent,  
6 vs.  
7 PATRICK BOYD DRUM,  
8 Petitioner.

) Case No.: 34377-1-II  
) Superior Court No.: 04-1-00110-8

DECLARATION OF MAILING

STATE OF WASHINGTON  
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FILED  
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9 Janice N. Chadbourne declares:

10 That at all times mentioned herein I was over 18 years of age and a citizen of the United  
11 States; that on the 28<sup>th</sup> day of September, 2006, I mailed a copy of the State's Supplemental  
12 Response to Personal Restraint Petition, to the following:

13 David C. Ponzoha, Clerk  
14 Court of Appeals, Division II  
15 950 Broadway, Suite 300  
16 Tacoma, WA 98402-4454

Patrick Drum, DOC #784289  
Stafford Creek Corrections Center  
191 Constantine Way  
Aberdeen, WA 98520

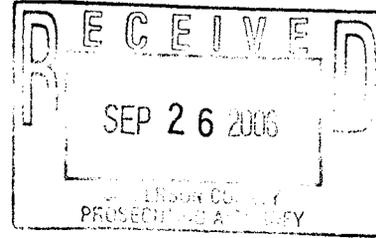
17 I declare under penalty of perjury under the laws of the State of Washington that the  
18 foregoing declaration is true and correct.

19 Dated this 28<sup>th</sup> day of September, 2006 at Port Townsend, Washington.

20   
21 Janice N. Chadbourne  
22 Legal Assistant

23 DECLARATION OF MAILING  
24 Page 1

JUELANNE DALZELL  
PROSECUTING ATTORNEY  
FOR JEFFERSON COUNTY  
Courthouse -- P.O. Box 1220  
Port Townsend, WA 98368  
(360) 385-9180



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

In re the )  
Personal Restrain Petition of )  
PATRICK BOYD DRUM, )  
 )  
Petitioner. )  
\_\_\_\_\_ )

DECLARATION OF SCOTT CHARLTON  
No. 34377-1-II

I, Scott M. Charlton, declare as follows:

I was the trial counsel for Patrick Drum when he was convicted at bench trial on January 21, 2005, following his termination from Drug Court. I have reviewed a copy of his Personal Restraint Petition in which he asserts ineffective assistance of counsel for my alleged failure to file a Notice of Appeal on his behalf. I have listened to a CD of the sentencing hearing, during which he stated "... if there's any form of appeal ... I would like to do that." Later in the proceeding, he was formally advised of his right to appeal. Mr. Drum never communicated to me, at any time following his conviction, either a desire to appeal or a request that I file a Notice of Appeal on his behalf.

In retrospect, and in light of the assertion made by Mr. Drum in open court, I should have perhaps inquired whether he wished to in fact appeal the verdict.

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

Dated this 25 day of September, 2006 at Port Townsend, Washington.

  
SCOTT M. CHARLTON, WSBA # 21812

CERTIFIED  
COPY

FILED

JAN 21 2005

JEFFERSON COUNTY CLERK

SUPERIOR COURT OF WASHINGTON  
COUNTY OF Jefferson

STATE OF WASHINGTON, Plaintiff,

vs.

Patrick Boyd Drumake  
Defendant  
Tim Jones  
SID: wa 19137344  
If no SID, use DOB: 3/2/78

No. 04-1-00110-8

JUDGMENT AND SENTENCE (JS)

- Prison  RCW 9.94A.712 Prison Confinement
- Jail One Year or Less  RCW 9.94A.712 Prison Confinement
- First-Time Offender
- Special Sexual Offender Sentencing Alternative
- Special Drug Offender Sentencing Alternative
- Clerk's Action Required, para 4.15.2, 5.3, 5.6 and 5.8

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 1/29/05  
by  plea  jury-verdict  bench trial of: (Date)

COUNT	CRIME	RCW	DATE OF CRIME
1	Residential Burglary	9A.52.025(1)	9-29-04

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

Additional current offenses are attached in Appendix 2.1.

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  
9.94A.533.

JUDGMENT AND SENTENCE (JS) (Felony)  
(RCW 9.94A.500, .505)(WPF CR 84.0400 (6/2004))

Page 1 of 11

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*CO*

- A special verdict/finding for use of deadly weapon other than a firearm was returned on Count(s) \_\_\_\_\_ RCW 9.94A.602, 9.94A.533.
- 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, RCW 69.50.440.
- 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):
- 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 Possession Stolen Prop <sup>nd</sup>	8/28/01	Kitsap	5/15/01	A	W/F
2 Possession w/o Prescript	5/15/02	Clallam	3/25/02	A	N/F
3 Theft 3 <sup>rd</sup>	8/22/00	Clallam			G Mis
4 Render Crim Assistance	6/1/04	Clallam	5/2/04	A	G Mis
5 Obstructing	6/1/04	Clallam	5/2/04	A	G Mis

- 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):

SUPERIOR COURT OF WASHINGTON  
 COUNTY OF

STATE OF WASHINGTON, Plaintiff,

No. 04-1-00110-8

vs Patrick B Drum  
 Defendant.

ADDITIONAL CURRENT OFFENSES, CRIMINAL HISTORY AND CURRENT OFFENSE SENTENCING DATA (APPENDIX 2.1, 2.2 and 2.3, JUDGMENT AND SENTENCE) (APX)

2.1 The additional current offenses of defendant are as follows:

COUNT	CRIME	RCW	DATE OF CRIME

(If the crime is a drug offense, include the type of drug in the second column.)

2.2 The defendant has the following prior criminal convictions (RCW 9.94A.100):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
Inhale Toxic Fumes	6/22/98	Clallam		A	Mis
Inhal Toxic Fumes	4/5/99	Clallam		A	Mis
Inhal Toxic Fumes	4/18/00	Jetterson		A	Mis
Inhal Toxic Fumes	8/22/00	Clallam	3/3/00	A	Mis
Resisting Arrest	5/15/03			A	Mis

DRUG Paraphernalia 1/28/04 Clallam 11/20/03 A

2.3 The additional current offense sentencing data is as follows:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM

\* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom. See RCW 46.61.520 (JP) Juvenile Present

[ ] See additional sheets for more current offenses, criminal history and current offense sentencing data.

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	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
1	2	IV	12+-14	none	12+-14	19 yrs 20,000 fine

\* (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: \_\_\_\_\_

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:

JASS CODE

\$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

JUDGMENT AND SENTENCE (JS) (Felony)  
(RCW 9.94A.500, .505)(WPF CR 84.0400 (6/2004))

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RTN/RJN

\$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

\$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

(Name and Address--address may be withheld and provided confidentially to Clerk of the Court's Office.)

PCV

\$ 500.00 Victim assessment RCW 7.68.035

\$ \_\_\_\_\_ Domestic Violence assessment Laws of 2004, ch. 15 § 2

CRC

\$ 110.00 Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190

Criminal filing fee \$ 110.00 FRC

Witness costs \$ \_\_\_\_\_ WFR

Sheriff service fees \$ \_\_\_\_\_ SFR/SFS/SFW/WRF

Jury demand fee \$ \_\_\_\_\_ JFR

Extradition costs \$ \_\_\_\_\_ EXT

Other \$ \_\_\_\_\_

PUB

\$ 650.00 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 chapter 69.50 RCW, [ ] VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/FCD  
NTF/SAD/SDI

\$ \_\_\_\_\_ Drug enforcement fund of \_\_\_\_\_ RCW 9.94A.760

CLF

\$ \_\_\_\_\_ Crime lab fee [ ] suspended due to indigency RCW 43.43.690

\$ 100.00 Felony DNA collection fee [ ] not imposed due to hardship RCW 43.43.7541

RTN/RJN

\$ \_\_\_\_\_ Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum) RCW 38.52.430

\$ \_\_\_\_\_ Other costs for: \_\_\_\_\_

\$ 360.00 TOTAL RCW 9.94A.760

[ ] 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

[ ] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

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

RCW 9.94A.760. *Defendant shall enter the payor  
appear program and*

The defendant shall report as directed by the clerk of the court and provide financial information as requested. RCW 9.94A.760(7)(b).

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.

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. 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 the defendant's release from confinement. RCW 43.43.754.

HIV TESTING. The defendant shall submit to HIV testing. RCW 70.24.340.

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

Domestic Violence No-Contact Order or Antiharassment No-Contact Order is filed with this Judgment and Sentence.

4.4 The defendant shall notify the Clerk of Court of any change of address until legal and financial obligations have been met.

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

- (a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

13 months on Count 1 \_\_\_\_\_ months on Count \_\_\_\_\_
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

Actual number of months of total confinement ordered is: \_\_\_\_\_
(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above.)

[X] The confinement time on Count(s) 1 contain(s) a mandatory minimum term of 12+

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 (Sex Offenses only): The defendant is sentenced to the following term of confinement in the custody of the DOC:

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

[ ] 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 CUSTODY is ordered as follows:

Count \_\_\_\_\_ for a range from \_\_\_\_\_ to \_\_\_\_\_ 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.]

On or after July 1, 2003, DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories; or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

a) the defendant committed a current or prior:		
i) Sex offense	ii) Violent offense	iii) Crime against a person (RCW 9.94A.411)
iv) Domestic violence offense (RCW 10.99.020)		v) Residential burglary offense
vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine		
vii) Offense for delivery of a controlled substance to a minor; or attempt, solicitation or conspiracy (vi, vii)		
b) the conditions of community placement or community custody include chemical dependency treatment.		
c) the defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745.		

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 (service); (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by 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: Maurice Sanelli

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

DOC

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

alcohol evaluation

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: \_\_\_\_\_

Other conditions: \_\_\_\_\_

per DOC

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 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 purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 **RESTITUTION HEARING.**  
 Defendant waives any right to be present at any restitution hearing (sign initials): \_\_\_\_\_.
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634.
- 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 clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

~~Cross off if not applicable:~~

- 5.7 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.130, you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.
- If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within 30 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.
- If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you

move out of Washington State, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

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

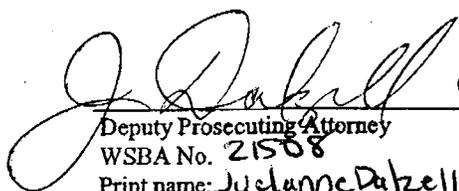
Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 48 hours excluding weekends and holidays after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require you to list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

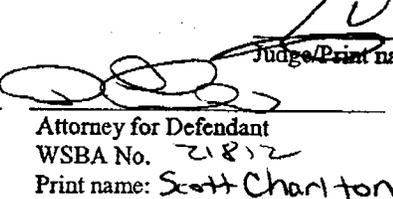
If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new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

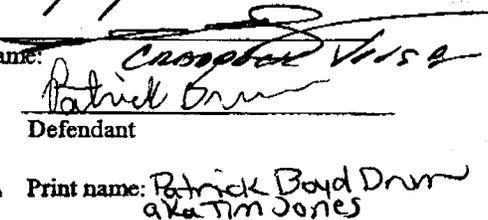
If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(7).

- 5.8  The court finds that Count \_\_\_\_\_ is a felony in the commission of which a motor vehicle was used. The clerk of the court 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.
- 5.9 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. Laws of 2004, ch. 166 § 11.
- 5.10 OTHER: \_\_\_\_\_

DONE in Open Court and in the presence of the defendant this date: 1/21/05

  
Deputy Prosecuting Attorney  
WSBA No. 21508  
Print name: Juchanne Datzell

  
Attorney for Defendant  
WSBA No. 21812  
Print name: Scott Charlton

  
Defendant  
Print name: Patrick Boyd Drum aka Tim Jones

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.

Patrick Boyd Drum  
AKA  
Tim Jones

CAUSE NUMBER of this case: 04-1-00 110-8

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 the Court of said County and State, by: \_\_\_\_\_, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. WA 19137344 Date of Birth 03-02-78  
(If no SID take fingerprint card for State Patrol)

FBI No. \_\_\_\_\_ Local ID No. \_\_\_\_\_

PCN No. \_\_\_\_\_ Other \_\_\_\_\_

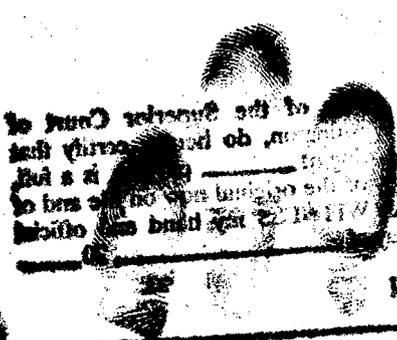
Alias name, DOB: \_\_\_\_\_

Race:  Asian/Pacific Islander  Black/African-American  Caucasian  Native American  Other: \_\_\_\_\_  
Ethnicity:  Hispanic  Non-Hispanic  
Sex:  Male  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, Michael Meese Dated: 1/21/05

DEFENDANT'S ADDRESS: D.O.C.

DEFENDANT'S SIGNATURE: Patrick Boyd Drum

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

*(Note: The right-side fingerprint area contains a faint, mirrored stamp from the reverse side of the document.)*

JUDGMENT AND SENTENCE (JS) (Felony)  
(RCW 9.94A.500, .505)(WPF CR 84.0400 (6/2004))

I, Ruth Gordon, Clerk of the Superior Court of Jefferson County, Washington, do hereby certify that this instrument, consisting of 1 page(s), is a full, true and correct copy of the original now on file and of record in my office. WITNESS my hand and official seal this 28 day of September, 2011.

RUTH GORDON  
By [Signature]  
Deputy  
Port Townsend, Washington