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NO. 36118-3-II

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

STATE OF WASHINGTON, Respondent

v.

JOHN ALPHONSE FISHER, Appellant

FILED
COURT OF APPEALS
DIVISION II
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STATE OF WASHINGTON
DEPUTY

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE JOHN F. NICHOLS
CLARK COUNTY SUPERIOR COURT CAUSE NO. 05-1-02281-7

BRIEF OF RESPONDENT

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I. STATEMENT OF FACTS

On June 15, 2006, the defendant pled guilty to a Second Amended Information (CP 1) charging him with two counts of assault in the second degree with a deadly weapon enhancement on both counts. Count one dealt with a claim of assault against various individuals by use of a bow and arrow which would have occurred on October 9, 2005. Count two charged the same day and the same type of weapon but a different individual. The individuals mentioned in count one were police officers and the individual mentioned in count two was a lay person. In each of the two counts, the defendant was put on notice that the State was claiming that the bow and arrow was a deadly weapon and was seeking enhancements.

On June 15, 2006, when the defendant pled guilty, he submitted to the court a Statement of Defendant on Plea of Guilty to Non-Sex Offense. (CP 3). A copy of the Statement of Defendant on Plea is attached hereto and by this reference incorporated herein. Utilizing the plea form, the judge then went through the form with the defendant with his attorney present and entered into the standard colloquy with the defendant for a change of plea. The colloquy with the defendant is at RP 2-7. A copy of the transcript relating to those pages is attached hereto and by this reference incorporated herein.

The court then proceeded to sentencing. It was explained to the judge by the deputy prosecutor as follows:

We have reached a joint recommendation after extensive plea negotiation of the stipulated exceptional sentence of 48 months.

(RP 8, L.10-12)

Counsel further indicated to the court that this was a reduction from assault one to the assault two and the stipulated exceptional sentence. (RP 9). The defense attorney also indicated that this was a substantial benefit to the defendant:

MR. HOFF (Defense Attorney): Your Honor, yes, just to reiterate, that by my calculations with the offender score of zero on two counts of Assault I in the First Degree, it would have been 93 to 123 months, plus 93 to 123 months, plus 24 months or 48 months total on the deadly weapon enhancement if Mr. Fisher were convicted at trial of Assault in the First Degree. And that's not even including the Kidnapping, which, by my calculations, would not have bumped up the assaults to a two, although I think the State was under the impression it would have.

Anyways, nevertheless, he was looking at effectively spending the rest of his life in prison based upon his age. This was an extensive negotiation with the Prosecution. We were prepared to go to trial. All witnesses had been interviewed with exception to a couple. Steve Johnson, I guess we were prepared to interview him tomorrow at one o'clock.

Our argument at trial would have been suicide by cop case. Although our expert didn't find a diminished capacity or insanity existed, our argument would have been that Mr. Fisher was distraught and that these arrows were fired, and

that I feel that perhaps at trial Assault II would have been more appropriate than Assault I under the circumstances.

Again, extensive negotiations with the State, which is why we finally came to terms on the agreement to 48 months on two counts of Assault II, and in light of what Mr. Fisher was risking, we felt that that was a fair offer, and Mr. Fisher has accepted it. And we're just asking the Court to accept the offer - - or the agreement reached between Mr. Fisher and the Defendant.

(RP 9, L.18 – 10, L.24)

After that discussion with the court by the defense attorney, the defendant further clarified the significance of the deal that had been struck with the State by indicating that there would be no no-contact orders between him and his wife entered in the Judgment and Sentence. It appears from the transcript that that was of significance to the defendant. (RP 11). The court finally indicated its agreement with the arrangement that had been stipulated to by the parties:

THE COURT: And you are looking at a very, very, very significant amount of time. It seems to have been worked out much to your benefit even though you may not realize it - - or appreciate that. That would be better.

So, I think this is a very good resolution for that under the circumstances involved, and I'll go along with the recommendation.

(RP 11, L.17-23)

At the time of the sentencing, the court entered Judgment and Sentence. (CP 12). A copy of the Felony Judgment and Sentence is

attached hereto and by this reference incorporated herein. Also at that time, the court entered Findings of Fact and Conclusions of Law for an Exceptional Sentence. (CP 11). A copy of those findings is also attached hereto and by this reference incorporated herein.

On August 15, 2006, the Clark County Clerk's Office filed a Department of Corrections letter to the trial court (CP 24) where it was requesting amendment and clarification to the Judgment and Sentence entered in this matter.

This led then to a hearing on February 22, 2007, where the defendant and his attorney were both present along with the prosecutor and the court undertook to correct the Judgment and Sentence pursuant to the letter from the Department of Corrections. The court entered an Order Correcting Judgment and Sentence. (CP 38). A copy of that Order Correcting Judgment and Sentence is attached hereto and by this reference incorporated herein.

At the hearing on the 22nd of February, the defendant did not want to discuss anything dealing with modification of the Judgment but wanted to withdraw his plea. (RP 13). The prosecutor indicated that the letter had requested clarification of Section 2.3 of the original Judgment and Sentence which should have indicated a finding of deadly weapon enhancement on counts one and two and clarifying of Section 4.5 of the

Judgment and Sentence to indicate 12 months on count one, 12 months on count two, for a total of 48 months. (RP 14-15). The defense attorney agreed that that was what was being requested and the trial court agreed with that also. (RP 15). The defendant had in his mind that he was being sentenced to a total of 60 months. His attorney attempted to explain to him, again, that it was a continuation of what he had bargained for previously which was the 48 months. The court also indicated to him that it was 48 months. (RP 15-16). The defendant continued to argue with the court that the points impacted his standard sentencing range. Nevertheless, the court reiterated again that it was for a total of 48 months and that was what he had pled to. (RP 16).

The court assigned a new attorney for purposes of the defendant's contesting of the plea and a hearing was held on that on June 21, 2007, with the defendant present with his new attorney and the prosecution also being present. After hearing some discussion from counsel, the court again reiterated, "Well, the bottom line right now, as we sit here today, his sentence is 48 months, isn't it?" (RP 21, L.12-13). The defense attorney indicated that that was correct.

After some further discussion, the court again asked whether or not the agreement of the parties was 48 months and the defense attorney indicated that it was. (RP 22). The court again indicated, "But my

understanding, my review of the file, and that's why I was a little confused, is that - - I thought we clarified and made it 48 months." (RP 23, L.2-4). The court referred then back to the February hearing where the clarification was made and again the indication was that it was the 48 months. (RP 23-24). Before hearing any of the comments from the defendant, the court again reiterated what he had previously said, "I - - yeah, I'm kind of remembering the situation now, and I appreciate the briefing on it. But I think that's what the agreement was. I mean, even though there was confusion and maybe some rush, Mr. Fisher wants to make sure he gets the 48 months." (RP 24, L.16-20).

The court then asked the defendant whether or not he wanted to add anything and the defendant proceeds to discuss his understanding of the situation. The defendant told the court, "I entered under the agreement that we were pleading to two 24-month sentences." (RP 25, L.22-23). The court told him that adds up to 48 months but the defendant went on to dispute that with the court indicating that it should really only amount to 32 months. (RP 26). The defendant has the following colloquy with the court:

MR. FISHER (Defendant): Okay, the exceptional sentences I signed to was from two - - two 24-month sentences. The only way that exceptional sentence could be applied was with a zero point range, right? When Count II was initiated, that brought my point range up to two

points that brought the 20 - - two 24-month sentence into the standard point range. So there wouldn't have been no need for me to sign with the exceptional sentence waiver.

If I would'a known that by signing that exceptional sentence waiver that I was signing a sentences above my two 24-month sentences - - for a sentence above my two 24-month sentence, I wouldn't of signed it.

THE COURT: You know, I think maybe you're playing some semantics with me with the words. You say two 24-month sentence.

MR. FISHER: Now, that was what I was told I was gonna do.

THE COURT: So, what does - -

MR. FISHER: That's an exceptional sentence.

THE COURT: Because it adds up to 48 months; right?

MR. FISHER: No, it's an exceptional sentence - -

THE COURT: Okay.

(RP. 27, L.16 – 28, L.13)

The hearing ends with the following discussion between the defendant and the court:

THE COURT: Well, I understand you argument. I don't agree with your argument. My finding was before, and it is once again, that there was an agreement, that regardless of how you figure out the amounts, the enhancements - -

MR. FISHER (Defendant): How I figure out is how I was explained to them.

THE COURT: Well, that you signed an agreement and exceptional sentence that said 48 months on it.

MR. FISHER: I was misinformed to the standard point range.

THE COURT: Even though we went through the plea form, you said you understood that, you understood the exceptional sentence, you understood the amount that was being asked for in the exceptional sentence. And what's happened now is that you've gone back and said, gee, if I look at this and we do it that way, it works out to something different.

Well, I'm going to deny your motion, and you have the right to an appeal, and you've already got assigned counsel on that so you go back to the Court of Appeals for that.

(RP 30, L.1-22)

II. RESPONSE TO ASSIGNMENT OF ERROR

The assignment of error raised by the defense attorney on appeal is that the defendant received ineffective assistance of counsel at the resentencing hearing.

It is extremely difficult to follow or understand the nature of this appeal. The defendant clearly entered into a plea agreement giving him a substantial benefit that ended with an agreed exceptional sentence recommendation of 48 months. The change of plea by the defendant initially clearly indicated that he understood this, he signed off on the documentation, and there was a record to support and substantiate the

claims. The defendant bargained for a specific benefit which he was provided.

The Court of Appeals reviews a claim of ineffective assistance de novo. State v. Rainey, 107 Wn. App. 129, 135, 28 P.3d 10 (2001). The appellate must show both that counsel's performance was defective and that the error changed the outcome of his case. Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984).

The hearing on February 22, 2007, was for an extremely limited purpose. The resentencing dealt with the modification of some of the language to comport with the request from the Department of Corrections. There is absolutely nothing in this record to support a conclusion or an opinion that the defense attorney was doing anything inappropriate. In fact, the defendant was requesting of the defense attorney that he make a nonsense argument to the sentencing court. It is obvious from the transcript that no one in the courtroom had a clue as to what this defendant was talking about. He had previously agreed to a stipulated exceptional sentence and now was arguing that two 24-month sentences do not add up to 48 months. The court listened to the defendant at that point and also allowed him to preserve the question of withdrawal of plea, appointed a new attorney to assist him in that, and went ahead and entered the

modifications that had been requested. As the defense attorney made clear at the beginning of the February 22, 2007, resentencing hearing:

MR. HOFF (Defense Attorney): Your Honor, the business before the Court today is to correct the Judgment and Sentence that was filed in connection with this matter. My understanding, what the parties agreed to were 12 months on each count, and then there were weapons enhancements on each, all to run consecutive to each other for a total of 48 months.

(RP 13, L.2-8)

As the defense attorney later indicates, he was there for purposes of “clarification”. (RP 13, L.16). Clearly, there is nothing that has been demonstrated or shown here that would indicate that his performance was defective in any manner nor that any alleged error changed the outcome of the matter.

The defendant on appeal makes claim that his attorney at the resentencing was suffering from a conflict of interest. Yet, there has been absolutely no showing in this record of any conflict of interest in this matter. Because of the limited nature of the matter of resentencing, the trial court did not entertain the matter that would have led to a conflict. Rather, the trial court allowed the attorney to withdraw and not handle that particular part of it and proceeded to have a new attorney appointed to assist the defendant in his request to withdraw his plea. Thus, there was no conflict either at the time that this matter took place in the courtroom or

at any subsequent period. The defendant then was able at a later date to bring his motion to withdraw his plea ably assisted by another attorney.

The burden is on a defendant alleging ineffective assistance of counsel to show deficient representation based on the record established in the proceedings below. Court's engage in a strong presumption that counsel's representation was effective. State v. Brett, 126 Wn.2d 136, 198, 892 P.2d 29 (1995). The State submits that this has not been established in this matter.

III. RESPONSE TO STATEMENT OF ADDITIONAL GROUNDS

The defendant had filed a Statement of Additional Grounds concerning his claim regarding this. His claim appears to be that he understood this to be a total of 36 months and was attempting to use the standard range to indicate that. (Statement of Additional Grounds, page 3).

The appellate court reviews a trial court's denial of a motion to withdraw a guilty plea under an abuse of discretion standard. State v. Olmsted, 70 Wn.2d 116, 118, 422 P.2d 312 (1966). A court abuses its discretion if its decision is based on clearly untenable or manifestly unreasonable grounds. State v. Jamison, 105 Wn. App. 572, 589-590, 20 P.3d 1010 (2001).

A guilty plea must be “knowing, intelligent, and voluntary in order to satisfy due process requirements.” State v. Stowe, 71 Wn. App. 182, 186, 858 P.2d 267 (1993). But when a defendant fills out a written plea statement under CrR 4.2(g) and acknowledges that he has read and understands it and that its contents are true, the appellate court presumes that the plea is voluntary. State v. Smith, 134 Wn.2d 849, 852, 953 P.2d 810 (1998); State v. Perez, 33 Wn. App. 258, 261, 654 P.2d 708 (1982). In addition, when the judge goes on to inquire orally of the defendant and satisfies himself on the record of the existence of the various criteria of voluntariness, the presumption of voluntariness is well nigh irrefutable. Perez, 33 Wn. App. at 262; State v. Ridgley, 28 Wn. App. 351, 623 P.2d 717 (1981).

In In Re Personal Restraint of Breedlove, 138 Wn.2d 292, 979 P.2d 417 (1999), the Supreme Court held that a defendant’s stipulation to an exceptional sentence, made as part of a valid plea agreement, may be considered a substantial and compelling reason that justifies imposition of an exceptional sentence. When a defendant has stipulated to an exceptional sentence, he waives his right to appellate review of the sentence. Breedlove, 138 Wn.2d at 300-311. This was further clarified by the Supreme Court in State v. Ermels, 156 Wn.2d 528, 131 P.3d 299 (2006) where the indication was that the Supreme Court has held (in

Breedlove) that a stipulation to an exceptional sentence is enough, in and of itself, to constitute a substantial and compelling reason to justify an exceptional sentence, so long as the sentence is authorized by statute and the findings also show that the sentence is consistent with the goals of the sentencing reform act of 1981. Ermels, 156 Wn.2d at 536. The statute required that the deadly weapon enhancements be run consecutive and DOC requested that modification. That modification was made and therefore the sentence was authorized by statute and did not impact or affect the sentence of the defendant that he had previously stipulated to.

CrR 4.2(f) allows a defendant to withdraw his plea whenever it appears that the withdrawal is necessary to correct a manifest injustice. But this is a demanding standard. CrR 4.2(f); State v. Marshall, 144 Wn.2d 266, 280-281, 27 P.3d 192 (2001); State v. Taylor, 83 Wn.2d 594, 597, 521 P.2d 699 (1974). Manifest injustice includes instances where (1) the plea was not ratified by the defendant; (2) the plea was not voluntary; (3) effective counsel was denied; or (4) the plea agreement was not kept. Marshall, 144 Wn.2d at 281.

When we analyze these examples of manifest injustice, we note that the plea had been ratified by the defendant at the time of the change of plea and sentencing. The plea obviously was voluntary because the court went through the necessary steps to make sure that the defendant

understood what he was doing and the ramifications of it. He had effective counsel at the time of the change of plea. It was noted by the prosecution, defense, and the court that extensive negotiations had gone on in this matter and that the defendant had received a substantial benefit (having been charged with assaults in the first degree and a kidnapping). He received a substantial bargain that had been negotiated for him by his attorney. Clearly his attorney was effective. Finally, the plea agreement was kept by all the parties. The prosecution and defense had stipulated and agreed to a recommendation of 48 months as an exceptional sentence. The trial court went along with that. At the time of the resentencing, the court made sure that the defendant understood that the sentence remained the same. The State submits that there has been no showing here of a manifest injustice.

Because this appears to be the primary thrust of the Statement of Additional Grounds filed by the defendant, the State will not respond to the other allegations that he has made. It appears that if the court finds that this was a valid plea that the additional matters then would not be of any relevance.

IV. CONCLUSION

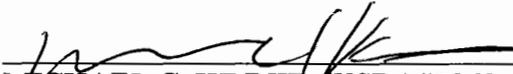
The trial court should be affirmed in all respects.

DATED this 24 day of January, 2008.

Respectfully submitted:

ARTHUR D. CURTIS
Prosecuting Attorney
Clark County, Washington

By:


MICHAEL C. KINNIE, WSBA#7869
Senior Deputy Prosecuting Attorney

APPENDIX "A"

**STATEMENT OF DEFENDANT ON PLEA OF GUILTY
TO NON-SEX OFFENSE**

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FILED

JUN 15 2006

JoAnne McBride, Clerk, Clark Co.

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

STATE OF WASHINGTON,

Plaintiff,

v.

FISHER, JOHN A.,

Defendant.

Case No.: 05-1-02281-7

STATEMENT OF DEFENDANT ON PLEA OF
GUILTY TO NON-SEX OFFENSE (STTDFG)

- 1. My true name is: John A. Fisher
- 2. My age is: 47
- 3. I went through the Some College grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. I assert this right, my court appointed attorney is Matthew R. Hoff, WSB# 31806

(b) I am charged with: Assault in the Second Degree (Count 2); Count 1 and 3 are dismissed per attached pre-trial agreement, incorporated herein by reference thereto.

Count 1 The elements are: I, John A. Fisher, in the County of Clark, State of Washington, on or about October 9, 2005, did knowingly & intentionally assault Pete Muller and/or Bill Pardue and/or Scott Schanaker and/or Steve Lobdell and/or Marshall Henderson and/or John Chapman and/or Tim Bieber and/or Robert M. Carder and/or Joe Graaff and/or John Ringo with a deadly weapon, to wit: a bow and arrows. further, I committed the offense while armed w/ a deadly weapon.

Count 2 I, John A. Fisher, in the county of Clark, state of Washington on or about Oct. 9, 2005 did knowingly & intentionally assault Steve Johnson w/ a deadly weapon, to wit: a bow & arrows. further, I committed the offense while armed w/ a deadly weapon.

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5. I UNDERSTAND I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

(a) Each crime with which I am charged carries a maximum sentence, a fine, and a STANDARD SENTENCE RANGE as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f).)	MAXIMUM TERM AND FINE
1	2	12-14	12 months	15-21 months 24-26	18-36 months, or to the period of earned release, whichever is longer (if a sentence is one year or less community custody may be ordered up to one year)	10 yrs/ \$20,000
2	2	11-14	12	24-26 15-21 months	18-36 months, or to the period of earned release, whichever is longer (if a sentence is one year or less community custody may be ordered up to one year)	10 yrs. \$20,000.00
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*(F) Firearm, (D) other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

1 (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history
2 is discovered, both the standard sentence range and the prosecuting attorney's
3 recommendation may increase. Even so, my plea of guilty to this charge is binding on me.
4 I cannot change my mind if additional criminal history is discovered even though the
5 standard sentencing range and the prosecuting attorney's recommendation increase or a
6 mandatory sentence of life imprisonment without the possibility of parole is required by
7 law.

8 (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a
9 victim's compensation fund assessment. If this crime resulted in injury to any person or
10 damage to or loss of property, the judge will order me to make restitution, unless
11 extraordinary circumstances exist which make restitution inappropriate. The amount of
12 restitution may be up to double my gain or double the victim's loss. The judge may also
13 order that I pay a fine, court costs, attorney fees and the costs of incarceration.

14 (f) *NA* For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement,
15 the judge may order me to serve up to one year of community supervision if the total period
16 of confinement ordered is not more than 12 months. If this crime is a drug offense, assault
17 in the second degree, assault of a child in the second degree, or any crime against a person
18 in which a specific finding was made that I or an accomplice was armed with a deadly
19 weapon, the judge will order me to serve at least one year of community placement. If this
20 crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will
21 order me to serve at least two years of community placement. The actual period of
22 community placement, community custody, or community supervision may be as long as
23 my earned early release period. During the period of community placement, community
24 custody, or community supervision, I will be under the supervision of the Department of
25 Corrections, and I will have restrictions and requirements placed upon me.

For crimes committed on or after July 1, 2000: In addition to sentencing me to
confinement, the judge may order me to serve up to one year of community custody if the
total period of confinement ordered is not more than 12 months. If the crime I have been
convicted of falls into one of the offense types listed in the following chart, the court will
sentence me to community custody for the community custody range established for that
offense type unless the judge finds substantial and compelling reasons not to do so. If the
period of earned release awarded per RCW 9.94A.150 is longer, that will be the term of my
community custody. If the crime I have been convicted of falls into more than one
category of offense types listed in the following chart, then the community custody range
will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Serious Violent Offenses	24 to 48 months or up to the period of earned release, whichever is longer.
<u>Violent Offenses</u>	<u>18 to 36 months or up to the period of earned release, whichever is longer.</u>
Crimes Against Persons as defined by RCW 9.94A.411(2)	9 to 18 months or up to the period of earned release, whichever is longer.
Offenses under Chapter 69.50 or 69.52 RCW (not sentenced under RCW 9.94A.120(6))	9 to 12 months or up to the period of earned release, whichever is longer.

1 During the period of community custody I will be under the supervision of the Department
2 of Corrections, and I will have restrictions and requirements placed upon me. My failure to
3 comply with these conditions will render me ineligible for general assistance, RCW
4 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more
5 restrictive confinement status or other sanctions.

6 (g) The prosecuting attorney will make the following recommendation to the judge: *2 counts*
7 *of Assault II with Weapon Enhancement vs. Stipulated Exceptional Sentence*
8 *of 48 Months in Prison. 18-36 Months of Community Custody*
9 The prosecutor will recommend as stated in the plea agreement, which is incorporated by
10 reference. See attached Offer of Settlement

11 (h) The judge does not have to follow anyone's recommendation as to sentence. The judge
12 must impose a sentence within the standard range unless there is a finding of substantial
13 and compelling reasons not to do so. I understand the following regarding exceptional
14 sentences:

- 15 (i) The judge may impose an exceptional sentence below the standard range if the
16 judge finds mitigating circumstances supporting an exceptional sentence.
- 17 (ii) The judge may impose an exceptional sentence above the standard range if I am
18 being sentenced for more than one crime and I have an offender score of more
19 than nine.
- 20 (iii) The judge may also impose an exceptional sentence above the standard range if
21 the State and I stipulate that justice is best served by imposition of an exceptional
22 sentence and the judge agrees that an exceptional sentence is consistent with and
23 in furtherance of the interests of justice and the purposes of the Sentencing
24 Reform Act.
- 25 (iv) The judge may also impose an exceptional sentence above the standard range if
the State has given notice that it will seek an exceptional sentence, the notice
states aggravating circumstances upon which the requested sentence will be
based, and facts supporting an exceptional sentence are proven beyond a
reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by
stipulated facts.

I understand that if a standard range sentence is imposed, the sentence cannot be appealed
by anyone. If an exceptional sentence is imposed after a contested hearing, either the
State or I can appeal the sentence.

(i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime
under state law is grounds for deportation, exclusion from admission to the United States,
or denial of naturalization pursuant to the laws of the United States.

(j) I understand that I may not possess, own, or have under my control any firearm unless my
right to do so is restored by a court of record and that I must immediately surrender any
concealed pistol license. RCW 9.41.040.

(k) I understand that I will be ineligible to vote until that right is restored in a manner
described in RCW 10.64 ____ [2005 Wash. Laws 246 § 1]. If I am registered to vote, my
voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079,
29A.08.520.

(l) Public assistance will be suspended during any period of imprisonment.

1 (m) I understand that I will be required to have a biological sample collected for purposes of
2 DNA identification analysis. For offenses committed on or after July 1, 2002, I will be
3 required to pay a \$100.00 DNA collection fee.

4 NOTIFICATION RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING
5 PARAGRAPHS DO NOT APPLY, THEY SHOULD BE STRICKEN AND INITIALED BY THE
6 DEFENDANT AND THE JUDGE.

7 [n] This offense is a most serious offense or strike as defined by RCW 9.94A.030, and if I have
8 at least two prior convictions for most serious offenses, whether in this state, in federal
9 court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life
10 imprisonment without the possibility of parole. *Heu*

11 [o] The judge may sentence me as a first-time offender instead of giving a sentence within the
12 standard range if I qualify under RCW 9.94A.030. This sentence could include as much as
13 90 days' confinement, and up to two years community supervision if the crime was
14 committed prior to July 1, 2000, or up to two years of community custody if the crime was
15 committed on or after July 1, 2000, plus all of the conditions described in paragraph (e).
16 Additionally, the judge could require me to undergo treatment, to devote time to a specific
17 occupation, and to pursue a prescribed course of study or occupational training. *Heu*

18 [p] If this crime involves a kidnapping offense involving a minor, I will be required to register
19 where I reside, study or work. The specific registration requirements are set forth in the
20 "Offender Registration" Attachment. *Heu*

21 [q] If this is a crime of domestic violence, I may be ordered to pay a domestic violence
22 assessment of up to \$100.00. If I, or the victim of the offense, have a minor child, the court
23 may order me to participate in a domestic violence perpetrator program approved under
24 RCW 26.50.150. *Heu*

25 [r] If this crime involves prostitution, or a drug offense associated with hypodermic needles, I
will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus. *Heu*

[s] The judge may sentence me under the special drug offender sentencing alternative (DOSA)
if I qualify under former RCW 9.94A.120(6) (for offenses committed before July 1, 2001)
or RCW 9.94A.660 (for offenses committed on or after July 1, 2001). (Effective for
sentences imposed on or after October 1, 2005, the court may sentence me to a prison-
based alternative.) This sentence could include a period of total confinement in a state
facility for one-half of the midpoint of the standard range plus all of the conditions
described in paragraph 6(e). During confinement, I will be required to undergo a
comprehensive substance abuse assessment and to participate in treatment. The judge will
also impose community custody of at least one-half of the midpoint of the standard range.
Effective for sentences imposed on or after October 1, 2005, the judge may sentence me to
a residential chemical dependency treatment-based alternative. This sentence could include
a term of community custody for one-half of the midpoint of the standard range or two
years, whichever is greater, on the condition that I enter and remain in residential chemical
dependency treatment for three to six months, plus all of the conditions described in
paragraph 6(e). During community custody, I will be required to undergo substance abuse
assessment and participate in treatment as provided by the Department of Corrections. At a *Heu*

1 treatment termination hearing scheduled three months before the expiration of the term of
2 community custody, the judge could impose a term of total confinement equal to one-half
3 of the midpoint of the standard sentence range, followed by a term of community
4 custody. During confinement, I would be required to undergo substance abuse assessment
5 and participate in treatment as provided by the Department of Corrections. Any term of
6 community custody imposed upon me under the special drug offender sentencing
7 alternative must include appropriate substance abuse treatment, a condition not to use
8 illegal controlled substances, and a requirement to submit to urinalysis or other testing to
9 monitor that status. Additionally, the judge could prohibit me from using alcohol or
10 controlled substances, require me to devote time to a specific employment or training, stay
11 out of certain areas, pay \$30.00 per month to offset the cost of monitoring and require other
12 conditions, including affirmative conditions.

13 [t] If the judge finds that I have a chemical dependency that has contributed to the offense, the
14 judge may order me to participate in rehabilitative programs or otherwise to perform
15 affirmative conduct reasonably related to the circumstances of the crime for which I am
16 pleading guilty.

17 [u] If this crime involves the manufacture, delivery, or possession with the intent to deliver
18 methamphetamine, including its salts, isomers, and salts of isomers, or amphetamine,
19 including its salts, isomers, and salts of isomers, a mandatory methamphetamine clean-up
20 fine of \$3,000 will be assessed. RCW 69.50.401(2)(b).

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

24 [w] If this crime involves a motor vehicle, my driver's license or privilege to drive will be
25 suspended or revoked.

[x] If this crime involves the offense of vehicular homicide while under the influence of
intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after
January 1, 1999, an additional two years shall be added to the presumptive sentence for
vehicular homicide for each prior offense as defined in RCW 46.61.5055(8).

[y] The crime of _____ has a mandatory minimum sentence
of at least _____ years of total confinement. The law does not allow any reduction of
this sentence. This mandatory minimum sentence is not the same as the mandatory
sentence of life imprisonment without the possibility of parole described in paragraph 6[n].

[z] I am being sentenced for two or more serious violent offenses arising from separate and
distinct criminal conduct and the sentences imposed on counts _____ and _____ will run
consecutively unless the judge finds substantial and compelling reasons to do otherwise.

[aa] I understand that the offense(s) I am pleading guilty to include a deadly weapon or firearm
enhancement. Deadly weapon or firearm enhancements are mandatory, they must be
served in total confinement, and they must run consecutively to any other sentence and to
any other deadly weapon or firearm enhancements.

[bb] I understand that the offenses I am pleading guilty to include both a conviction under RCW
9.41.040 for unlawful possession of a firearm in the first or second degree and one or more

Cent. UU

convictions for the felony crimes of theft of a firearm or possession of a stolen firearm. The sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will also be imposed for each firearm unlawfully possessed.

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

7. I plead guilty to:
Count 1 Assault in the Second Degree ; 4 count II Assault in the Second Degree
Assault in the Second Degree in the Attached Information. I have received a copy of that Amended Information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

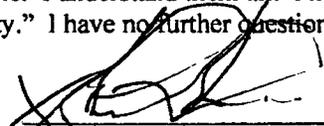
10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement: I, John A. Fisher, in the County of Clark, State of Washington, on or about October 9, 2005, did assault Pete Muller and/or Bill Pardue and/or Scott Schanaker and/or Steve Lobdell and/or Marshall Henderson and/or John Chapman and/or Tim Bieber and/or Robert M. Carder and/or Joe Graaff and/or John Ringo with a deadly weapon, to wit: a bow and arrows.

As a hung lead count II into the records.

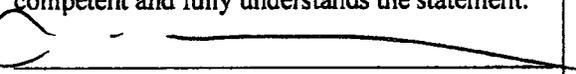
[] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment, if applicable. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.


John A. Fisher

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


Tony Golik, WSB# 25172
Deputy Prosecuting Attorney


Matthew R. Hoff, WSB# 31806
Attorney for Defendant

1 The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer
and the undersigned judge. The defendant asserted that [check appropriate box]:

- 2 (a) The defendant had previously read the entire statement above and that the defendant understood it
in full;
- 3 (b) The defendant's lawyer had previously read to him or her the entire statement above and that the
defendant understood it in full; or
- 4 (c) An interpreter had previously read to the defendant the entire statement above and that the
defendant understood it in full. The Interpreter's Declaration is attached.

5 I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant
6 understands the charges and the consequences of the plea. There is a factual basis for the plea. The
defendant is guilty as charged.

7 Dated: June 15, 2006

8 
9 Judge John F. Nichols

10 INTERPRETER'S DECLARATION

11

12 I am a certified interpreter or have been found otherwise qualified by the court to interpret in the
13 _____ language, which the defendant understands, and I have translated
the _____ for the defendant from English into that language.

14 (Identify document being translated)

15 The defendant has acknowledged his or her understanding of both the translation and the subject matter of
this document. I certify under penalty of perjury under the laws of the state of Washington that the
16 foregoing is true and correct.

17 Dated: _____

18 _____
Interpreter

19 Location: _____

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FILED

JUN 15 2006

JoAnne McBride, Clerk, Clark Co.

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

STATE OF WASHINGTON,
Plaintiff,
v.
JOHN ALPHONSE FISHER
Defendant.

SECOND AMENDED INFORMATION

No. 05-1-02281-7
(CCSO 05-15088)

COMES NOW the Prosecuting Attorney for Clark County, Washington, and does by this inform the Court that the above-named defendant is guilty of the crime(s) committed as follows, to wit:

COUNT 01- ASSAULT IN THE SECOND DEGREE - 9A.36.021(1)(c)

That he, JOHN ALPHONSE FISHER, in the County of Clark, State of Washington, on or about October 9, 2005 did knowingly and intentionally assault Pete Muller, and/or Bill Pardue, and/or Scott Schanaker, and/or Steve Lobdell, and/or Marshall Henderson, and/or John Chapman, and/or Tim Bieber, and/or Robert M. Carder, and/or Joe Graaff, and/or John Ringo, human beings, with a deadly weapon, to-wit: a bow and arrow; contrary to Revised Code of Washington 9A.36.021(1)(c).

And further, that the defendant, or an accomplice, did commit the foregoing offense while armed with a deadly weapon as that term is employed and defined in RCW 9.94A.602 and RCW 9.94A.533(4), to-wit: a bow and arrow.

This crime is a "most serious offense" pursuant to the Persistent Offender Accountability Act (RCW 9.94A.030(28), RCW 9.94A.505(2)(a)(v) and RCW 9.94A.570).

COUNT 02- ASSAULT IN THE SECOND DEGREE - 9A.36.021(1)(c)

That he, JOHN ALPHONSE FISHER, in the County of Clark, State of Washington, on or about October 9, 2005 did knowingly and intentionally assault Steven Johnson, a human being, with a deadly weapon, to-wit: a bow and arrow; contrary to Revised Code of Washington 9A.36.021(1)(c).

And further, that the defendant, or an accomplice, did commit the foregoing offense while armed with a deadly weapon as that term is employed and defined in RCW 9.94A.602 and RCW 9.94A.533(4), to-wit: a bow and arrow.

45

1 This crime is a "most serious offense" pursuant to the Persistent Offender Accountability
2 Act (RCW 9.94A.030(28), RCW 9.94A.505(2)(a)(v) and RCW 9.94A.570).

3 ARTHUR D. CURTIS
4 Prosecuting Attorney in and for
5 Clark County, Washington

6 Date: June 15, 2006

7 BY: _____

8 Anthony F. Golik, WSBA #25172
9 Deputy Prosecuting Attorney

8 DEFENDANT: JOHN ALPHONSE FISHER			
9 RACE: W	SEX: M	DOB: 6/4/1958	
10 DOL: FISHE-JA-4256LD WA		SID: WA14610191	
HGT: 603	WGT: 220	EYES: GRN	HAIR: BRO
11 WA DOC:		FBI: 403010R7	
12 LAST KNOWN ADDRESS(ES):			
H - 116 NW 50TH ST, VANCOUVER WA 98663			

APPENDIX "B"

**COLLOQUY WITH DEFENDANT
(RP 2-7)**

1 original. We don't have any conformed copies because we
2 pulled this off at the very last minute.

3 THE COURT: Okay.

4 MR. GOLIK: So, at some point during the
5 sentencing, I may have to borrow the original back so I
6 can assist the -- Mr. Fisher in reading the allegations
7 for the --

8 THE COURT: Okay.

9 MR. GOLIK: -- charges.

10 MR. HOFF: I've handed forward the original Amended
11 Information. I've provided the Defense Counsel with the
12 copies of the Amended Information.

13 MR. GOLIK: Correct.

14 MR. HOFF: And I've just signed the Statement of
15 the Defendant of Guilty, so we're ready to go.

16 The change of plea on sentencing on the Amended
17 Information, which is two counts of Assault Two with
18 Deadly Weapon on both. It's going to be a stipulated
19 exceptional sentence to 48 months in prison, is what
20 we've contemplated.

21 MR. GOLIK: Twenty-four of which would be the
22 weapons and then 24 on the --

23 THE COURT: -- the underlying.

24 MR. GOLIK: -- Assault.

25 THE COURT: Okay. Sir, will you come forward and

1 state your full name for the record?

2 MR. FISHER: John A. Fisher.

3 THE COURT: And, Mr. Fisher, you're how old; 40
4 years old?

5 MR. FISHER: Forty-nine.

6 THE COURT: Forty-nine years old. Okay. And
7 you've been educated? You have received some college
8 education.

9 MR. FISHER: Yes.

10 THE COURT: Any difficulty in reading or writing?

11 MR. FISHER: No.

12 THE COURT: And you've been over the Statement of
13 Plea of Guilty with your attorney?

14 MR. FISHER: Yes.

15 THE COURT: So you are aware that you are now being
16 charged with two counts of Assault in the Second Degree
17 with a Deadly Weapon enhancement?

18 MR. FISHER: Yes.

19 THE COURT: You do have certain rights; among those
20 rights the right to a trial by jury, the right to remain
21 silent, presumption of innocence, the right to confront
22 witnesses who testify against you, the right to bring
23 forth witnesses on your own behave, and the right to an
24 appeal. However, by pleading guilty at this time you
25 give up all those rights. Do you understand that?

1 MR. FISHER: Yes.

2 THE COURT: Each of these crimes carries with it a
3 maximum term of ten years in prison and a \$20,000 fine.
4 Based upon your prior criminal history the standard
5 range for actual confinement on the underlying charge is
6 12 to 14 months with the enhancements that would run 24
7 to 26, and that must be served consecutively. Do you
8 understand that?

9 MR. FISHER: Yes.

10 THE COURT: You'll also be subject to community
11 custody as probation. That could run up to 36 months.
12 Do you understand that?

13 MR. FISHER: Thirty-six months?

14 THE COURT: On probation.

15 MR. HOFF: Eighteen to 36 months, probation.

16 MR. FISHER: Yes, sir.

17 THE COURT: Together with that sentence and jail --
18 prison time you would be subject to various fines, fees
19 and costs.

20 Now the Prosecution has made a recommendation to
21 me. You've heard what that recommendation is, and do
22 you understand that recommendation?

23 MR. FISHER: Yes.

24 THE COURT: Also you understand I do not have to
25 follow that recommendation. It's not binding upon me.

1 MR. FISHER: Yes.

2 THE COURT: Okay. If you're not a citizen of the
3 United States this could result in being grounds for
4 being deported. You would be giving up any right that
5 you may have to own, possess, control any firearm, which
6 would continue until restored to you by an actual court
7 order. You will not be eligible to vote until that
8 right is restored to you pursuant to the terms of the
9 statute. Any public assistance will be suspended during
10 your period of imprisonment. You will be required to
11 give a biological sample for DNA purposes, the cost of
12 \$100.

13 You do understand that you are pleading guilty to
14 the deadly weapon enhancement? This is a mandatory
15 sentence with regard to that and must run consecutive to
16 any other sentence.

17 MR. FISHER: Yes.

18 THE COURT: Okay. Knowing all these rights are
19 being waived and the consequences that you face, do you
20 still wish to plead guilty to this charge?

21 MR. FISHER: Yes.

22 THE COURT: Are you making the decision to plead
23 freely and voluntarily?

24 MR. FISHER: Yes.

25 THE COURT: Has anyone made threats against you or

1 promises to force you to do this?

2 MR. FISHER: Uh, just as far as the statements and
3 the plea.

4 THE COURT: Well, as far as --

5 MR. FISHER: Yeah.

6 THE COURT: -- yeah, they've made a recommendation
7 to that and that's the only promise they've made to you;
8 right?

9 MR. FISHER: Uh-huh.

10 THE COURT: Okay. But they haven't made any
11 threats against you --

12 MR. FISHER: No.

13 THE COURT: -- to force you to do this?

14 MR. FISHER: No.

15 THE COURT: Okay. Paragraph 11 is your statement
16 as to what you did to make you guilty of this charge --
17 I'll read that out load for you.

18 MR. GOLIK: If you can read my chicken scratch,
19 Your Honor.

20 THE COURT: Well, let's see.

21 MR. GOLIK: Or I can read it into the record.
22 Whichever one the Court feels --

23 THE COURT: I'll let you do it. You're so much
24 better than I am.

25 MR. GOLIK: Public school education.

1 I, Johnny Fisher, in the County of Clark, State of
2 Washington, on or about October 9th, 2005, did assault
3 Pete Mueller and/or Bill Parview and/or Scott Shanaker
4 and/or Steve Lobbel and/or Marshall Henderson and/or
5 John Chapman and/or Tim Biber and/or Robert M. Carter
6 and/or Joe Graft and/or John Ringo with a deadly weapon,
7 to wit, a bow and arrows. And further I committed the
8 offense while armed with a deadly weapon.

9 Count II, I, Johnny Fisher, committed in the County
10 of Clark, State of Washington, on or about October 9,
11 2005, did knowingly and intentionally assault Steve
12 Johnson with a deadly weapon, to wit, a bow and arrows.
13 Furthermore, I committed the offense while armed with a
14 deadly weapon.

15 THE COURT: Okay. Mr. Fisher, is that a true
16 statement?

17 MR. FISHER: Yes.

18 THE COURT: Okay. Mr. Golik, anything you'd like
19 to add to that?

20 MR. HOFF: I think that's sufficient for the guilty
21 plea, Your Honor.

22 THE COURT: Okay. Are we going to pursue the
23 sentencing at this time?

24 MR. GOLIK: We're ready; yes.

25 THE COURT: We don't have to have a presentence

APPENDIX "C"

FELONY JUDGMENT AND SENTENCE

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FILED

JUN 15 2006

JoAnne McBride, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v.

JOHN ALPHONSE FISHER,

Defendant.

SID: WA14610191

DOB: 6/4/1958

No. 05-1-02281-7

FELONY JUDGMENT AND SENTENCE
(FJS)

PRISON

06 9 03823 1

Clerk's action required;

Paragraph 4.5 (SDOSA), 4.15.2,
 5.3, 5.6 and 5.8

I. HEARING

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

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on June 15, 2006.
(Date)

by plea jury-verdict bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
01	ASSAULT IN THE SECOND DEGREE	9A.36.021(1)(c)	10/9/2005
02	ASSAULT IN THE SECOND DEGREE	9A.36.021(1)(c)	10/9/2005

(If the crime is a drug offense, include the type of drug in the second column.)
as charged in the Second 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, .533.
- A special verdict/finding for use of **deadly weapon** other than a firearm was returned on
Count(s) _____. RCW 9.94A.602, .533.

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- 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, including its salts, isomers, and salts of isomers, **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 crimes charged in Count(s) _____ is/are **Domestic Violence** offense(s) as that term is
defined in RCW 10.99.020:
- Current offenses encompassing the same criminal conduct and counting as one crime in determining
the offender score are Count(s) _____. RCW 9.94A.589
- Additional misdemeanor crime(s) pertaining to this cause number are contained in a separate
Judgment and Sentence.
- Other current convictions listed under different cause numbers used in calculating the offender score
are (list offense and cause number): _____.

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

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

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement (adds one point to score).
RCW 9.94A.525.
- The court finds that the following prior convictions are one offense for purposes of determining the
offender score RCW 9.94A.525: _____
- The following prior convictions are not counted as points but as enhancements pursuant to
RCW 46.61.520: _____
- The State has moved to dismiss count(s) _____.

The defendant is found NOT GUILTY of Counts _____.

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
01	2	IV	12 MONTHS to 14 MONTHS	12	24-26	10 YEARS \$20,000
02	2	IV	12 MONTHS to 14 MONTHS	12	24-26	10 YEARS \$20,000

* (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) I & II.

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

Aggravating factors were stipulated to by the defendant, admitted by the defendant in the Guilty Plea, found by the court after the defendant waived jury trial, found by jury by special interrogatory.

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

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

2.5 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 9.94A750/753.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): _____.

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

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

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 The Court DISMISSES Counts _____.

The defendant is found NOT GUILTY of Counts _____.

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

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

RTN/RJN	\$To be set.	Restitution to be paid to: <input type="checkbox"/> Victim(s) and amounts to be set by separate court order		RCW 9.94A.750/.753
PCV	\$500.00	Victim Assessment		RCW 7.68.035
	\$ _____	DV Penalty Assessment		RCW 10.99.080
CRC		Court Costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190		
	\$200.00	Criminal filing fee	FRC	RCW 9.94A.505
	\$ _____	Witness costs	WFR	RCW 10.01.160 and RCW 2.40.010
	\$ _____	Sheriff Service Fees	SFR/SFS/SFW/WRF	RCW 10.01.160 and 36.18.040
	\$ _____	Jury Demand Fee \$ 250.00	JFR	RCW 10.01.160 and 10.46.190
	\$ _____	Extradition costs	EXT	RCW 9.94A.505
	\$ _____	Other Costs _____		RCW 9.94A.760
PUB	\$700.00 \$ _____	Fees for court appointed attorney Trial per diem if applicable		RCW 9.94A.505/.760/.030
WFR	\$ _____	Court appointed defense expert and other defense costs		RCW 9.94A.505, .760, 9.94A.030
FCM/MTH	\$500.00	Fine		RCW 9A.20.021
CDF/LDI/FCD/NTF/SAD/SDI	\$ _____	Drug fund contribution to be paid within two (2) years Fund # <input type="checkbox"/> 1015 <input type="checkbox"/> 1017 (TF)		RCW 9.94A.760
CLF	\$ _____	Crime lab fee - <input type="checkbox"/> Suspended due to Indigency		RCW 43.43.690
	\$100.00	Felony DNA Collection fee (for crimes committed on or after July 1, 2002)		RCW 43.43.7541
RTN/RJN	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum) To: _____ (List Law Enforcement Agency)		RCW 38.52.430
	\$ _____	Other Costs for: _____		RCW 9.94A.760

The above financial obligations do not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.750/753. A restitution hearing:

shall be set by the prosecutor

is scheduled for _____

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

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

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

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

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

In addition to the other costs imposed herein, the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate of \$ _____. (JRL) RCW 9.94A.760.

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160. The defendant shall pay the cost of services to collect unpaid legal financial obligations. This is an annual fee which will be automatically renewed until financial obligations are completed. RCW 9.94A.780 and RCW 36.18.190.

4.2 DNA TESTING. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

HIV TESTING. The defendant shall be tested and counseled for HIV as soon as possible and the defendant shall fully cooperate in the testing and counseling. RCW 70.24.340.

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

4.3 The defendant shall not have contact with ~~Rosemary King~~, Steven L Johnson including, but not limited to, personal, verbal, telephonic, electronic, written or contact through a third party for 10 years (not to exceed the maximum statutory sentence).

Supplemental Domestic Violence Protection Order or Antiharassment Order attached as Form 4.3.

4.4 OTHER: _____

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 confinement in the custody of the Department of Corrections:

48 months on Count 01

48 months on Count 02

Actual number of months of total confinement ordered is: 48 Months
 (Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

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

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____.

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

Confinement shall commence immediately unless otherwise set forth here: _____.

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

Count	minimum term	maximum term
01		
02		

(c) The defendant shall receive credit for time served of 249 day, that confinement being solely under this cause number. RCW 9.94A.505.

4.6 **COMMUNITY CUSTODY** ~~is not applicable~~ 18-36 Months Community Custody.

4.7 **WORK ETHIC CAMP** does not apply.

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 Department of Corrections:

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

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

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

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

4.13 Other:

V. NOTICES AND SIGNATURES

- 5.1 COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090
- 5.2 LENGTH OF SUPERVISION** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten (10) years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A505(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 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 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 court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047

Cross off if not applicable:

5.7 SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense or kidnapping offense (e.g., kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in Chapter 9A.40 RCW where the victim is a minor and you are not the minor's parent), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

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

30 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

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

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

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

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

If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within 5 days of the entry of the order. RCW 9A.44.130(7).

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

5.9 If the defendant is or becomes subject to a court-ordered mental health or chemical dependency treatment, the defendant must notify the Department of Corrections and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

5.10 Persistent Offense Notice

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

The crime(s) in count(s) _____ is/are one of the listed offenses in RCW 9.94A.030 (32)(b). Upon a second conviction of one of these listed offenses, the court will be required to sentence the defendant as a persistent offender to life

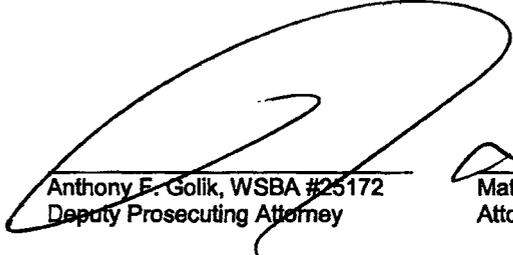
imprisonment without the possibility of early release of any kind, such as parole or community custody.

5.11 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: 6-15-06


JUDGE OF THE SUPERIOR COURT.

Print Name: John F. Nichols


Anthony F. Golik, WSBA #25172
Deputy Prosecuting Attorney


Matthew R. Hoff, WSBA #31806
Attorney for Defendant


JOHN ALPHONSE FISHER
Defendant

SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

NO. 05-1-02281-7

v.

JOHN ALPHONSE FISHER,

**WARRANT OF COMMITMENT TO STATE
OF WASHINGTON DEPARTMENT OF
CORRECTIONS**

Defendant.

SID: WA14610191

DOB: 6/4/1958

THE STATE OF WASHINGTON, to the Sheriff of Clark County, Washington, and the State of Washington, Department of Corrections, Officers in charge of correctional facilities of the State of Washington:

GREETING:

WHEREAS, the above-named defendant has been duly convicted in the Superior Court of the State of Washington of the County of Clark of the crime(s) of:

COUNT	CRIME	RCW	DATE OF CRIME
01	ASSAULT IN THE SECOND DEGREE	9A.36.021(1)(c)	10/9/2005
02	ASSAULT IN THE SECOND DEGREE	9A.36.021(1)(c)	10/9/2005

and Judgment has been pronounced and the defendant has been sentenced to a term of imprisonment in such correctional institution under the supervision of the State of Washington, Department of Corrections, as shall be designated by the State of Washington, Department of Corrections pursuant to RCW 72.13, all of which appears of record; a certified copy of said judgment being endorsed hereon and made a part hereof,

NOW, THIS IS TO COMMAND YOU, said Sheriff, to detain the defendant until called for by the transportation officers of the State of Washington, Department of Corrections, authorized to conduct defendant to the appropriate facility, and this is to command you, said Superintendent of the appropriate facility to receive defendant from said officers for confinement, classification and placement in such correctional facilities under the supervision of the State of Washington, Department of Corrections, for a term of confinement of :

COUNT	CRIME	TERM
01	ASSAULT IN THE SECOND DEGREE	<i>48 Months</i>
02	ASSAULT IN THE SECOND DEGREE	<i>48 Months</i>

These terms shall be served concurrently to each other unless specified herein:

The defendant has credit for 249 days served.

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

And these presents shall be authority for the same.

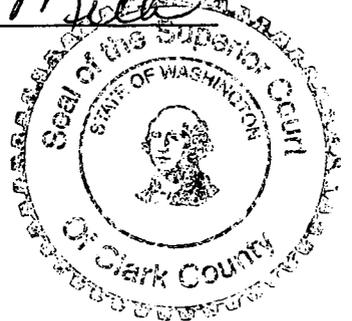
HEREIN FAIL NOT.

WITNESS, Honorable 

JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE: 6/15/06

JOANNE McBRIDE, Clerk of the
Clark County Superior Court

By: 
Deputy



VOTING RIGHTS STATEMENT: RCW 10.64. _____. I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

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

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

Interpreter signature/Print name: _____

I, JOANNE McBRIDE, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

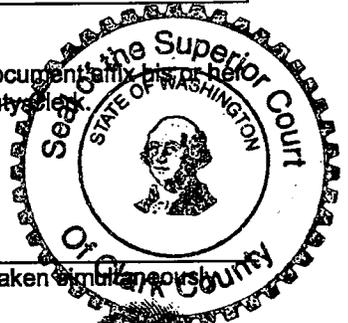
WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State, by: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT JOHN ALPHONSE FISHER	
Alias name, DOB:	
SID No. WA14610191 (If no SID take fingerprint card for State Patrol)	Date of Birth 6/4/1958
Race: W	Sex: M
Driver License No. FISHE-JA-4256LD	Driver License State: WA
FBI No. 403010R7	Local ID No. (CFN): 181004
	Corrections No.
Other	

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document, take his or her fingerprints and signature thereto. Clerk of the Court, _____, Deputy Clerk.
 Dated: 6/15/04

DEFENDANT'S SIGNATURE: _____



Left four fingers taken simultaneously

Left Thumb

Right Thumb

Right four fingers taken simultaneously



APPENDIX "D"

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
FOR AN EXCEPTIONAL SENTENCE**

FILED

JUN 15 2006

JoAnne McBride, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

No. 05-1-02281-7

v.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
FOR AN EXCEPTIONAL SENTENCE**

JOHN ALPHONSE FISHER,
Defendant.

APPENDIX 2.4 JUDGMENT AND SENTENCE

An exceptional sentence above within below the standard range should be imposed based upon the following Findings of Fact and Conclusions of Law:

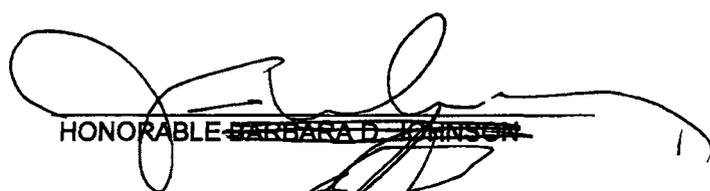
I. FINDINGS OF FACT

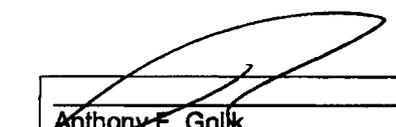
The defendant and the state agree that it is in the interest of justice to sentence the defendant to an exceptional sentence above the standard range.

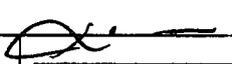
II. CONCLUSIONS OF LAW

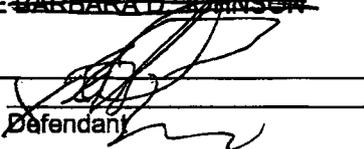
The court finds that given that both parties are in agreement as to a recommended sentence above the standard range, and further that it is in the interest of justice to order an exceptional sentence above the standard range. The defendant waives his right to have a jury determine any issues related to the imposition of an exceptional sentence upward. *Apprendi v. New Jersey*, 530 U.S. 466, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000). *Blakely v. Washington*, ___ U.S. ___, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004)

Dated: 6-15-06


HONORABLE ~~BARBARA D. JOHNSON~~


Anthony F. Gouk
WSBA #25172
Deputy Prosecuting Attorney


Matthew R. Hoff
WSBA #31806
Attorney for Defendant


Defendant

APPENDIX "E"

ORDER CORRECTING JUDGMENT AND SENTENCE

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FILED
FEB 22 2007
Sherry W. Parker, Clerk, Clark Co.

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

STATE OF WASHINGTON,
Plaintiff,
v.
JOHN ALPHONSE FISHER,
Defendant.

No. 05-1-02281-7

ORDER CORRECTING JUDGMENT
AND SENTENCE

THIS MATTER having come on regularly before the undersigned Judge of the above entitled Court, upon the Motion of the plaintiff, State of Washington, for an Order Correcting the Judgment and Sentence issued on June 15, 2006, pursuant to CrR 7.8(a) and the Court now being fully advised in the premises, now, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that in the Judgment and Sentence filed on June 15, 2006, in the case of State of Washington v. JOHN ALPHONSE FISHER, Clark County Cause No. 05-1-02281-7 shall reflect the following corrections:

- Section 2.1 -- a finding for the use of deadly weapon on Counts 1 and 2.
- Section 4.5(a) -- 12 months on Count 1. 12 months on Count 2. Actual number of months of total confinement ordered is 48 months.

ORDER - 1

kaw

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261 (OFFICE)
(360) 397-2230 (FAX)

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WF

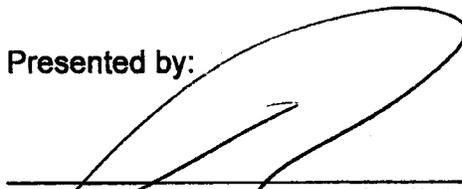
- All other terms and conditions ordered by the Court in the original Judgment and Sentence in this matter on June 15, 2006 shall remain in effect.

DATED this 22 day of Feb, 2007.



THE HONORABLE JOHN F. NICHOLS
Judge of the Superior Court

Presented by:



Anthony F. Golik, WSBA #25172
Deputy Prosecuting Attorney

Approved for entry:



Matthew Hoff, Attorney for Defendant *WSBA #3006*

was present refused to sign

John A. Fisher, Defendant



ORDER - 2

kaw

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261 (OFFICE)
(360) 397-2230 (FAX)

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

FILED
COURT OF APPEALS
DIVISION II
08 JAN 28 PM 12:16
STATE OF WASHINGTON
BY [Signature]
DEPUTY

STATE OF WASHINGTON,
Respondent,

No. 36118-3-II

v.

Clark Co. No. 05-1-02281-7

JOHN ALPHONSE FISHER,
Appellant.

DECLARATION OF
TRANSMISSION BY MAILING

STATE OF WASHINGTON)

: ss

COUNTY OF CLARK)

On January 25, 2008, I deposited in the mails of the United States of America a properly stamped and addressed envelope directed to the below-named individuals, containing a copy of the document to which this Declaration is attached.

TO: David Ponzoha, Clerk Court of Appeals, Division II 950 Broadway, Suite 300 Tacoma, WA 98402-4454	Lisa E. Tabbut Attorney for Appellant PO Box 1396 Longview, WA 98632
John Fisher, DOC #895592 Clallam Bay Corrections Center 1830 Eagle Crest Way Clallam Bay, WA 98326-9723	

DOCUMENTS: Brief of Respondent

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

Abby Rowland
Date: January 25, 2008.
Place: Vancouver, Washington.