

FILED  
COURT OF APPEALS  
DIVISION II

03 NOV 25 AM 11:34

NO. 37691-1-II

STATE OF WASHINGTON  
BY [Signature]

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

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STATE OF WASHINGTON,

Respondent,

v.

LARNARD LASHELL PINSON,

Appellant.

---

ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR PIERCE COUNTY

The Honorable Thomas J. Felnagle

---

BRIEF OF APPELLANT

---

VALERIE MARUSHIGE  
Attorney for Appellant

23619 55<sup>th</sup> Place South  
Kent, Washington 98032  
(253) 520-2637

*PM 11/24/08*

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A. ASSIGNMENTS OF ERROR

1. The trial court erred in failing to conduct an evidentiary hearing and properly classify appellant's out-of-state offense when appellant objected to including the offense in his offender score.

2. Appellant was denied his constitutional right to effective assistance of counsel at sentencing because defense counsel failed to object to including appellant's out-of-state offense in his offender score.

Issues Pertaining to Assignments of Error

1. Did the trial court err in failing to conduct an evidentiary hearing and properly classify appellant's out-of-state offense by comparing the elements of the offense with the elements of potentially comparable Washington crimes when appellant objected to including the out-of-state offense in his offender score?

2. Was appellant denied his constitutional right to effective assistance of counsel because defense counsel failed to object to including appellant's out-of-state offense in his offender score where the State's evidence was insufficient to prove by a preponderance of evidence that the out-of-state offense was comparable to a Washington felony?

B. STATEMENT OF THE CASE<sup>1</sup>

1. Procedural Facts

On July 11, 2007, the State charged appellant, Larnard Lashell Pinson, with one count of escape in the first degree, stating that Pinson knowingly escaped from custody or in the alternative escaped from a detention facility. CP 1-2; RCW 9A.76.110(1). The State amended the information on March 3, 2008, charging Pinson with one count of escape in the first degree for knowingly escaping from custody while under community custody at the time of the commission of the crime. CP 12; RCW 9A.76.110(1), RCW 9.94A.525. Following a CrR 3.5 hearing and trial before the Honorable Thomas J. Felnagle, a jury found Pinson guilty as charged on March 5, 2008. CP 38. On April 17, 2008, the court sentenced Pinson to 29 months in confinement. CP 66.

2. Substantive Facts

a. Trial

Officer Stanley James testified that he was on patrol on July 14, 2007 and around 4:30 in the morning he saw Pinson standing on a sidewalk in Tacoma. 4RP 101, 104. James recognized Pinson and knew there was a warrant for his arrest. 4RP 102. James approached Pinson

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<sup>1</sup> There are six volumes of verbatim report of proceedings: 1RP - 7/19/07; 2RP - 2/13/08; 3RP - 3/3/08; 4RP - 3/4/08; 5RP - 3/5/08; 6RP - 4/17/08.

and immediately placed him in handcuffs. When he advised Pinson that he was being detained for a warrant, Pinson said “[h]e was not aware of the warrant and that he failed to check in with DOC.” 4RP 102. James confirmed the warrant, arrested Pinson, and transported him to the Pierce County Jail. 4RP 102-03.

Deputy Gabriel Fajardo testified that on June 26, 2007, he transported Pinson and other inmates from the Pierce County Jail to Breaking the Cycle (BTC), an alternative confinement program. 4RP 107-12. After arriving at BTC, Fajardo met with the group of inmates for an orientation, advising them of the rules and consequences of noncompliance. 4RP 108-09, 112. Fajardo warned that if they failed to report to BTC, they would go back to jail and explained that he would file an escape report if they failed to report, failed a UA, and failed to provide a correct address. 4RP 122, 126. As a prerequisite for BTC, the inmates were required to fill out an address form. 4RP 112. Fajardo identified the address form signed by Pinson that indicated that the address becomes his “cell assignment, he must live there, and he is in custody.” 4RP 114.

On July 6, 2007, Fajardo was informed by case worker Doug Turner that Pinson had failed to report to BTC so he attempted to locate Pinson at the two addresses he provided on his form. 4RP 114-16. Fajardo went to the Tacoma Mission at 425 South Tacoma Way and 9608

South Steele Street but could not find Pinson. 4RP 113, 116. Thereafter, Fajardo wrote a report to forward to the prosecutor's office for the purpose of initiating a warrant for Pinson's arrest. 4RP 116-17.

Doug Turner, case worker for BTC, testified that he participated in the BTC orientation that Deputy Fajardo had with a group of inmates on June 26, 2007. 4RP 140-41. Pinson was one of the eight inmates transported from the jail to serve their sentence at BTC. 4RP 141. Turner distributed a BTC packet containing forms that the inmates had to fill out, and he explained that if they failed to report, a warrant would be issued and they would be charged with escape when they were apprehended. 4RP 139, 142. Turner met with Pinson individually on June 27, 2007 and reviewed the requirements of the BTC program and reiterated the consequences of failing to report and being charged with escape. 4RP 144-45. The last time Pinson reported to BTC was June 29, 2007, and when he failed to appear for his urine test on July 3rd, Turner notified Deputy Fajardo on July 6<sup>th</sup>. 4RP 146-48.

Turner identified a BTC form signed by Pinson that advised him that failing to report constitutes a violation which may result in a return to the jail and that he may be given a new charge of escape. 4RP 157-58, 165-67. Turner acknowledged that Pinson provided two addresses on the address form and that he recognized that one of the addresses was for the

Tacoma Mission, which is transitional housing. Although BTC prefers that the inmates have a permanent address, they are allowed to reside at the mission if they have no where else to live. 4RP 163.

Pinson testified that on June 26, 2007, Deputy Fajardo transported him and nine other inmates from the Pierce County Jail to BTC. 4RP 172-73. After going through an orientation with Fajardo and Doug Turner, they were required to fill out an address verification form. Pinson provided an address that was not verifiable so Turner instructed him to put the address of the Tacoma Rescue Mission. 4RP 175-76. Although Pinson tried to explain that he would not be allowed to stay at the mission because he had already stayed there the allotted thirty days, he was not permitted to raise questions at the orientation. 4RP 179, 192-93.

Pinson returned to BTC on June 27<sup>th</sup> and informed Turner that he was living in a car and not staying at the mission. Turner's response was that he would refer Pinson to a treatment program. 4RP 193-94. Pinson acknowledged that he did not report to BTC after June 29<sup>th</sup>, but explained that although he knew he could be charged with escape, he did not know that escape was a felony offense. 4RP 195-96. Pinson believed that he did not escape from BTC because Turner allowed him to leave even when he admitted that he did not have anywhere to live. 4RP 194-96.

b. Sentencing

The State informed the court that Pinson's criminal history included three out-of-state convictions, one in Mississippi and two in Ohio. 6RP 2-3, 6. Defense counsel argued that the State failed to sufficiently prove the two Ohio offenses and therefore Pinson's offender score was five. 6RP 3-5. When the court agreed with defense counsel that the State's evidence was inadequate, the State conceded that Pinson's offender score was five. 6RP 7.

The State recommended a high end sentence of 29 months and defense counsel asked for a low end sentence of 22 months. 6RP 8-9. Before sentencing the court asked Pinson if he wanted to say anything. 6RP 9-10. Pinson objected to the offender score of five, stating that it should be four because the Mississippi offense should not count toward his offender score. 6RP 10. The court looked at documents presented by Pinson and proceeded to impose a sentence of 29 months. 6RP 11-12.

C. ARGUMENT

THE TRIAL COURT ERRED IN FAILING TO CONDUCT AN EVIDENTIARY HEARING AND PROPERLY CLASSIFY PINSON'S OUT-OF-STATE OFFENSE WHEN HE OBJECTED TO INCLUDING THE OFFENSE IN HIS OFFENDER SCORE.

The trial court erred in failing to conduct an evidentiary hearing and properly classify Pinson's out-of-state offense by comparing the

elements of the out-of-state offense with the elements of potentially comparable Washington crimes when Pinson objected to including the out-of-state offense in his offender score. The court's error requires a remand for resentencing.

To properly calculate a defendant's offender score, the Sentencing Reform Act (SRA) requires that sentencing courts determine a defendant's criminal history based on his prior convictions and the level of seriousness of the current offense. State v. Wiley, 124 Wn.2d 679, 682, 880 P.2d 983 (1994). The SRA requires out-of-state convictions to be classified "according to the comparable offense definitions and sentences provided by Washington law." RCW 9.94A.525(3). Where out-of-state convictions are used to increase an offender score, the State must prove the conviction would be a felony under Washington law. State v. Cabrera, 73 Wn. App. 165, 168, 868 P.2d 179 (1999).

Washington law employs a two-part test to determine the comparability of a foreign offense. State v. Thieffault, 160 Wn.2d 409, 415, 158 P.3d 580 (2007) (citing State v. Morley, 134 Wn.2d 588, 606, 952 P.2d 167 (1998)). A court must first query whether the foreign offense is legally comparable by comparing whether the elements of the foreign offense are substantially similar to the elements of the Washington offense. Id. More specifically, the elements of the foreign offense must

be compared to the elements of Washington criminal statutes in effect when the foreign crime was committed. State v. Morley, 134 Wn.2d at 606.

If the elements of the foreign offense are broader than the Washington counterpart, the sentencing court must then determine whether the offense is factually comparable by comparing whether the conduct underlying the foreign offense would have violated the comparable Washington statute. Theifault, 160 Wn.2d at 415. In making its factual comparison, the sentencing court may rely on facts in the foreign record that are admitted, stipulated to, or proved beyond a reasonable doubt. In re Personal Restraint of Lavery, 154 Wn.2d 249, 258, 111 P.3d 837 (2005); State v. Farnsworth, 133 Wn. App. 1, 22, 130 P.3d 389 (2006).

Under the SRA, the State bears the burden to prove by a preponderance of evidence the existence and comparability of a defendant's prior out-of-state conviction. State v. Ross, 152 Wn.2d 220, 230, 95 P.3d 1225 (2004). A defendant's *affirmative acknowledgment* that his prior out-of-state conviction is properly included in his offender score satisfies SRA requirements. Id. (emphasis added by the court)(citing State v. Ford, 137 Wn.2d 472, 483 n.5, 973 P.2d 452 (1999)). Where a defendant specifically and timely objects that the evidence does not prove

classification of prior out-of-state convictions used in his offender score, the sentencing court should conduct an evidentiary hearing. State v. McCorkle, 88 Wn. App. 485, 500, 945 P.2d 736 (1997). If the defendant objects to the State's evidence of a prior out-of-state conviction, the State will be held to the existing record if the case is remanded for resentencing. In re Personal Restraint of Cadwallader, 155 Wn.2d 867, 878, 123 P.3d 456 (2005); State v. Lopez, 147 Wn.2d 515, 520-21, 55 P.3d 609 (2002).

At Pinson's sentencing, the prosecutor claimed that Pinson had two prior convictions in Ohio and a 1990 conviction in Mississippi for "accessory before the fact to armed robbery." 6RP 2, 6. The prosecutor stated that the Mississippi conviction was not "necessarily at issue" because "[t]he elements seem to match the Washington State statute for Robbery in the First Degree, including a weapon." 6RP 2. The record reflects that the State presented an indictment for "robbery with a deadly weapon" and a plea of guilty to "accessory before the fact to armed robbery." Supp CP \_\_\_ (copy of prior convictions, 04/17/08).

The court asked defense counsel for his response and defense counsel asserted that the State failed to sufficiently prove the two Ohio convictions and therefore Pinson's offender score was five. 6RP 3-4. After hearing argument from the prosecutor and defense counsel, the court agreed with defense counsel that the State failed to adequately prove the

Ohio convictions. 6RP 7. Consequently, the State conceded that Pinson's offender score was five. 6RP 7. The court thereafter asked Pinson if he wanted to say anything. 6RP 9-10. Pinson contended that his offender score was four because the Mississippi offense should not be included in his offender score. 6RP 10. The court glanced at documents provided by Pinson and proceeded to impose sentence, stating that Pinson "richly deserves the high end of the range." 6RP 11-12. The record does not contain the documents Pinson presented to the court, but nonetheless, "it is the State, not the defendant, which bears the ultimate burden of ensuring the record supports the existence and classification of out-of-state convictions." Ford, 137 Wn.2d at 480.

Despite Pinson's objection to counting the Mississippi offense in his offender score, the court failed to conduct an evidentiary hearing to compare the elements of the out-of-state offense with the elements of potentially comparable Washington crimes. "When a defendant challenges the validity of a prior conviction, the trial court must hold an evidentiary hearing." State v. Reinhart, 77 Wn. App. 454, 457, 891 P.2d 735, review denied, 127 Wn.2d 1014, 902 P.2d 164 (1995); McCorkle, 88 Wn. App. at 500.

Classification is a mandatory step in the sentencing process under the SRA. RCW 9.94A.525(3). The record substantiates that the trial court

disregarded Pinson's objection to his offender score and proceeded directly to sentencing without properly classifying the out-of-state offense, violating the fundamental principles of due process. Ford, 137 Wn. 2d at 481-82.

Sentencing is a critical step in our criminal justice system. The fact that guilt has already been established should not result in indifference to the integrity of the sentencing process. Determinations regarding the severity of criminal sanctions are not to be rendered in a cursory fashion. Sentencing courts require reliable facts and information. To uphold procedurally defective sentencing hearings would send the wrong message to trial courts, criminal defendants, and the public.

Ford, 137 Wn.2d at 484.

The court's failure to properly classify the out-of-state Mississippi offense requires a remand for resentencing and because Pinson clearly made an objection, the State will be held to the existing record. Cadwallader, 155 Wn.2d at 877-78; Lopez, 147 Wn.2d at 520-21; McCorkle, 88 Wn. App. at 499.

2. PINSON WAS DENIED HIS CONSTITUTIONAL RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL BECAUSE DEFENSE COUNSEL FAILED TO OBJECT TO INCLUDING PINSON'S OUT-OF-STATE CONVICTION IN HIS OFFENDER SCORE WHERE THE STATE'S EVIDENCE WAS INSUFFICIENT TO PROVE THAT THE OUT-OF-STATE OFFENSE WAS COMPARABLE TO A WASHINGTON FELONY.

Pinson was denied his right to effective assistance of counsel at sentencing because defense counsel failed to object to including Pinson's out-of-state offense in his offender score where the State's evidence was insufficient to prove that the out-of-state offense was comparable to a Washington felony. Pinson was prejudiced by defense counsel's failure to object because inclusion of the out-of-state offense increased Pinson's sentencing range. A remand for resentencing is therefore required.

Both the Sixth Amendment of the United States Constitution and article I, section 22 (amendment 10) of the Washington State Constitution guarantee the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668, 684-86, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); State v. Hendrickson, 129 Wn.2d 61, 77, 917 P.2d 563 (1996); U.S. Const. amend VI; Wash. Const. art I, sec 22.

To establish ineffective assistance of counsel, a defendant must show first that counsel's performance was deficient and, second, that the deficient performance prejudiced the defendant. Strickland v. Washington,

466 U.S. at 687. Counsel's performance is deficient when it falls below an objective standard of reasonableness and prejudice occurs when, except for counsel's errors, there is a reasonable probability that the outcome would have been different. In re Det. of Stout, 159 Wn.2d 357, 377, 150 P.3d 86 (2007); State v. McFarland, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995). There is a strong presumption that counsel's conduct is not deficient. However, there is a sufficient basis to rebut such a presumption where there is no conceivable legitimate tactic explaining counsel's performance. State v. Reichenbach, 153 Wn.2d 126, 130, 101 P.3d 80 (2004).

In State v. Thiefault, 160 Wn.2d at 412, the Washington Supreme Court vacated Thiefault's sentence and remanded for resentencing based on ineffective assistance of counsel. At Thiefault's sentencing, the trial court erroneously found that an out-of-state offense was comparable to a strike offense in Washington and sentenced Thiefault to life in prison without parole as a persistent offender. Id. at 413. The Court held that defense counsel's performance was deficient for failing to object to the court's incorrect comparability analysis and that Thiefault was prejudiced because there was a reasonable probability that the State's evidence was insufficient to prove that the out-of-state offense constituted a strike offense under the proper comparability analysis. Id. at 417.

Like Thiefault, Pinson was denied his right to effective assistance of counsel at sentencing. Defense counsel's performance was deficient for failing to hold the State to its burden of proving that Pinson's Mississippi offense was comparable to a Washington felony by objecting to the State's insufficient evidence. The record reflects that the State provided an indictment for "robbery with a deadly weapon" filed on December 7, 1989 in Chickasaw County, Mississippi and a plea of guilty and judgment for "accessory before the fact to armed robbery," entered on March 26, 1990 in Chickasaw County, Mississippi.<sup>2</sup> The plea and judgment does not contain any facts or the statute for the offense.<sup>3</sup> Supp CP \_\_\_\_ (copy of prior convictions, 04/17/08). Furthermore, the record reflects that the State did not provide a comparable Washington criminal statute in effect at the time of the out-of-state offense. Consequently, the State's evidence is insufficient to prove that the Mississippi offense is legally or factually comparable to a Washington felony under the two-part comparability test. Theifault, 160 Wn.2d at 415.

The SRA expressly places the burden of proving a defendant's criminal history on the State because it is "inconsistent with the principles underlying our system of justice to sentence a person on the basis of

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<sup>2</sup> Pinson's Judgment and Sentence for escape in the first degree incorrectly states that he was convicted of "armed robbery," committed on 07/27/89 and that he was sentenced on 06/06/90 in Jackson, Mississippi. CP 63.

<sup>3</sup> The indictment and plea of guilty is attached as an appendix.

crimes that the State either could not or chose not to prove.” In re Personal Restraint of Williams, 111 Wn.2d 353, 357, 759 P.2d 436 (1988). Accordingly, defense counsel’s performance was deficient for failing to object to counting the Mississippi offense in Pinson’s offender score because the record clearly substantiates that the State’s evidence fails to prove that the out-of-state offense was comparable to a Washington crime. It is evident that defense counsel had no conceivable legitimate tactic for not objecting to the unproven out-of-state offense.

Pinson was clearly prejudiced by defense counsel’s deficient performance because inclusion of the out-of-state offense resulted in an offender score of five with a sentencing range of 22 to 29 months. Without the out-of-state offense, Pinson’s offender would be four with a sentencing range of 15 to 20 months.

A remand for resentencing is required because defense counsel’s performance fell below an objective standard of reasonableness and except for counsel’s error, there is a reasonable probability that the outcome would have been different. State v. McFarland, 127 Wn.2d at 334-35; Thiefault, 160 Wn. 2d at 412.

D. CONCLUSION

“A sentencing court acts without statutory authority under the Sentencing Reform Act of 1981 when it imposes a sentence based on a miscalculated offender score.” In re Personal Restraint of Johnson, 131 Wn.2d 558, 568, 933 P.2d 1019 (1997). For the reasons stated, this Court should vacate Mr. Pinson’s sentence and remand for resentencing.

DATED this 24<sup>th</sup> day of November, 2008.

Respectfully submitted,

  
VALERIE MARUSHIGE  
WSBA No. 25851  
Attorney for Appellant

# **APPENDIX**

POOR QUALITY  
ORIGINAL

DOB: AE: 03-16-72; LP: 06-29-66  
SSN: AE: 487-41-4860; LP: 326-66-1484

SCANNED

INDICTMENT: ROBBERY WITH A DEADLY WEAPON -- MCA 97-3-79

STATE OF MISSISSIPPI  
COUNTY OF CHICKASAW  
FIRST JUDICIAL DISTRICT

NO. 9191

In the Circuit Court in and for said County, State and  
Judicial District prior to the December 1989 Term.

THE GRAND JURORS of the State of Mississippi, taken  
from the body of good and lawful citizens of said County and  
State, duly elected, empaneled, sworn and charged to inquire  
in and for said County, State and Judicial District prior to the  
December 1989 Term of Court aforesaid, in the name and by the  
authority of the State of Mississippi upon their oaths present:

COUNT I.

That, ANTHONY ECHOLS and LANARD PINSON, late of the County, State and  
Judicial District aforesaid, on or about the 17th day of July, 1989,  
in the County, State and Judicial District aforesaid and within the  
jurisdiction of this Court, did unlawfully, willfully, and feloniously  
commit an assault upon the person of Michael Bowles with a certain  
deadly weapon, to-wit a shotgun, and did then and there feloniously  
put him, the said Michael Bowles, in fear of immediate injury to  
his person by the exhibition of the said deadly weapon as aforesaid,  
and with the unlawful and felonious intent to steal, they the said  
ANTHONY ECHOLS and LANARD PINSON, did then and there unlawfully,  
willfully and feloniously take, steal and carry away from the person  
of and in the presence of and against the will of the said  
Michael Bowles, certain personal property, to-wit money, all of the  
personal property of the said Billy and Ruby Bowles, d/b/a  
Bowles Grocery, in violation of the provisions of Section 97-3-79 of  
the Mississippi Code of 1972, Annotated, as amended, and contrary to  
the form of the statute in such cases made and provided and against  
the peace and dignity of the State of Mississippi.

COUNT II.

That the aforesaid ANTHONY ECHOLS and LANARD PINSON, late of the  
County, State and Judicial District aforesaid, on or about the 26th  
day of July, 1989, in the County, State and Judicial District  
aforesaid and within the jurisdiction of this Court, did unlawfully,  
willfully, and feloniously commit an assault upon the person of  
Angie Watkins with a certain deadly weapon, to-wit a shotgun, and did  
then and there feloniously put her, the said Angie Watkins, in fear of  
immediate injury to her person by the exhibition of the said deadly  
weapon as aforesaid, and with the unlawful and felonious intent to  
steal, they the said ANTHONY ECHOLS and LANARD PINSON, did then and

CERTIFIED A TRUE COPY  
This 11 day of March, 1988  
SANDRA N. WILLIS, Circuit Clerk  
Chickasaw County, Mississippi

By [Signature]

there unlawfully, willfully and feloniously take, steal and carry away from the person of and in the presence of and against the will of the said Angie Watkins, certain personal property, to-wit money, all of the personal property of the said Pak-a-Pok, Inc., a Mississippi corporation, d/b/a East Pak-a-Pok, in violation of the provisions of Section 97-3-79 of the Mississippi Code of 1972, Annotated, as amended, and contrary to the form of the statute in such cases made and provided and against the peace and dignity of the State of Mississippi.

A TRUE BILL

Lawrence R. Tuttle  
Assistant District Attorney

Ira J. Bagley  
Foreman of the Grand Jury

WITNESSES:

James Meyers

Filed: December 7, 1989 Ralph W. Thomas Clerk

Recorded: Dec. 11, 1989 Ralph W. Thomas Clerk

I hereby certify that I have this day personally delivered to \_\_\_\_\_ true copies of this indictment and the capias issued hereupon. \_\_\_\_\_, Sheriff. By \_\_\_\_\_, D.S.  
Date: \_\_\_\_\_, 19\_\_

CERTIFIED TRUE COPY  
This 12 day of March, 192008  
SANDRA N. WILLIS, Circuit Clerk  
Chickasaw County, Mississippi  
By [Signature]

CERTIFIED TRUE COPY  
This \_\_\_ day of \_\_\_\_\_, 18\_\_  
SANDRA N. WILLIS, Circuit Clerk  
Chickasaw County, Mississippi  
By \_\_\_\_\_ D.C.

644V

In the Circuit Court of Chickasaw County, Mississippi

FIRST JUDICIAL DISTRICT

MARCH TERM, 1990

STATE OF MISSISSIPPI

VS.

CAUSE NO. 9191

LARNARD PINSON, DEFENDANT

PLEA OF GUILTY AND JUDGMENT OF THE COURT

This day into open Court came the District Attorney who prosecutes for the State of Mississippi and came also the above named Defendant, LARNARD PINSON, in his own proper person and represented by counsel, L. W. LEON JOHNSON, (or having filed a written Waiver of representation by counsel) and was lawfully arraigned (or having filed a written Waiver of Arraignment) upon an Indictment lawfully returned into open Court by the Grand Jury of the (1st, 2nd) Judicial District of Chickasaw County, Mississippi, charging the said Defendant with the crime of ARMED ROBBERY AMENDED TO ACCESSORY BEFORE THE FACT TO ARMED ROBBERY, and being duly advised of all his legal and constitutional rights in the premises and being further advised of the consequences of such a plea, the Defendant did then and there offer his plea of guilty to said CHARGE OF ACCESSORY BEFORE THE FACT TO ARMED ROBBERY,

therefore, for said offense and on said plea of guilty, which plea is hereby accepted by the Court, it is by the Court ORDERED and ADJUDGED that the said LARNARD PINSON be

and he is hereby sentenced to serve a term of FIFTEEN (15) years in the State Penitentiary OR OTHER M.D.O.C. INSTITUTION WITH EIGHT (8) YEARS SUSPENDED, UNDER THE PROVISIONS OF SECTIONS 97-3-79 AND 97-7-3 OF THE MISSISSIPPI CODE, AND THE COURT RESERVES A RIGHT OF REVISION OF THIS SENTENCE FOR A PERIOD OF TWO YEARS TO SUSPEND AN ADDITIONAL TWO (2) YEARS OF THIS SENTENCE.

and he is remanded into the custody of the Sheriff who shall see that this judgment is properly executed. DEFENDANT TO REPORT TO SHERIFF AT 10 O'CLOCK A.M. ON APRIL 3, 1990.

The Defendant shall be given credit for... days served in custody awaiting trial on this charge, as by law required. THE M.D.O.C. STAFF PSYCHIATRIST IS REQUESTED TO EVALUATE DEFENDANT AS TO VIOLENT TENDENCIES AND FORWARD A REPORT TO THIS COURT BY DEC. 1, 1991. SO ORDERED AND ADJUDGED this the 26 day of MARCH, 1990.

[Signature]
CIRCUIT JUDGE

Filed this 26th day of March, 1990

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Ralph W. Howard - CIRCUIT CLERK
By: Debrae Rhodes, DC

CERTIFIED A TRUE COPY
This 7 day of March, 2008
SANDRA N. WILLIS, Circuit Clerk
Chickasaw County, Mississippi
By: [Signature] DC

**DECLARATION OF SERVICE**

On this day, the undersigned sent by U.S. Mail, in a properly stamped and addressed envelope, a copy of the document to which this declaration is attached to Kathleen Proctor, Pierce County Prosecutor's Office, 930 Tacoma Avenue South, Tacoma, Washington and Leonard Pinson, DOC # 898459, Washington State Penitentiary, 1313 N 13<sup>th</sup> Avenue, Walla Walla, Washington 99362.

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

DATED this 24<sup>th</sup> day of November, 2008 in Kent, Washington.



\_\_\_\_\_  
Dennis P. Burns  
Attorney at Law  
WSBA No. 25844

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