

NO. 37906-6

FILED  
COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON

BY *cm*  
DEPUTY

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

STATE OF WASHINGTON, APPELLANT

v.

SARA MARIE MIHALI, RESPONDENT

Appeal from the Superior Court of Pierce County  
The Honorable Ronald E. Culpepper

No. 99-1-01818-6

**RESPONDENTS BRIEF**

By  
SARA MARIE MIHALI  
Respondent

P.O. BOX 9043  
Tacoma, WA 98490  
TEL: 253. 282.8122

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INTRODUCTION:

Respondents Concern with the Appellants Assignment of Errors

The Appellants brief states that the Respondent has a prior felony conviction that, pursuant to RCW 9.41.040(4)(b)(i) and RCW 9.94A.525, makes the Respondent ineligible to restore her firearm rights which the court of conviction granted. **Respondent has no prior felonies.**

A. STATEMENT OF THE CASE..... Pg. 1

1. Procedure.....Pg. 1

B. ARGUMENT.....Pg. 2

1. The Respondent entered into a plea bargain agreement on October 21, 1999 and was sentenced on June 27, 2000 for:  
Count I: Conspiracy to Manufacture a Controlled Substance.

According to the Judgment and Sentence document on file with the Pierce County Superior Court Clerk, Page 2; Section 2.3 Sentencing Data, clearly states that the Offender Score is a Zero, and the Serious Level is Unranked.

C. CONCLUSION.....Pg. 3

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A. **STATEMENT OF THE CASE**

1. Procedure

Ms. Sara Marie Mihali, hereinafter “Respondent” entered into a plea bargain agreement on October 21, 1999 and was sentenced on June 27, 2000 for the following crime: *Count I: Conspiracy to Manufacture a Controlled Substance.*

According to the Judgment and Sentence document on file with the Pierce County Superior Court Clerk, and already submitted with the Appellants brief, **indicates that this conviction was not a Class B Felony, as suggested. In specific, Section 2.3 ‘Sentencing Data’ clearly shows that the ‘Offender Score’ is a Zero, and the ‘Seriousness Level’ as Unranked.** (emphasis added)

Upon further review of the Statement of Defendant of Guilty Plea document, Pg.1-10, the items that were related of the agreement are indicated with a circle around the terms, and according to Page 8, Item/Paragraph ‘U’ there is no indication as to whether it was applicable to the plea.

Respondent agreed to the plea under the premise that it was an unranked felony, and would not have entered into the agreement otherwise.

B. ARGUMENT

Respondent was sentenced under the Washington State Sentencing Committee Guidelines, which include changes enacted by the 2000 regular session of the Legislature, HB 1006; Section 7 (attached).

The 2000 version of the Adult Sentencing Manual, Section 1, 'Determining the Offense Seriousness Level' reads:

*"Crimes committed between July 27, 1997 and July 24, 1999 should be scored according to the 1997 sentencing grid...."*

The 1997 version of the Adult Sentencing Manual, Section 1, last paragraph:

*"Some felonies rarely charged or recently created by the Legislature are not included in the Seriousness Level table and do not have a standard sentence range; thus, no sentence calculations are necessary for these unranked crimes."*

Further, it defines "Unranked Crimes" as:

*"For an offender convicted of a crime without an established seriousness level (i.e., an unranked crime), no standard sentence range applies. In these cases, the court is to impose a determinate sentence that may include not more than one year of confinement, community service work, legal financial obligations, a term of community supervision not to exceed one year, and/or a fine. Sentences involving greater than one year of confinement are exceptional sentences and must be justified in writing (RCW 9.94A.120(7))."*

C. **CONCLUSION**

The Respondent, requests that the original decision from the Honorable Ronald E. Culpepper, Pierce County Superior Court Judge, not be reversed. Thank you for your time in this matter.

Filed on February 26, 2009

Respectfully Submitted,  
Ms. Sara M. Mihali  
Respondent

JUN 27 2000

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
TED RUTT, Clerk

IN AND FOR THE COUNTY OF PIERCE By \_\_\_\_\_  
DEPUTY

STATE OF WASHINGTON,  
Plaintiff,

CAUSE NO. 99-1-01818-6

JUDGMENT AND SENTENCE

vs.

SARA MARIE MIHALLI,  
Defendant.

DOB: 07/20/74  
SID NO.: WA19475813  
LOCAL ID:

(FELONY)

I. HEARING

1.1 A sentencing hearing in this case was held on June 27, 2000.

1.2 The defendant, the defendant's lawyer, DENNIS TWITCHELL, and the  
LCS deputy prosecuting attorney, STEVEN O. MERRIVAL, were present.

II. FINDINGS

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

2.1 CURRENT OFFENSES(S): The defendant was found guilty on 10/21/99 by  
 plea  jury-verdict  bench trial of:

Count No.: I  
Crime: CONSPIRACY TO MANUFACTURE A CONTROLLED SUBSTANCE, Charge  
Code: (J8M-C) METHAMPHETAMINE, SCHEDULE II  
RCW: 69.50.407 and 69.50.401(a)(1)(iii)  
Date of Crime: 03/15/99  
Incident No.: 990741018

- Additional current offenses are attached in Appendix 2.1.
- A special verdict/finding for use of deadly weapon was returned on Count(s).
- A special verdict/finding of sexual motivation was returned on Count(s).

JUDGMENT AND SENTENCE  
(FELONY) - 1

ENTERED  
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- A special verdict/finding of a RCW 69.50.401(a) violation in a school bus, public transit vehicle, public park, public transit shelter or within 1000 feet of a school bus route stop or the perimeter of a school grounds (RCW 69.50.435).
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400(1)):

2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360): NONE KNOWN OR CLAIMED.

- Additional criminal history is attached in Appendix 2.2.
- Prior convictions served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(5)(a)):

2.3 SENTENCING DATA:

	Offender Score	Seriousness Level	Range Months	Maximum Years
Count No. I:	0	unranked	0-12mos	10yrs/\$20,000

- Additional current offense sentencing data is attached in Appendix 2.3.

2.4 EXCEPTIONAL SENTENCE:

- Substantial and compelling reasons exist which justify a sentence  above  below the standard range for Count(s)\_\_\_\_. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney  did  did not recommend a similar sentence.

2.5 RECOMMENDED AGREEMENTS:

- For violent offenses, most serious offenses or armed offenders recommended sentencing agreements or plea agreements are  attached  as follows:

JUDGMENT AND SENTENCE  
(FELONY) - 2

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2.6 RESTITUTION:

- Restitution will not be ordered because the felony did not result in injury to any person or damage to or loss of property.
- Restitution should be ordered. A hearing is set for \_\_\_\_\_.
- Extraordinary circumstances exist that make restitution inappropriate. The extraordinary circumstances are set forth in Appendix 2.5.

2.7 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS: The court has considered 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 specifically finds that the defendant has the ability to pay:

- no legal financial obligations.
- the following legal financial obligations:
  - crime victim's compensation fees.
  - court costs (filing fee, jury demand fee, witness costs, sheriff services fees, etc.)
  - county or interlocal drug funds.
  - court appointed attorney's fees and cost of defense.
  - fines.
  - other financial obligations assessed as a result of the felony conviction.

A notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender, if a monthly court-ordered legal financial obligation payment is not paid when due and an amount equal to or greater than the amount payable for one month is owed.

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.

2.8 SPECIAL FINDINGS PURSUANT TO RCW 9.94A.120:

JUDGMENT AND SENTENCE  
(FELONY) - 3

- [ ] The defendant is a first time offender (RCW 9.94A.030(20)) who shall be sentenced under the waiver of the presumptive sentence range pursuant to RCW 9.94A.120(5).
- [ ] The defendant is a sex offender who is eligible for the special sentencing alternative under RCW 9.94A.120(7)(a). The court has determined, pursuant to RCW 9.94A.120(7)(a)(ii), that the special sex offender sentencing alternative is appropriate.

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.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 LEGAL FINANCIAL OBLIGATIONS. Defendant shall pay to the Clerk of this Court:

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

\_\_\_\_\_

\_\_\_\_\_

\$ 110, Court costs (filing fee, jury demand fee, witness costs, sheriff service fees, etc.);

\$ 500, Victim assessment;

\$ \_\_\_\_\_, Fine;  VUCSA additional fine waived due to indigency (RCW 69.50.430);

\$ 200, Fees for court appointed attorney;

\$ ~~150~~, Washington State Patrol Crime Lab costs;

\$ 150, Drug enforcement fund of PCSD;

\$ \_\_\_\_\_, Other costs for: \_\_\_\_\_;

\$ 960, TOTAL legal financial obligations  including

JUDGMENT AND SENTENCE (FELONY) - 4

restitution [ ] not including restitution.

[ ] Minimum payments shall be not less than \$ \_\_\_\_\_ per month.  
Payments shall commence on \_\_\_\_\_.

[X] The Department of Corrections shall set a payment schedule.

[ ] Restitution ordered above shall be paid jointly and severally with:

Name	Cause Number
_____	_____
_____	_____
_____	_____

The defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten years from the date of sentence or release from confinement to assure payment of the above monetary obligations.

Any period of supervision shall be tolled during any period of time the offender is in confinement for any reason.

Defendant must contact the Department of Corrections at 755 Tacoma Avenue South, Tacoma ~~upon release~~ or by TODAY.

[X] Bond is hereby exonerated.

4.2 CONFINEMENT ONE YEAR OR LESS: The court imposes the following sentence:

(a) TOTAL CONFINEMENT: Defendant is sentenced to following term of total confinement in the County Jail commencing TODAY.

1  days/months on Count No. 1 [ ] concurrent [ ] consecutive  
           days/months on Count No.            [ ] concurrent [ ] consecutive  
           days/months on Count No.            [ ] concurrent [ ] consecutive

Actual number of days of total confinement ordered is: 1

[ ] This sentence shall be [ ] concurrent [ ] consecutive with the sentence in

Credit is given for 1 days served.  
[ ] Confinement shall be intermittent as follows:

(b) ALTERNATIVE CONVERSION PURSUANT TO RCW 9A.94A.380:            days of actual total confinement imposed above shall be converted to:

[ ]            days of rehabilitative programs through the available county supervised community option known as Breaking the Cycle (BTC).

[ ]            days of partial confinement.

[ ] Partial confinement shall be served in work release.

[ ] Partial confinement shall be served in home detention.

[ ]            hours of community service under the supervision of the Department of Corrections to be completed within            months of [ ] this date [ ] release from confinement.

[ ] Alternative conversion was not used because:

(c)  COMMUNITY SUPERVISION: Defendant shall serve 12 months in community supervision under the Department of Corrections. Defendant must contact the Department of Corrections at 755 Tacoma Avenue South, Tacoma upon release or by TODAY. Defendant shall comply with all rules, regulations and requirements of the Department.

(d)  CRIME RELATED PROHIBITIONS AND OTHER REQUIREMENTS: Crime related prohibitions and other requirements are attached.

(e) [ ] HIV TESTING. SEE APPENDIX E The Health Department or designee shall test the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing.

(f) [ ] DNA TESTING. The defendant shall have a blood sample drawn for purpose of DNA identification analysis. The county shall be responsible for obtaining the sample prior to the defendant's release from confinement.

[ ] PURSUANT TO 1993 LAWS OF WASHINGTON, CHAPTER 419, IF THIS OFFENDER IS FOUND TO BE A CRIMINAL ALIEN ELIGIBLE FOR RELEASE AND DEPORTATION BY THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, SUBJECT TO ARREST AND REINCARCERATION IN ACCORDANCE WITH THIS LAW, THEN THE UNDERSIGNED JUDGE AND PROSECUTOR CONSENT TO SUCH RELEASE AND DEPORTATION PRIOR TO THE EXPIRATION OF THE SENTENCE.

EACH VIOLATION OF THIS JUDGMENT AND SENTENCE IS PUNISHABLE BY UP TO 60 DAYS OF CONFINEMENT. (RCW 9.94A.200(2)).

ANY DEFENDANT CONVICTED OF A SEX OFFENSE MUST REGISTER WITH THE COUNTY SHERIFF FOR THE COUNTY OF THE DEFENDANT'S RESIDENCE WITHIN 24 HOURS OF DEFENDANT'S RELEASE FROM CUSTODY. RCW 9A.44.130.

FIREARMS: PURSUANT TO RCW 9.41.040, YOU MAY NOT OWN, USE OR POSSESS ANY FIREARM UNLESS YOUR RIGHT TO DO SO IS RESTORED BY A COURT OF RECORD.

PURSUANT TO RCW 10.73.090 AND 10.73.100, THE DEFENDANT'S RIGHT TO FILE ANY KIND OF POST SENTENCE CHALLENGE TO THE CONVICTION OR THE SENTENCE MAY BE LIMITED TO ONE YEAR.

Date: 6/27/00

John A. McCarthy  
JUDGE JOHN MCCARTHY

Presented by:  
Rayson for Steve Mervin

Approved as to form:  
[Signature]

Deputy Prosecuting Attorney  
WSB # 26049

Lawyer for Defendant  
WSB # 21647

dlk

FILED  
CRIMINAL DIV 2  
IN OPEN COURT  
JUN 27 2000  
TED RUTT, Clerk  
By [Signature]

SENTENCE ONE YEAR OR LESS - 2

FINGERPRINTS

Right Hand

Fingerprint(s) of: SARA MARIE MIHALI, Cause #99-1-01818-6

Attested by: Ted Rutt, CLERK:

By: DEPUTY CLERK

*Veterin Meade*

Date: 6/27/08

CERTIFICATE

OFFENDER IDENTIFICATION

I, \_\_\_\_\_  
Clerk of this Court, certify that  
the above is a true copy of the  
Judgment and Sentence in this  
action on record in my office.

State I.D. #WA19475813

Date of Birth 07/20/74

Sex FEMALE

Race WHITE

Dated: \_\_\_\_\_

ORI \_\_\_\_\_

CLERK

OCA \_\_\_\_\_

By: \_\_\_\_\_

DEPUTY CLERK

OIN \_\_\_\_\_

DOA \_\_\_\_\_



FINGERPRINTS

CAUSE NO. 99-1-01818-6

APPENDIX "E" - ADDITIONAL CONDITIONS OF SENTENCE

It is further ordered that the defendant, as a condition of his/her community supervision, as a first-time offender, shall:

- \_\_\_ FTO 1) Refrain from committing new offenses;
- \_\_\_ FTO 2) Devote time to a specific employment or occupation;
- \_\_\_ FTO 3) Enter and successfully complete Breaking the Cycle (BTC) TASC or other available outpatient treatment for up to two years, or inpatient treatment as designated by C.C.O.
- \_\_\_ FTO 4) Pursue a prescribed, secular course of study or vocational training;

It is further ordered that the defendant, as a condition of his/her community supervision, shall:

- X 1) Remain within prescribed geographical boundaries.<sup>A</sup> Notify the court or the community corrections officer prior to any change in the defendant's address or employment. per CCO
- X 2) Report as directed to the court and a community corrections officer.
- \_\_\_ 3) (NARC order) Refrain from entering certain geographical boundaries (designated by attachment).
- X 4) Not purchase, possess, or use any controlled substances without a prescription from a licensed physician. Provide a written prescription for controlled substances to the Community Corrections Officer within 24 hours of receipt. Submit to urinalysis as directed by the community corrections officer.
- X 5) Refrain from associating with drug users or drug sellers.
- \_\_\_ 6) Comply with Breaking the Cycle (BTC) Program requirements, including participation in BTC recommended chemical dependency treatment.

X OTHER: follow - vp treatment as recommended by cco

APPENDIX E



1999-572

99-1-01818-6 5421436 STTDFG 07-28-08

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff,

vs.

SARA M. Mihali,

Defendant.

CAUSE NO. 99-1-01818-6

STATEMENT OF DEFENDANT ON PLEA OF GUILTY

OCT 21 1999

1. My true name is: SARA M. Mihali

2. My age is: 25

3. I went through the 12<sup>th</sup> 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. My lawyer's name is DENNIS TWICHEL.

(b) I am charged with the crime(s) of:

Count I: Conspiracy to Manufacture Controlled Substances

Elements: On March 15, 1999, A<sup>B</sup> agreed to manufacture methamphetamine with another person and I took an act to manufacture methamphetamine.

This crime carries a maximum sentence of 10 years imprisonment and a ~~\$10,000~~ 15,000 fine. The standard range is from 0 months to 12 months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense[ ] Serious Violent[ ] Violent[ ] Non-Violent[ ] Sex[ ] Drug~~X~~ Traffic[ ] (check all that apply)

STATEMENT OF DEFENDANT ON PLEA OF GUILTY - 1

Count II: \_\_\_\_\_

Elements: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This crime carries a maximum sentence of \_\_\_\_\_ years imprisonment and a \$ \_\_\_\_\_ fine. The standard range is from \_\_\_\_\_ months to \_\_\_\_\_ months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense[ ] Serious Violent[ ]  
Violent[ ] Non-Violent[ ] Sex[ ] Drug[ ]  
Traffic[ ] (check all that apply)

(c) \_\_\_\_\_ Additional counts are addressed in Appendix \_\_\_\_\_.

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT 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 have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a determination of guilt after a trial.

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

- (a)  This offense is a most serious offense as defined by RCW 9.94A.030(23), and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

STATEMENT OF DEFENDANT  
ON PLEA OF GUILTY - 2

001928 - 582

~~(k)~~

In addition, pursuant to RCW 9.94A.030(b)(i), if this offense is (1) rape in the first degree, rape of a child in the first degree, rape in the second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child molestation in the first degree, or (2) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation, or (3) any attempt to commit any of the crimes listed in this sentence, and I have at least one prior conviction for one of these listed crimes in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere.

~~(k)~~

For crimes committed prior to July 1, 1997, criminal history always includes juvenile convictions for sex offenses and serious violent offenses. Criminal history also includes convictions in juvenile court for other felonies or serious traffic offenses that were committed when I was 15 years of age or older. Juvenile convictions, except those for class A felonies, serious violent offenses or sex offenses, count only if I was less than 23 years old when I committed the crime to which I am now pleading guilty.

- (ii) For crimes committed after July 1, 1997, criminal history always includes all juvenile adjudications or convictions.

- (c) The stipulation as to 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.

~~(d)~~

If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and

STATEMENT OF DEFENDANT  
ON PLEA OF GUILTY - 3

the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.

- (e) In addition to sentencing me to confinement, the judge will order me to pay \$\_\_\_\_\_ as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and attorney's fees.
- (f) If the total period of confinement ordered is 12 months or less, the court may impose, in addition to confinement, up to one year of community supervision. If the court imposes a sentence under a first time offender waiver, the court may impose, in addition to confinement, up to two years of community supervision. If the total period of confinement ordered is over one year, the court must impose a term of community placement or community custody, in addition to confinement, for certain offenses. Community placement for one year is a mandatory sentence condition for offenders sentenced to prison for the following offenses committed on or after July 1, 1988:
- any sex offense or serious violent offense committed before July 1, 1990;
  - second degree assault;
  - any crime against a person with a deadly weapon finding under RCW 9.94A.125; or
  - any felony offense under RCW Chapter 69.50 or 69.52.

Community placement for two years is a mandatory sentence condition for offenders sentenced to prison for the following offenses:

- any sex offense committed after June 30, 1990 and before June 6, 1996;
- any serious violent offense committed after June 30, 1990; or
- any vehicular homicide or vehicular assault committed on or after June 6, 1996.

Community custody for three years is a mandatory sentence condition for offenders sentenced to prison for the following offenses:

- any sex offense committed on or after June 6, 1996.

During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities and may be ordered to

STATEMENT OF DEFENDANT  
ON PLEA OF GUILTY - 4

perform community service. My failure to comply with these conditions will render me ineligible for general assistance.

- (g) The prosecuting attorney will make the following recommendation to the judge:

standard range sentence of 0-12 months  
\$110<sup>00</sup> costs exact amount of confinement  
\$500<sup>00</sup> CVPA time left open pending sentencing  
12 months community supervision

- (h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal the sentence. If the sentence is within the standard range, no one can appeal the sentence.

- (i) The crime of Conspiracy to Manufacture has a mandatory minimum sentence of at least N/A 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(a)(i). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

- (j) I understand that the offense(s) I am pleading guilty to include(s) a deadly weapon or firearm enhancement(s). 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. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

X (k) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts \_\_\_\_\_ shall be served consecutively to each other. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

- (l) The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030(22). This sentence could include as much as 90 days of confinement plus all the conditions described in paragraph (f). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed

STATEMENT OF DEFENDANT  
ON PLEA OF GUILTY - 5

course of study or occupational training. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

~~(m)~~ The judge may suspend execution of the standard range term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.120(8). If the judge suspends execution of the standard range term of confinement, I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater, I will be ordered to serve up to 180 days of total confinement, I will be ordered to participate in sex offender treatment, and I will be subject to all of the conditions described in paragraph (f). Additionally, the judge could require me to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(n) The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.120(6). 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 (f). During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose one year of community custody that must include appropriate outpatient treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. Additionally, the judge could require me to devote time to specific employment or training, to stay out of certain areas, and to pay thirty dollars per month to offset the cost of monitoring. If a violation of the sentence occurs during community custody, the judge may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

~~(o)~~ If I have a driver's license and am convicted of any offense requiring mandatory license suspension or revocation, pursuant to RCW 46.20.270 and/or RCW 46.20.285, I must now surrender it to the judge. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(p) This plea of guilty will result in the suspension of public assistance, pursuant to RCW 74.08.290. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

~~(q)~~ This crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles; I will be required to undergo testing for the human

STATEMENT OF DEFENDANT  
ON PLEA OF GUILTY - 6

immunodeficiency (AIDS) virus. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

~~(1)~~ 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.

~~(2)~~ This crime involves a sex offense or a violent offense; I will be required to provide a sample of my blood for purposes of DNA identification analysis. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

~~(3)~~ Because this crime involves a sex offense, pursuant to RCW 9A.44.130(8)(a), or a kidnapping offense, pursuant to RCW 9A.44.130(8)(b), I will be required to register with the sheriff of the county of the state of Washington where I reside. If I am not a resident of Washington, but I am a student in Washington or I am employed in Washington or I carry on a vocation in Washington, I must register with the sheriff of the county of my school, place of employment, or vocation. I must register immediately upon being sentenced unless I am in custody, in which case I must register at the time of my release with the person designated by the agency that has me in custody and I must also register within 24 hours of my release with the sheriff of the county of the state of Washington where I will be residing, or if not residing in the state of Washington, where I am a student, where I am employed, or carry on a vocation.

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

If I change my residence within a county, I must send written notice of my change of residence to the sheriff within 72 hours of moving. If I change my residence to a new county within this state, I must send written notice of the change of address to the county sheriff in the new county of residence at least fourteen days before moving and I must register with the sheriff of the new county within 24 hours of moving and I must also give written notice of my change of address to the sheriff of the county where last registered within 10

STATEMENT OF DEFENDANT  
ON PLEA OF GUILTY - 7

days of moving. If I move out of Washington state, within 10 days of moving to the new state or foreign country, I must send written notice to the county sheriff with whom I last registered in Washington state.

If I am a resident of Washington and I am admitted to a public or a private institution of higher education, I shall, within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff of the county of my residence of my intent to attend the institution. [If not applicable, this section should be stricken and initialed by the defendant and the judge.]

- (u) 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.(PURSUANT TO RCW 9.41.047(1), THE JUDGE SHALL READ THIS SECTION TO THE DEFENDANT IN OPEN COURT IF THE DEFENDANT IS PLEADING GUILTY TO A "SERIOUS OFFENSE" AS DEFINED UNDER RCW 9.41.010(12), A CRIME OF DOMESTIC VIOLENCE, OR A CRIME OF "HARASSMENT" AS DEFINED UNDER RCW 9A.46.060. THE 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.)

~~(X)~~ This crime involves the manufacture, delivery, or possession with the intent to deliver Methamphetamine or Amphetamine; a mandatory methamphetamine clean-up fine of \$3,000.00 will be assessed. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

~~(X)~~ Because 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 define in RCW 46.61.5055(8)(b). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

~~(X)~~ 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 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. For crimes committed after June 10, 1998, a consecutive sentence will also be imposed for each firearm unlawfully possessed. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

STATEMENT OF DEFENDANT  
ON PLEA OF GUILTY - 8

This offense is a violation of Chapter 69.50 RCW other than RCW 69.50.401(d); if I have a prior conviction under this Chapter or under any statute of the United States or of any State relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs, then I may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

An additional 24 months shall be added to the presumptive sentence for any ranked offense involving a violation of Chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

7. I plead guilty to the crime(s) of Conspiracy to Manufacture ~~Amended~~ as charged in the Amended information. I have received a copy of that 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.

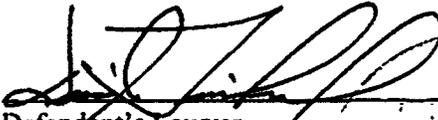
11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement: On March 15, 1999  
I agreed to manufacture methamphetamine  
with another and I took a substantial  
step in this conspiracy. SM

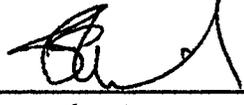
12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

Sara Mihali  
Defendant

STATEMENT OF DEFENDANT  
ON PLEA OF GUILTY - 9

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

  
 Defendant's Lawyer  
 WSBA # 21647

  
 Prosecuting Attorney  
 WSBA# 11908

OCT 21 1999  
 TED BLITT, Clerk  
 3y  
 DEPUTY

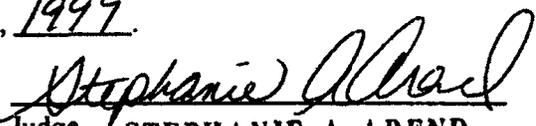
Approved for entry:

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 the appropriate box]:

- (a)  The defendant had previously read the entire statement above and the defendant understood it in full; or
- (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
- \* (c)  An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

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

Dated this 21<sup>st</sup> day of October, 1999.

  
 Judge STEPHANIE A. AREND

**\*INTERPRETER'S DECLARATION**

I am a certified interpreter or have been found otherwise qualified by the court to interpret in the \_\_\_\_\_ language, which the defendant understands, and I have translated this entire document for the defendant from English into that language. 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 foregoing is true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Interpreter

STATEMENT OF DEFENDANT  
ON PLEA OF GUILTY - 10

37906-6-#

**CERTIFICATE OF SERVICE:**

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI or personal contact, to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. The statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington on the date below.

2-26-09

Sara Mihali

**Today's Date:**

**Signature:**

FILED  
COURT OF APPEALS  
DIVISION II  
09 FEB 26 PM 2:50  
STATE OF WASHINGTON  
BY Sara Mihali  
DEPUTY