

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

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STATE OF WASHINGTON,  
Respondent,

~ vs. ~

BRIAN THOMAS EGGLESTON,  
Appellant.

FILED  
COURT OF APPEALS  
DIVISION II  
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STATE OF WASHINGTON  
DEPUTY

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**OPENING BRIEF**

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On Appeal from Pierce County Superior Court No. 95-1-04883-0  
The Hon. Stephanie A. Arend, Judge

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## **I. ASSIGNMENT OF ERROR**

Mr. Eggleston was tried and convicted of six separate crimes all charged in a single Information. The trial court erred by ordering Mr. Eggleston's drug convictions (Counts III – VI) to run consecutive to his murder and first-degree assault convictions (Counts I & II) where the drug convictions constituted "current offenses" and where the State did not seek and the court did not impose an "exceptional sentence."

## **II. STATEMENT OF THE CASE**

This case has a long procedural history which Eggleston attempts to efficiently summarize, guided largely by the Washington Supreme Court's recitation of the case in its most recent opinion. *State v. Eggleston*, 164 Wn.2d 61, 187 P.3d 233 (2008).

### *Prior Proceedings*

On the morning of October 16, 1995, a firefight erupted when Pierce County sheriff's deputies raided the home of Brian Eggleston pursuant to a search warrant. In the course of this fight, Deputy Bananola was shot and killed. The police also shot Eggleston several

times, as well. Later, the police searched the home and found several guns and controlled substances.

The State charged Eggleston with six separate crimes in a single charging document. The information charged Eggleston with aggravated murder in the first degree, assault in the first degree, unlawful delivery of a controlled substance (marijuana), unlawful possession of a controlled substance with intent to deliver (marijuana), unlawful delivery of a controlled substance (marijuana), and unlawful possession of a controlled substance (mescaline).

Eggleston has been tried three times for the events of that morning. The first trial resulted in a mistrial. In the second, the jury found Eggleston guilty of second degree murder. At sentencing, the State recommended, but the court did not find “substantial and compelling reasons exist which justify an exceptional sentence” and sentenced Eggleston within the standard range. Eggleston appealed. This Court reversed Eggleston's murder and assault convictions due to an error in the jury instructions, juror misconduct, and a number of evidentiary errors.

Eggleston was retried and convicted of murder in the second degree and assault in the first degree. This time, the trial court judge imposed an exceptional sentence above the standard range based on the court's view that Eggleston knew Bananola was a police officer.

Eggleston again appealed. Both this Court and the Washington Supreme Court reversed the “exceptional sentence” and remanded the case for resentencing. The Supreme Court did not address whether the State could seek an exceptional sentence at resentencing, holding: “Although the Court of Appeals remanded for resentencing, we can only speculate about whether the State will request an exceptional sentence under the new statute. Accordingly, we decline to decide issues relating to former RCW 9.94A.537 because these issues are not ripe.” *Id.*

### *Resentencing*

On October 24, 2008, Pierce County Superior Court Judge Stephanie Arend resentenced Mr. Eggleston on all six counts of conviction. CP 14-25. At resentencing, the State did not seek and the court did not impose an exceptional sentence. CP 1-7.

Instead, the court reimposed the “June 12, 1997,” sentences for the drug counts (Counts III – VI).<sup>1</sup> The court attached the 1997 *Judgment and Sentence* to its current *Order* “reinstating previous sentences.” With regard to counts I and II (second-degree murder and first-degree assault respectively), the court imposed “standard range” sentences (219 and 123 months respectively) which it ran consecutively to each other, given that each crime is a serious violent offense.<sup>2</sup> Both convictions included firearm “enhancements.” The court next added 60 months to both counts for each enhancement, also running those sentences consecutively to the base sentence and to each other.<sup>3</sup> Thus, the total sentence for counts I and II was 462 months.

Over defense objection (RP 12-16), the court then “expressly orders pursuant to former RCW 9.94A.400(3) that the sentence imposed in this *Judgment and Sentence* shall run consecutive to the

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<sup>1</sup> Because Eggleston had not been convicted of murder, the 1997 *Judgment* imposed sentences for only counts II – VI, sentencing all five convictions as “current convictions.” Because Eggleston has since been convicted of murder, the offender score for each of those convictions is incorrect—one point too low. Eggleston includes both sentencing documents as appendices to this brief.

<sup>2</sup> Eggleston does not contest the legality of this portion of his current sentence.

<sup>3</sup> Eggleston’s firearm enhancements are controlled by *In re Charles*, 135 Wn.2d 239, 955 P.2d 798 (1998). According to *Charles*, whether enhancements run concurrently or consecutively to each other depends on whether the base sentences run concurrently or consecutively. Thus, because counts I and II run consecutively to each other, so do the enhancements. However, because Count III – VI should run concurrently to each other, the enhancements run concurrently with each other *and* with counts I and II.

sentences previously imposed under this cause number in Counts III, IV, V, and VI. The sentencing court reasoned that it was bound by appellate precedent which “allows the Court to run these [sentences] consecutive to the drug charges.” RP 29-30.

Thus, Eggleston was sentenced to 462 months consecutive to 57 months (the longest base sentence), consecutive to 24 months (the school zone enhancement on Count III, making it the longest sentence of Counts III – VI). Although no document expressly states, it appears that Eggleston was sentenced to 561 months in prison. *See e.g.*, RP 38.

Once again, Eggleston filed a timely notice of appeal.

### **III. ARGUMENT**

A *current* conviction does not become a *prior* conviction by virtue of a lengthy trial and appellate history. Instead, an “other current offense” always remains an “other current offense.” That is true even where the sentencing court sentences all six counts of conviction on one day, but divides those counts into two sentencing documents.

*The Trial Court Applied the Wrong Statutory Subsection*

This case is squarely controlled by RCW 9.94A.589(1). The trial court erred by applying subsection (3).<sup>4</sup>

RCW 9.94A.589(1)(a) provides:

Except as provided in (b) [serious violent offenses] or (c) [an amendment that is not applicable] of this subsection, whenever a person is to be sentenced for *two or more current offenses*, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then those current offenses shall be counted as one crime. *Sentences imposed under this subsection shall be served concurrently.*

(emphasis supplied). Convictions “entered or sentenced” on the same date as the conviction for which the offender score is being computed shall be deemed “other current offenses” within the meaning of RCW 9.94A.589. RCW 9.94A.525.<sup>5</sup>

Thus, where a defendant is being sentenced on multiple current offenses the law requires a sentencing court to run those sentences concurrently, unless the convictions are for serious violent

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<sup>4</sup> Except where indicated, Eggleston uses the current statutory cites. To be precise, the statute was codified as RCW 9.94A.400 at the time of Eggleston’s convictions.

<sup>5</sup> Former 9.94A.360.

offenses, constitute “same criminal conduct,” or where an exceptional sentence is imposed.

Cases where the appellate courts have found subsection (1) applicable are illustrative. In *State v. Rasmussen*, 109 Wash.App. 279, 34 P.3d 1235 (2001), Rasmussen was convicted on separate dates of three separate cause numbers, but sentenced on all three on one date. The trial court imposed consecutive 25-month sentences for attempting to elude and TMVWOP. The court also imposed a DOSA sentence of 12-3/4 months for VUCSA and forgery, to run consecutively to the other two sentences. The court did not impose an exceptional sentence.

Rasmussen claimed that subsection (1)(a) and not subsection (3) controlled his sentencing because the three offenses for which the court sentenced him were “current offenses” This Court agreed, finding that subsection (1) controls and requires that a court make finding of aggravating circumstances warranting imposition of an exceptional sentence before sentences imposed on the same day may be served consecutively. *Id.* at 286.

Similarly, this Court applied subsection (1), not (3), in *State*

v. *Smith*, 74 Wash.App. 844, 853, 875 P.2d 1249 (1994):

Here, Smith was being sentenced on one day for three convictions. Although the guilty pleas were accepted at two separate proceedings, the sentences were handed down at one hearing. At that hearing, the sentencing court computed Smith's offender score for each count by considering the other counts as "other current offenses". Because Smith was being sentenced for two or more current offenses, RCW 9.94A.400(1)(a) applied. The sentence should, therefore, have been concurrent, absent a finding by the sentencing court of grounds for an exceptional sentence.

The only exception to this rule is described in *State v. Moore*, 63 Wash.App. 466, 820 P.2d 59 (1991). In *Moore*, the defendant was convicted of two offenses in 1987 but failed to appear for the scheduled sentencing hearing for those convictions. In 1990, he committed and was convicted of another offense. He was sentenced for all three offenses at the same proceeding. Division One of this court held that the trial court properly applied RCW 9.94A.400(3) and ordered that the sentence for the 1990 offense run consecutively to the sentence for the 1987 offenses because the defendant's misconduct prevented the court from sentencing him for the 1987 convictions when it normally would have. *Moore*, 63 Wash.App. at 470. The court also held that to order the sentence for the 1990 conviction to run concurrently with the sentences for the 1987

convictions “would in effect reward [the defendant] for evading the punishment for the [1987] convictions.” *Moore*, 63 Wash.App. at 471, 820 P.2d 59.

The situation in *Moore* is distinguishable from “one in which multiple independent charges ... are pending against a defendant due to routine delays in sentencing and are sentenced at the same hearing.” *Moore*, 63 Wash.App. at 470-71. In *Smith*, the court held that the *Moore* exception did not apply “because there [was] no evidence that Smith evaded any sentencing date.” *Smith*, 74 Wash.App. at 853, n. 6. Likewise, in *Rasmussen*, this Court found the defendant did not evade justice in order to attempt to obtain a sentencing benefit. This Court in *Smith* further opined that the *Moore* exception would not apply “where multiple independent charges were sentenced in the same hearing without any fault on the defendant in manipulating sentencing dates.” *Smith*, 74 Wash.App. at 853, n. 6.

Certainly, Mr. Eggleston’s successful appellate history cannot be characterized as “manipulating sentencing dates.”

Here, the sentencing court applied subsection (3), which provides:

Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence for conviction of a felony, the sentence shall run concurrently with any felony sentence which has been imposed by any court in this or another state or by a federal court subsequent to the commission of the crime being sentenced unless the court pronouncing the current sentence expressly orders that they be served consecutively.

RCW 9.94A.589(3) “applies when (1) a person who is ‘not under sentence of a felony’ (2) commits a felony and (3) before sentencing (4) is sentenced for a different felony.” *State v. Shilling*, 77 Wash.App. 166, 175, 889 P.2d 948 (1995) (quoting former RCW 9.94A.400(3)). Obviously, that was not the case here, since Eggleston was resentenced on all six counts on October 24, 2008.

Likewise, the case relied on by the State and ultimately the trial court (*State v. Champion*, 134 Wn. App. 483, 140 P.3d 633 (2006)) clearly demonstrates the differences between subsections (1) and (3), and why the latter provision does not apply to Eggleston’s case.

On March 7, 2001, Champion committed first degree murder

in King County. He was convicted of that crime four years later, on January 19, 2005. After he was sentenced in King County, on June 1, 2005, Champion pleaded guilty in Pierce County to the second degree assault charge that he committed five years earlier on December 19, 2000. *Id.* At sentencing, the trial court ran Champion's Pierce County conviction consecutive to his earlier sentence applying RCW 9.94A.589(3). On appeal, Champion did not argue that subsection (1) applied. *Id.* at 487, n.1 (RCW 9.94A.589(1) deals with sentencing for two or more current offenses (“... whenever a person is to be sentenced for two or more current offenses ...”) and therefore does not apply to Champion's assault sentence.”). Instead, Champion argued that the Sixth Amendment required jury fact finding in order to support a decision to run the convictions consecutively. This Court rejected that argument, correctly reasoning that the trial court's discretion to run the sentences consecutively did not depend on the finding of any additional facts not included in the jury verdict.

Thus, while the holding of *Champion* is clearly inapplicable to the case at bar, the underlying facts demonstrate the fact pattern

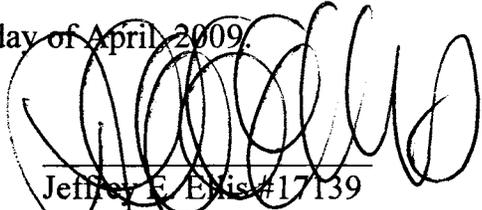
where subsection (3), rather than (1), applies.

When the Washington Supreme Court recently reversed Mr. Eggleston's sentence, it also vacated his judgment because the "[f]inal judgment in a criminal case means sentence." *In re Restraint Petition of Skylstad*, 160 Wn.2d 944, 954, 162 P. 3d 413 (2007), quoting *Berman v. United States*, 302 U.S. 211, 212, 58 S.Ct. 164, 82 L.Ed. 204 (1937). Thus, when Eggleston was resentenced on October 24, 2008, a new judgment was imposed on all six counts. Nothing in Eggleston's appellate history divided those convictions into current and past convictions and judgments. *See generally Skylstad*, 160 Wn.2d at 953-54 (rejecting State's argument which have made post-conviction review of a case a piecemeal process).

#### **IV. CONCLUSION**

Based on the above, this Court should vacate Eggleston's sentence and remand this case to Pierce County Superior Court for a new sentencing hearing. Given that the State failed to seek an exceptional sentence at the last sentencing hearing, they should be precluded from doing so, now. RCW 9.94A.537.

DATED this 2<sup>nd</sup> day of April, 2009.

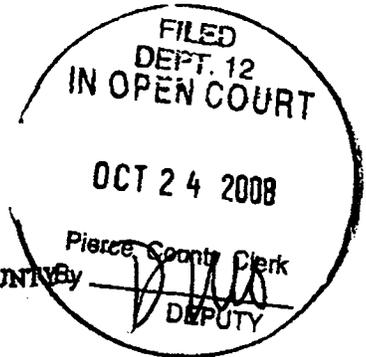
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95-1-04883-0



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 95-1-04883-0

vs

JUDGMENT AND SENTENCE (JS) COUNTS ONE AND TWO, ONLY

BRIAN THOMAS EGGLESTON

Defendant.

Prison

SID: WA17759987

DOB: 07/01/1970

I. HEARING

1.1 A sentencing hearing was held on October 24, 2008. 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 OFFENSES: The defendant was found guilty on December 16, 2002, by jury verdict of the following offenses as charged in the Second Amended Information:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	MURDER IN THE SECOND DEGREE, (D4)	9A.32.050(1)(a) 9.41.010 9.94A.310 9.94A.370	Firearm	10/16/1995	PCSD 952890137 TPD 952890169
II	ASSAULT IN THE FIRST DEGREE, (E23)	9A.36.011(1)(a) 9.41.010 9.94A.310 9.94A.370	Firearm	10/16/1995	PCSD 952890137 TPD 952890169

[X] A special verdict/finding for use of firearm was returned on Count I and II under former RCW 9.94A.125.

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- 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.
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589): NONE
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

**2.2 CRIMINAL HISTORY (former RCW 9.94A.360): NONE KNOWN OR CLAIMED OTHER THAN THE OFFENSES FOR WHICH THE DEFENDANT WAS CONVICTED UNDER THIS CAUSE NUMBER FOR COUNTS III, IV, V, AND VI.**

**2.3 SENTENCING DATA:**

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancement)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancement)	MAXIMUM TERM
I	4	XIII	165-219 MOS.	Firearm, 60 months	225-279 MOS.	LIFE/\$50K
II	0	XII	93-123 MOS.	Firearm, 60 months	153-183 MOS.	LIFE/\$50K

**2.4**  **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence:

within  below the standard range for Count(s) \_\_\_\_\_.

above the standard range for Count(s) \_\_\_\_\_.

The defendant and 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 by the defendant,  found by the court after the defendant waived jury trial,  found by jury by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4.  Jury's special interrogatory is attached. 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. Former RCW 9.94A.145.

The following extraordinary circumstances exist that make restitution inappropriate:

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The following extraordinary circumstances exist that make payment of nonmandatory legal financial obligations inappropriate:

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2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are  attached  as follows: THERE WAS NO PLEA AGREEMENT. THE DEFENDANT WAS TRIED AND CONVICTED BEFORE A JURY.

III. JUDGMENT

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

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

RTWRJN \$ 100,948.14 Restitution to: Department of Labor and Industries  
 \$151.00 Restitution to: Madigan Army Medical Center  
 (Name and Address--address may be withheld and provided confidentially to Clerk's Office).  
 PCV \$ 500.00 Crime Victim assessment  
 DNA \$ 100.00 DNA Database Fee  
 PUB \$ Court-Appointed Attorney Fees and Defense Costs  
 FRC \$ 110.00 Criminal Filing Fee  
 FCM \$ Fine

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ Other Costs for: \_\_\_\_\_

\$ Other Costs for: \_\_\_\_\_

\$ 101,809.14 TOTAL

The above total does not include all restitution which may be set by later order of the court. An agreed restitution order may be entered. A restitution hearing:

shall be set by the prosecutor.

is scheduled for \_\_\_\_\_

RESTITUTION. Is hereby ordered in accordance with the Order dated October 30, 1998.

The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction.

All payments shall be made in accordance with the policies of the clerk, commencing immediately, unless the court specifically sets forth the rate herein: Not less than \$ \_\_\_\_\_ per month commencing \_\_\_\_\_. If the court does not set the rate herein, the defendant shall report to the clerk's office within 24 hours of the entry of the judgment and sentence to set up a payment plan.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested.

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[ ] COSTS OF INCARCERATION. In addition to other costs imposed herein, the court finds that the defendant has or is likely to have the means to pay the costs of incarceration, and the defendant is ordered to pay such costs at the statutory rate. RCW 10.01.160.

COLLECTION COSTS The defendant shall pay the costs of services to collect unpaid legal financial obligations per contract or statute. RCW 36.18.190, 9.94A.780 and 19.16.500.

INTEREST 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

COSTS ON APPEAL An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW. 10.73.160.

4.1b ELECTRONIC MONITORING REIMBURSEMENT. The defendant is ordered to reimburse \_\_\_\_\_ (name of electronic monitoring agency) at \_\_\_\_\_ for the cost of pretrial electronic monitoring in the amount of \$ \_\_\_\_\_.

4.2 [X] DNA TESTING. The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

[ ] HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

4.3 NO CONTACT

The defendant shall not have contact with WARREN DOGEAGLE OR THE FAMILY OF DEPUTY JOHN BANANOLA including, but not limited to, personal, verbal, telephonic, written or contact through a third party for \_\_\_\_\_ years (not to exceed the maximum statutory sentence).

[ ] Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed with this Judgment and Sentence.

4.4 OTHER:

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4.4a BOND IS HEREBY EXONERATED

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

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

Court I, 219 months

Court II, 123 months consecutive to Court I (Former RCW 9.94A.400(1)(b))

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A special finding/verdict having been entered as indicated in Section 2.1, the defendant is sentenced to the following additional term of total confinement in the custody of the Department of Corrections:

Court I, 60 months. Court II, 60 months

The sentence enhancements in Courts I and II shall run consecutive to each other and consecutive to the base sentences for Courts I and II.

The sentence enhancements in Courts I and II shall be served as flat time

The actual number of months of total confinement ordered is: 462

(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

[ ] The confinement time on Court(s) \_\_\_\_\_ contain(s) a mandatory minimum term of \_\_\_\_\_.

**CONSECUTIVE/CONCURRENT SENTENCES.** (Former RCW 9.94A.400.)

The sentences for Courts I and II shall run consecutive to each other. The sentence enhancements in Courts I and II shall run consecutive to the base sentences for Courts I and II and consecutive to each other.

In addition the court expressly orders pursuant to former RCW 9.94A.400(3) that the sentence imposed in this Judgment and Sentence shall run Consecutive to the sentences previously imposed under this cause number for Courts III, IV, V, and VI.

The sentence herein shall run consecutively to all felony sentences in other cause numbers imposed prior to the commission of the crime being sentenced. The sentence herein shall run concurrently with felony sentences in other cause numbers imposed after the commission of the crime(s) being sentenced except for the following cause numbers: \_\_\_\_\_

Confinement shall commence immediately.

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. The time served shall be computed by Department of Corrections or the Pierce County Jail unless the credit for time served prior to sentencing is specifically set forth by the court: \_\_\_\_\_

**4.6 [ X ] COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:**

24 months for Court I and 24 months for Court II.

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

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

**c) the defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745.**

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC, and (8) for sex offenses, submit to electronic monitoring if imposed by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

The defendant shall not consume any alcohol.

Defendant shall have no contact with: Warren Dogeagle or the family of Deputy John Bananola.

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

As ordered by the Department of Corrections.

Defendant shall not reside in a community protection zone (within 880 feet of the facilities or grounds of a public or private school).

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

The defendant shall undergo an evaluation for treatment for  domestic violence  substance abuse  mental health  anger management and fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: No possession or use of any firearms. No possession or use of any controlled substance without a valid prescription.

Other conditions may be imposed by the court or DOC during community custody, or are set forth here: \_\_\_\_\_

For sentences imposed under RCW 9.94A.712, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

**PROVIDED:** That under no circumstances shall the total term of confinement plus the term of community custody actually served exceed the statutory maximum for each offense

4.7  **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100 RCW 10.73.090.
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505. 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.
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. Other income-withholding action under RCW 9.94A may be taken without further notice.
- 5.4 **RESTITUTION HEARING.**  
 Defendant waives any right to be present at any restitution hearing (sign initials): \_\_\_\_\_
- 5.5 **CRIMINAL ENFORCEMENT AND CIVIL COLLECTION.** Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. Per section 2.5 of this document, legal financial obligations are collectible by civil means.
- 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.
- 5.7 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200.  
 N/A
- 5.8  The court finds that Court \_\_\_\_\_ is a felony in the commission of which a motor vehicle was used. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.
- 5.9 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

95-1-04883-0

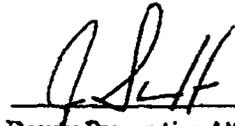
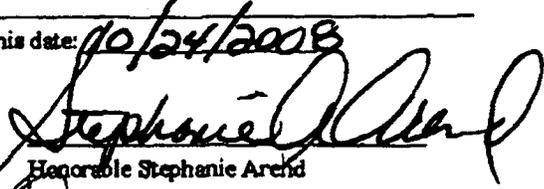
5.10 OTHER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DONE in Open Court and in the presence of the defendant this date: 10/24/2008

JUDGE

Print name

Honorable Stephanie Archid



Deputy Prosecuting Attorney

Print name: James S. Schacht

WSB # 17298

Attorney for Defendant

Print name: Zeean Olbertz

WSB # 6080

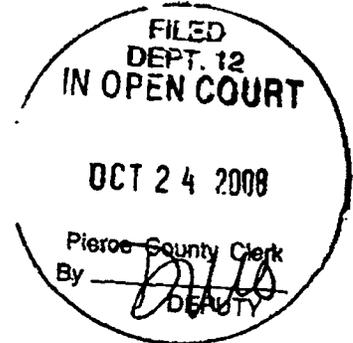


Defendant

Print name: Brian Thomas Eggleston

VOTING RIGHTS STATEMENT: RCW 10.64.140. I acknowledge that my right to vote has been lost due to felony convictions. 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:



95-1-04883-0

**CERTIFICATE OF CLERK**

CAUSE NUMBER of this case: 95-1-04883-0

I, KEVIN STOCK 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 Courty and State, by: \_\_\_\_\_, Deputy Clerk

**IDENTIFICATION OF COURT REPORTER**

JAN-MARIE GLAZE  
Court Reporter

95-1-04883-0

IDENTIFICATION OF DEFENDANT

SID No. WA17759987  
(If no SID take fingerprint card for State Patrol)

Date of Birth 07/01/1970

FBI No. 625524AB7

Local ID No. UNKNOWN

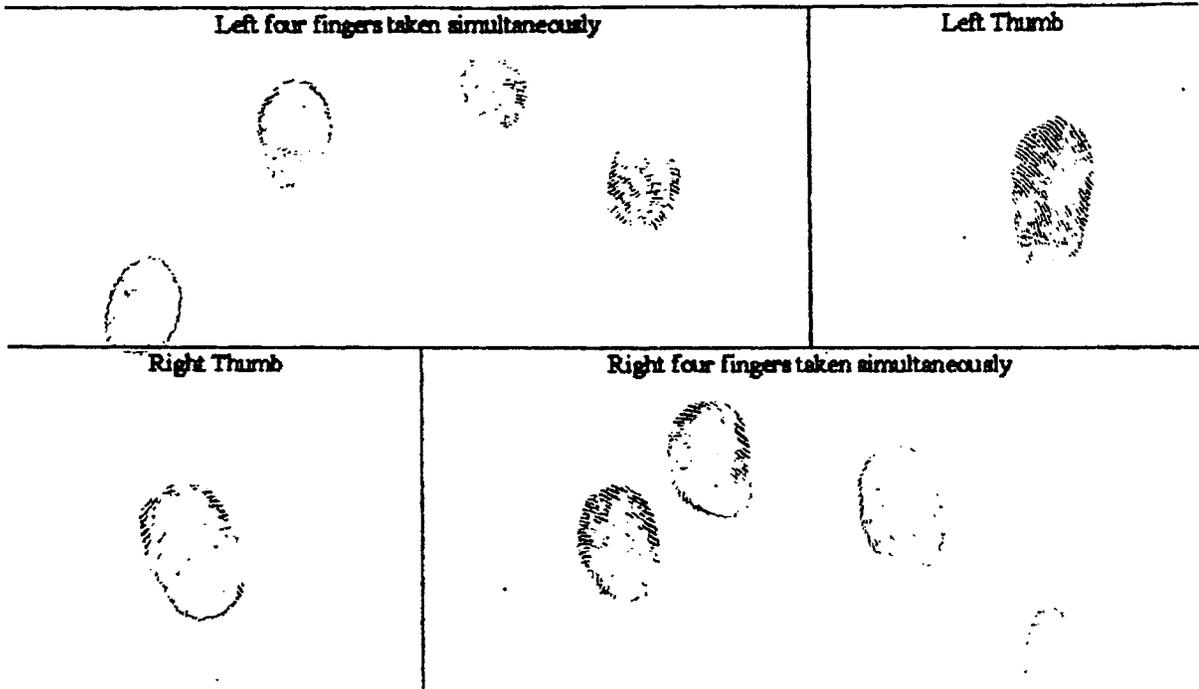
PCN No. UNKNOWN

Other

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

<b>Race:</b>		<b>Ethnicity:</b>		<b>Sex:</b>	
<input type="checkbox"/>	Asian/Pacific Islander	<input type="checkbox"/>	Black/African-American	<input checked="" type="checkbox"/>	Caucasian
<input type="checkbox"/>	Native American	<input type="checkbox"/>	Other: :	<input type="checkbox"/>	Non-Hispanic
				<input checked="" type="checkbox"/>	Male
				<input type="checkbox"/>	Female

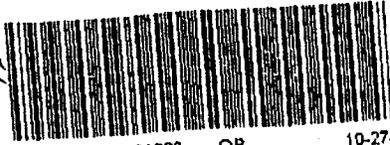
FINGERPRINTS



I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, Darius Overhulse Date: 10/24/02

DEFENDANT'S SIGNATURE: [Signature]

DEFENDANT'S ADDRESS: \_\_\_\_\_



95-1-04883-0 30801083 OR 10-27-08



**SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY**

**STATE OF WASHINGTON,**

**Plaintiff,**

**CAUSE NO. 95-1-04883-0**

**vs.**

**BRIAN THOMAS EGGLESTON,**

**ORDER REINSTATING PREVIOUS  
SENTENCES FOR COUNTS III, IV, V,  
and IV**

**Defendant.**

**[Clerk's Action Required]**

**THIS CASE came before the court for re-sentencing four Counts I and II and for reinstatement of the sentences previously imposed for Counts III, IV, V, and VI. The court has reviewed the opinion of the Court of Appeals that was filed on August 31, 2005. The court has also reviewed the opinion of the Supreme Court filed on August 1, 2008. In addition the court has considered the record and file in this case and the comments and arguments of the parties at the sentencing hearing on October 24, 2008. Now, therefore**

**//**

**//**

**//**

**//**

1  
2 It is hereby ORDERED that the sentences previously imposed on June 12, 1997, for  
3 Counts III, IV, V and VI are reinstated. The clerk shall attach to this order a copy of the  
4 Judgment and Sentence that was previously filed on June 12, 1997.  
5

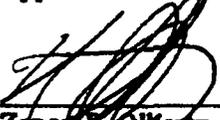
6 DONE IN OPEN COURT this 24 day of October, 2008.

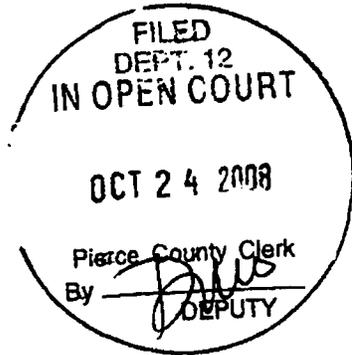
7   
8 JUDGE

9 Presented by:

10   
11 James S. Schacht  
12 Deputy Prosecuting Attorney  
13 WSB# 17298

14 Approved For Entry:

15   
16 Zenon K. O'Brien  
17 Attorney for Defendant  
18 WSB# 6080

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FILED  
PIERCE COUNTY CLERK'S OFFICE  
A.M. JUN 12 1997 P.M.  
PIERCE COUNTY WASHINGTON  
BY TED RUTT, COUNTY CLERK  
DEPUTY

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

STATE OF WASHINGTON,

Plaintiff,

vs.

BRIAN THOMAS EGGLESTON,

Defendant.

CAUSE NO. 95-1-04883-0

JUDGMENT AND SENTENCE  
(FELONY/OVER ONE YEAR)

DOB: 7/1/70  
SID NO.: UNKNOWN  
LOCAL ID:

JUN 13 1997

I. HEARING

1.1 A sentencing hearing in this case was held on 6/12/97.

1.2 The defendant, the defendant's lawyers, MONTE HESTER/ZENON OLBERTZ, and the deputy prosecuting attorneys, LILAH AMOS/GERALD HORNE, 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 May 5, 1997 by

[ ] plea [X] jury-verdict [ ] bench trial of:

Count No.: II  
Crime: ASSAULT IN THE FIRST DEGREE, Charge Code: (E23)  
RCW: 9A.36.011(1)(a), 9.41.010, 9.94A.310, 9.94A.370  
Date of Crime: 10/16/95  
Incident No.: PCSD 95 289 0137/TPD 95 289 0169

Count No.: III  
Crime: UNLAWFUL DELIVERY OF A CONTROLLED SUBSTANCE, Charge Code: (J5)  
RCW: 69.50.401(a)(1)(ii) and 69.50.435  
Date of Crime: 10/7/95  
Incident No.: SAME

JUDGMENT AND SENTENCE  
FELONY / OVER ONE YEAR - 1 ENTERED  
JUDGEMENT

97-9-05531-9

Office of Prosecuting Attorney  
County-City Building  
Tacoma, Washington 98402-2171  
Telephone: 591-7400

95-1-04883-0

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2  
3  
4 Count No.: IV  
 Crime: UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER, Charge Code: (J3)  
 5 RCW: 69.50.401(a)(1)(ii), 69.50.435, 9.41.010, 9.94A.125, 9.94A.310 and 9.94A.370  
 6 Date of Crime: 10/16/95  
 Incident No.: SAME

7  
8 Count No.: V  
 Crime: UNLAWFUL DELIVERY OF A CONTROLLED SUBSTANCE, Charge Code: (J5)  
 RCW: 69.50.401(a)(1)(ii)  
 9 Date of Crime: 10/5/95  
 Incident No.: SAME

10  
11 Count No.: VI  
 Crime: UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE, Charge Code: (J1)  
 RCW: 69.50.401(d)  
 12 Date of Crime: 10/16/95  
 Incident No.: SAME

- 13  
14  
15 [ ] Additional current offenses are attached in Appendix 2.1.  
 16 [X] A special verdict/finding for use of deadly weapon other than a firearm was returned on Count IV.  
 17 [X] A special verdict/finding for use of a firearm was returned on Counts II and IV.  
 [ ] A special verdict/finding of sexual motivation was returned on Count(s) \_\_\_\_\_.  
 18 [X] 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) was returned on Counts III and IV.  
 19 [ ] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):  
 20  
 21 [ ] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400(1)):  
 22  
 23 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.  
 24  
 25 [ ] Additional criminal history is attached in Appendix 2.2.  
 26 [ ] Prior convictions served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(1)):

27  
28  
JUDGMENT AND SENTENCE  
 FELONY / OVER ONE YEAR - 2

95-1-04883-0

2.3 SENTENCING DATA:

	<u>Offender Score</u>	<u>Serious Level</u>	<u>Standard Range(SR)</u>	<u>Enhancement</u>	<u>Maximum Term</u>
Count II:	4	XII	129-171 mos	+60 mos FASE	LIFE
Count III:	8	III	67-81 mos	+24 mos SCHOOL ZONE	10yrs
Count IV:	8	III	67-81 mos	+24 mos SCHOOL ZONE +18 mos FASE	10yrs
Count V:	8	III	43-57 mos		5yrs
Count VI:	4	I	3-8 mos		5yrs

[ ] Additional current offense sentencing data is attached in Appendix 2.3.

2.4 EXCEPTIONAL SENTENCE:

[ ] Substantial and compelling reasons exist which justify an exceptional sentence

[ ] above [ ] within [ ] below the standard range for Count(s)                     . Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney [ ] did [ ] did not recommend a similar sentence.

2.5 RECOMMENDED AGREEMENTS:

[X] For violent offenses, serious violent offenses, most serious offenses, or any felony with a deadly weapon special verdict under RCW 9.94A.125; any felony with any deadly weapon enhancements under RCW 9.94A.310(3) or (4) or both; and/or felony crimes of possession of a machine gun, possessing a stolen firearm, reckless endangerment in the first degree, theft of a firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun, the recommended sentencing agreements or plea agreements are [ ] attached [ X ] as follows:

THE PROSECUTION RECOMMENDED ~~THE~~ **HIGH** END OF STANDARD RANGE PLUS SENTENCE ENHANCEMENTS AS FOLLOWS:

CT. II = 171 MOS + 60 MOS *FASE*  
 CT. III = 81 MOS { 24 MOS *School Zone*  
 CT. IV = 81 MOS { ~~60 MOS~~ + 18 mo. *FASE* (includes 24 mo. *School Zone*)  
 CT. V = 57 MOS.  
 CT. VI = 8 MOS.

JUDGMENT AND SENTENCE  
FELONY / OVER ONE YEAR - 3

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.
- Restitution is ordered as set out in Section 4.1, LEGAL FINANCIAL OBLIGATIONS.

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 inter-local 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.

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.

JUDGMENT AND SENTENCE  
FELONY / OVER ONE YEAR - 4

95-1-04883-0

IV. SENTENCE AND ORDER

IT IS ORDERED:

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

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

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

\$ \_\_\_\_\_, Victim assessment;

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

\$ 1500.00, Fees for court appointed attorney; *as seized from defendant shall be forfeited as payment*  
Washington State Patrol Crime Lab costs;  
Drug enforcement fund of \_\_\_\_\_;

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

\$ 1500.00, *Funds seized from defendant* TOTAL legal financial obligations [ ] including restitution [ ] not including restitution.

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

[ ] 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.

JUDGMENT AND SENTENCE  
FELONY / OVER ONE YEAR - 5

95-1-04883-0

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 ~~XXXXXX~~ \_\_\_\_\_.

[ ] Bond is hereby exonerated.

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JUDGMENT AND SENTENCE  
FELONY / OVER ONE YEAR - 6

95-1-04883-0

4.2 CONFINEMENT OVER ONE YEAR: The defendant is sentenced as follows:

(a) CONFINEMENT: (Standard Range) RCW 9.94A.400. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections:

<u>160</u>	months on Count No.	<u>II</u>	<input checked="" type="checkbox"/>	concurrent	<input type="checkbox"/>	consecutive
<u>57</u>	months on Count No.	<u>III</u>	<input checked="" type="checkbox"/>	concurrent	<input type="checkbox"/>	consecutive
<u>48</u>	months on Count No.	<u>IV</u>	<input checked="" type="checkbox"/>	concurrent	<input type="checkbox"/>	consecutive
<u>57</u>	months on Count No.	<u>V</u>	<input checked="" type="checkbox"/>	concurrent	<input type="checkbox"/>	consecutive
<u>3</u>	months on Count No.	<u>VI</u>	<input checked="" type="checkbox"/>	concurrent	<input type="checkbox"/>	consecutive

(b) CONFINEMENT (Sentence Enhancement): A special finding/verdict having been entered as indicated in Section 2.1, the defendant is sentenced to the following additional term of total confinement in the custody of the Department of Corrections:

<u>60</u>	MONTHS ON COUNT	<u>II FASE</u>
<u>24</u>	MONTHS ON COUNT	<u>III SCHOOL ZONE</u>
<u>24</u>	MONTHS ON COUNT	<u>IV SCHOOL ZONE</u>
<u>18</u>	MONTHS ON COUNT	<u>IV FASE</u>

TOTAL MONTHS CONFINEMENT ORDERED: 238 mo.

Firearm enhancements in Counts II and IV shall run  
 concurrent  consecutive to each other.

School Zone enhancements in Counts III and IV shall run  
 concurrent  consecutive to each other.

*Firearm* Sentence enhancements in Counts II and IV shall run  
 flat time  subject to earned good time credit.

*School zone* Sentence enhancements in Counts III and IV shall be served  
 flat time  subject to earned good time credit.

Standard range sentence shall be  concurrent  consecutive with the sentence imposed in Cause Nos.: \_\_\_\_\_.

Credit is given for 604 days served;

4.3  COMMUNITY PLACEMENT (RCW 9.94A.120). The defendant is sentenced to community placement for  one year  two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150(1) and (2), whichever is longer.

COMMUNITY CUSTODY (RCW 9.94a.120(1)). Because this was a sex offense that occurred after June 6, 1996, the defendant is sentenced to community custody for  one year  two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150(1) and (2), whichever is longer.

JUDGMENT AND SENTENCE  
FELONY / OVER ONE YEAR - 7

95-1-04883-0

While on community placement or community custody, the defendant shall: 1) report to and be available for contact with the assigned community corrections officer as directed; 2) work at Department of Corrections-approved education, employment and/or community service; 3) not consume controlled substances except pursuant to lawfully issued prescriptions; 4) not unlawfully possess controlled substances while in community custody; 5) pay supervision fees as determined by the Department of Corrections; 6) residence location and living arrangements are subject to the approval of the department of corrections during the period of community placement.

- 7 (a)  The offender shall not consume any alcohol;
- 8 (b)  The offender shall have no contact with: Warren Dogeagle  
and his family
- 9 (c)  The offender shall remain  within or [ ] outside of a  
specified geographical boundary, to-wit: as ordered  
by DOC
- 10 (d)  The offender shall participate in the following crime related  
treatment or counseling services: If ordered by CCO  
after evaluation, the defendant shall undergo drug treatment
- 11 (e)  The defendant shall comply with the following crime-related  
prohibitions: No use or possession of firearms  
OR weapons; No use or possession of alcohol  
OR drugs unless prescribed.
- 12 (f)  OTHER SPECIAL CONDITIONS AND CRIME RELATED PROHIBITIONS:  
CCO shall monitor defendant's  
compliance by ~~skin~~ urinalysis  
and other appropriate means as  
determined by CCO.
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- 19 (g) [ ] HIV TESTING. The Health Department or designee shall test the  
defendant for HIV as soon as possible and the defendant shall  
20 fully cooperate in the testing. (RCW 70.24.340)
- 21 (h)  DNA TESTING. The defendant shall have a blood sample drawn  
for purpose of DNA identification analysis. The Department of  
22 Corrections shall be responsible for obtaining the sample  
prior to the defendant's release from confinement. (RCW  
23 43.43.754)

[ ] PURSUANT TO 1993 LAWS OF WASHINGTON, CHAPTER 419, IF 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.

JUDGMENT AND SENTENCE  
FELONY / OVER ONE YEAR - 8

95-1-04883-0

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

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.

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.

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.

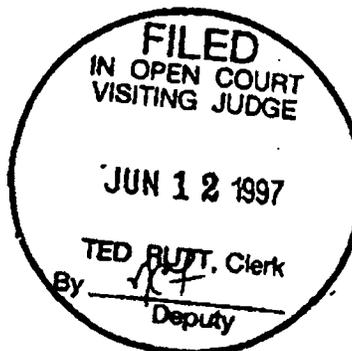
Date: 6/12/97

W. H. Hester  
JUDGE

Presented by:  
Lilah Amos  
LILAH AMOS/GERALD HORNE  
Deputy Prosecuting Attorneys  
WSB # 7168

Approved as to form:  
Monte Hester / Zenon Olbertz  
Lawyers for Defendant  
WSB # 21 6080

mj



JUDGMENT AND SENTENCE  
FELONY / OVER ONE YEAR - 9

FILED  
IN OPEN COURT  
VISITING JUDGE

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FILED  
IN OPEN COURT  
VISITING JUDGE

JUN 12 1997

JUN 12 1997

TED RUTT, Clerk

FINGERPRINTS

Deputy  
Right Hand

TED RUTT, Clerk

Fingerprint(s) of: BRIAN THOMAS EGGLESTON, Cause #95-1-04883-0 Deputy

Attested by: \_\_\_\_\_ CLERK

By: DEPUTY CLERK \_\_\_\_\_ Date: \_\_\_\_\_

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. #UNKNOWN

Date of Birth 7/1/70

Sex MALE

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

Race WHITE

CLERK

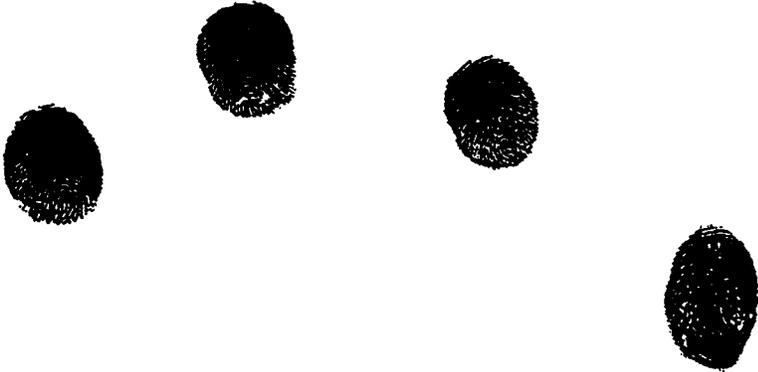
ORI \_\_\_\_\_

By: \_\_\_\_\_  
DEPUTY CLERK

OCA \_\_\_\_\_

OIN \_\_\_\_\_

DOA \_\_\_\_\_



FINGERPRINTS

**CERTIFICATE OF SERVICE**

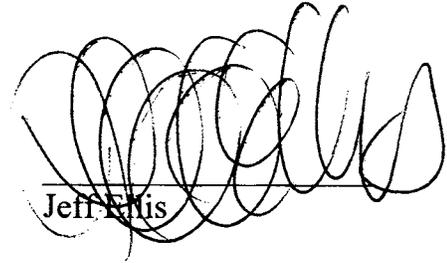
I, Jeff Ellis, certify that on April 2, 2009, I served the party listed below and the defendant with a copy of the *Opening Brief* by mailing it, postage pre-paid to:

Kathleen Proctor  
Deputy Prosecuting Attorney  
Pierce County Prosecutor  
930 Tacoma Ave. S., Rm 946  
Tacoma, WA 98402

Brain Eggleston  
DOC # 766895  
Stafford Creek Correctional Ctr  
191 Constantine Way  
Aberdeen, WA 98520

4/2/09 Seattle, WA

Date and Place



Jeff Ellis

FILED  
COURT OF APPEALS  
DIVISION II  
09 APR -3 PM 1:57  
STATE OF WASHINGTON  
BY \_\_\_\_\_  
DEPUTY