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I. ASSIGNMENT OF ERROR

The trial court erred in holding that a firearm is not a deadly weapon for purposes of enhancements under the drug provisions of RCW 9.94A.518.

II. ISSUE

The trial court erred in not following the statutory provisions dealing with enhancement of a drug offense because of a finding of the use of firearm.

III. STATEMENT OF THE FACTS

The defendant pled guilty to a Third Amended Information (CP 6) which charged the defendant with possession of a controlled substance with intent to deliver – heroin, having occurred on November 20, 2008. Further, the Third Amended Information alleged that the offense was committed “while armed with a firearm as that term is employed and defined in RCW 9.94A.602 and RCW 9.94A.533(3), to wit: a Browning .32 caliber handgun.” The defendant, with the aide of an interpreter, pled guilty to this Third Amended Information on April 2, 2009. A copy of the Statement of Defendant on Plea of Guilty to Non-Sex Offense (CP 8) is attached hereto and by this reference incorporated herein. At the time of

the change of plea, it was made clear to the defendant that there was a dispute between the prosecution and the defense concerning the amount of time and how the firearm enhancement was to be counted.

Judge: Let's go over it together. First off you have been charged with one count of Possession of a Controlled Substance with Intent to Deliver, Heroin. If you plead guilty to this charge you are giving up certain constitutional rights. Among those is the right to a speedy and public trial before an impartial jury, the right to remain silent before and during that trial and the right to refuse to testify against yourself. You'll be giving up the right to hear and question any witnesses the state brings forward and – and to bring forward witnesses and evidence in your own defense. You will be giving up the presumption of innocence and the right to appeal a finding of guilt at the trial. I also need to advise you that should the case go to trial, the State would have to prove its case quote beyond a reasonable doubt unquote. And that's a heavy burden for them to carry. Gentlemen, what is this either/or on the standard range?

JS (Defense Attorney): We have a disagreement on whether or not the State can double count the deadly weapon enhancement.

JM (Deputy Prosecutor): [Inaudible – Interpreter talking here] The standard range would be – fire enhancement – it is the State's position is that elevates the underlying crimes [inaudible – Interpreter] one to three –

Judge: I see. Sir, there is a disagreement between the attorneys about what is your standard range. The State is saying that your standard range is fifty-one to sixty-eight months with a community custody range of nine to twelve months. Maximum term is ten years and/or twenty thousand dollars. Your attorney believes the standard range is twelve to twenty months –

Int: Okay.

Judge: - and he does agree the community custody range in the maximum term. I need to advise you that I'm not bound by any agreement between the attorneys and they will have to sort out this issue before we get to sentencing. I need to advise you that should you plead guilty to this charge you're giving up the right to bear firearms until such right has been restored by a court of record. Finally, if you're not an American citizen, you do run the risk of being deported. Are you making this plea freely and voluntarily?

Int: Yes.

Judge: Has anyone made any threats to you or made you any promises to get you to change your plea?

Int: No.

- (RP 2, L.18 - 4, L.10)

The trial court accepted the change of plea by the defendant and set over sentencing. Sentencing was held on April 14, 2009. A copy of the Felony Judgment and Sentence (CP 26) is attached hereto and by this reference incorporated herein.

The State maintained, at the time of sentencing, that the offense seriousness levels that were set at RCW 9.94A.518 includes the raising of a drug offense to a Level III when "any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.602." That later statute included a definition for deadly weapon which included a "pistol, revolver or any other firearm." The Third Amended Information and the Statement of Defendant on Plea of Guilty clearly indicate that the

defendant was pleading guilty to the offense with the enhancement of the use of a firearm.

The sentencing court determined that: “. . . if there is a finding of a deadly weapon – ahh – then we will go to the levels of one, two and three. In this particular case, it was charged under firearm – it was not charged under deadly weapon. It could have been charged under deadly weapon – I assume – ahh – the State elected to not do so. Ahh – I cannot enhance the penalties – ahh – because the court cannot make a finding of a deadly weapon – ahh – ahh – because our courts are pretty clear that we’re gonna say if you’re charging firearm and it has one form of punishment – ahh – you will have to charge under that. If you’re going to charge under deadly weapon, it has a form of punishment and you will have to cha – ahh - charge and face that type of punishment.” (RP 13, L.15 – 14, L.2).

#### IV. ARGUMENT

Drug offense seriousness levels are set in RCW 9.94A.518. A Level III drug offenses include “any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.602.” Under RCW 9.94A.602, a deadly weapon includes a pistol, revolver or any other firearm. Thus, the finding of a firearm is necessarily included as a deadly weapon and thus raises the drug offense to a Level III.

In State v. Nguyen, 134 Wn. App. 863, 142 P.3d 1117 (2006), review denied, 163 Wn.2d 1053, 187 P.3d 752 (2008); accord State v. Tessema, 139 Wn. App. 483, 162 P.3d 420 (2007), review denied, 163 Wn.2d 1018, 180 P.3d 1292 (2008) the court rejected an argument of claimed error when it held that RCW 9.94A.602 “authorizes a special allegation and jury finding as to whether the defendant was armed with a deadly weapon, which includes: ‘blackjack, sling shot, billy, sand club, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm.’” Nguyen, 134 Wn. App. at 870 (quoting RCW 9.94A.602) (emphasis omitted). Therefore, the deadly weapon special verdict statute provides the requisite procedure. Id. at 870. The court held that the trial court did not err in submitting the firearm enhancement to the jury, because a statutory procedure exists. Nguyen pointed out that the legislative intent behind the firearm enhancement is unmistakable: to impose a longer sentence when a firearm is used in a crime unless an exception applies. Nguyen, 134 Wn. App. at 868.

The sentence enhancement statute, RCW 9.94A.533, was enacted without amendment after the voters passed Initiative 159, entitled the Hard Time for Armed Crime Act. The statute mandates additional punishment for crimes committed with a firearm or with a deadly weapon other than a firearm:

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the *offender or an accomplice was armed with a firearm* as defined in RCW 9.41.010. . . .

. . . .  
(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the *offender or an accomplice was armed with a deadly weapon other than a firearm* as defined in RCW 9.41.010. . . .

The statute applied to all felonies except possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

§ 9.94A.602. Deadly weapon special verdict - - Definition

In a criminal case wherein there has been a special allegation and evidence establishing that the accused or an accomplice was armed with a deadly weapon at the time of the commission of the crime, the court shall make a finding of fact of whether or not the accused or an accomplice was armed with a deadly weapon at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it find[s] the defendant guilty, also find a special verdict as to whether or not the defendant or an accomplice was armed with a deadly weapon at the time of the commission of the crime.

For purposes of this section, a deadly weapon is an implement or instrument which has the capacity to inflict death and from the manner in which it is used, is likely to produce or may easily and readily produce death. The following instruments are included in the term deadly weapon: Blackjack, sling shot, billy, sand club, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than three inches, any razor with an unguarded blade, any metal pipe

or bar used or intended to be used as a club, any explosive, and any weapon containing poisonous or injurious gas.

The court argues that it is without authority to impose the enhancement because although the legislature created a procedure for the imposition of a deadly weapon enhancement under RCW 9.94A.602, it did not create a comparable one for imposition of a firearm enhancement. This was recently rejected noting that the deadly weapon special verdict statute supplies the court's authority to impose a firearm enhancement, inasmuch as a firearm is a type of deadly weapon expressly included in the statutory definition. State v. Anderson, 144 Wn. App. 85, 90-91, 180 P.3d 885 (2008) (citing State v. Nguyen, 134 Wn. App. 863, 870, 142 P.3d 1117 (2006)).

In State v. Anderson, 144 Wn. App. 85, 90-91, 180 P.3d 885 (2008):

Mr. Anderson next argues that the court erred when it added a 36-month firearm enhancement to his sentence for second degree assault. He notes that the legislature did not set out a procedure for submitting to the jury the question of whether a defendant was armed with a firearm when he committed the assault. RCW 9.94A.533(3). He then argues from this that a court has no authority to impose a firearm enhancement without such authorized procedure.

Division One of this court has already resolved this question in Nguyen. The Nguyen court acknowledged that the firearm enhancement statute does not set forth a process for asking a jury whether a defendant was armed with a firearm while committing the underlying crime. Nguyen,

134 Wn. App. at 870. But it held that “[t]o the extent express authority is required, the deadly weapon special verdict statute supplies it.” *Id.* The court reasoned that “[a] firearm is a type of deadly weapon, expressly included in the statutory definition. The procedural statute did not need amendment just because the legislature created differing penalties for different deadly weapons.” *Id.*

Mr. Anderson, like the defendant in *Nguyen*, relies upon *State v. Recuenco*<sup>2</sup> and *State v. Hughes*<sup>3</sup> for the proposition that the court cannot imply or create a procedure for the imposition of a firearm enhancement. He is mistaken. *See Nguyen*, 134 Wn. App. at 870-71. The *Recuenco* court's reference to this proposition was merely dicta. *See Recuenco*, 154 Wn.2d at 165. And the *Hughes* holding was limited to deciding an appropriate remedy on remand. *Hughes*, 154 Wn.2d at 149. The *Hughes* court did not decide the issue of whether juries may be given special verdict forms to determine aggravating factors at trial. *Id.*

#### FOOTNOTES

<sup>2</sup>*State v. Recuenco*, 154 Wn.2d 156, 164, 110 P.3d 188 (2005), rev'd on other grounds, 548 U.S. 212, 126 S. Ct. 2546, 165 L. Ed. 2d 466 (2006).

<sup>3</sup>*State v. Hughes*, 154 Wn.2d 188, 149-50, 110 P.3d 192 (2005), overruled in part by *Washington v. Recuenco*, 548 U.S. 212, 126 S. Ct. 2546, 165 L. Ed. 2d 466 (2006).

We agree with the holding and the reasoning in *Nguyen*. *Nguyen*, 134 Wn. App. at 870-71. The enhancement statutes authorized the firearm enhancement here.

We affirm Mr. Anderson's conviction and sentence.

The State submits that the trial court erred in not properly applying the enhancement. It was clear to the defendant throughout that he was pleading guilty to a charge which included a firearm enhancement. That is

contained in the Third Amended Information (CP 6), is contained in the Statement of Defendant on Plea of Guilty to Non-Sex Offense (CP 8) and is also contained in the Felony Judgment and Sentence, on page 2, section 2.1 (CP 26). Part of the discussion raised in other cases was that the defendant was not put on notice that it was a firearm versus deadly weapon. Here, the defendant is clearly advised of the fact that this is a firearm allegation for purposes of the enhancement. The case law cited by the trial court deals with holdings that the State cannot charge a deadly weapon enhancement and then impose the sanction of a firearm enhancement because the deadly weapon happens to be a firearm. In our situation we are doing just the opposite, that is, that he is aware that it is a firearm and by statute a firearm is a deadly weapon. The trial court interpreted the line of cases to mean that a firearm is a firearm and not a deadly weapon. Yet, as indicated in the case law that is just the opposite of what is meant.

#### V. CONCLUSION

The trial court should be reversed on the question of the enhancement and how that enhancement is to be referred to the drug offense. It is the State's position that this drug offense has been raised to a higher level because of the firearm finding which is incorporated within

the concept of a deadly weapon. With that in mind, this matter should be returned to the Superior Court for resentencing.

DATED this 30 day of Sept, 2009.

Respectfully submitted:

ARTHUR D. CURTIS  
Prosecuting Attorney  
Clark County, Washington

By:

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

**APPENDIX "A"**

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

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

|                         |   |                        |
|-------------------------|---|------------------------|
| STATE OF WASHINGTON,    | ) | No. 08-1-01982-9       |
| Plaintiff,              | ) |                        |
| v.                      | ) | STATEMENT OF DEFENDANT |
|                         | ) | ON PLEA OF GUILTY TO   |
|                         | ) | NON-SEX OFFENSE        |
| ALFREDO GUZMAN-PARTIDA, | ) | (FELONY)               |
| Defendant.              | ) | (STTDFG)               |

1. My true name is ALFREDO GUZMAN-PARTIDA.
2. My age is <sup>25</sup> and my date of birth is <sup>in Mexico</sup> 12-5-83
3. I went through the 12<sup>th</sup> grade. *SPANISH SPEAKING ONLY*
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 is James J. Sowder.
  - (b) I am charged with: Possession of a Controlled Substance with Intent to Deliver.  
**The elements are:** In Clark County, Washington on or about November 20, 2008, Alfredo Guzman-Partida, as principle or an accomplice did knowingly and unlawfully possess with the intent to deliver a controlled substance, heroin and he did commit the foregoing offense while armed with a firearm, a Browning .32 Caliber Handgun.
5. **I 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;

*Handwritten initials/signature*

1 (e) I am **presumed innocent** until the charge is proven beyond a reasonable doubt or I enter  
2 a plea of guilty;

3 (f) The **right to appeal** a determination of guilty **after a trial**.

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

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

| COUNT NO. | OFFENDER SCORE | STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements) | PLUS Enhancements* | TOTAL ACTUAL CONFINEMENT (standard range including enhancements) | COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f)) | MAXIMUM TERM AND FINE     |
|-----------|----------------|--|--------------------|--|---|---------------------------|
| 1         | 1<br>OR        | 51-68 months<br>12-20 MONTHS                                   | 36 months          | 87-104 months<br><del>63-82</del><br>MONTHS<br>48-56 MONTHS      | 9-12 months   | 10 YEARS<br>\$20,000 FINE |

8 \* (F) firearm, (D) other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Hom. (Sec RCW 46.61.520), (JP) juvenile present, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude.

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

12 (c) The prosecuting attorney's statement of my **criminal history is attached** to this  
13 agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's  
14 statement is correct and complete. If I have attached my own statement, I assert that it is correct  
15 and complete. If I am convicted of any additional crimes between now and the time I am  
16 sentenced, I am **obligated to tell** the sentencing judge about those convictions.

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

23 (e) In addition to sentencing me to confinement for the standard range, the judge will order  
24 me to pay **\$500.00 as a victim's compensation** fund assessment. If this crime resulted in injury  
25 to any person or damage to or loss of property, the judge will order me to make restitution,  
26  
27

1 unless extraordinary circumstances exist which would make restitution inappropriate. The  
2 amount of restitution may be up to double my gain or double the victim's loss. The judge may  
3 also order that I pay a fine, court costs, attorney fees, and the costs of incarceration.

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

17 For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement,  
18 under certain circumstances the judge may order me to serve up to one year of  
19 community custody if the total period of confinement ordered is not more than 12 months but  
20 only if the crime I have been convicted of falls into one of the offense types listed in the  
21 following chart. For the offense of failure to register as a sex offender, regardless of the length  
22 of confinement, the judge will sentence me to 36 to 48 months of community custody. If the  
23 total period of confinement ordered is more than 12 months and if the crime I have been  
24 convicted of falls into one of the offense types listed in the following chart the court will  
25 sentence me to community custody for the community custody range established for that  
26 offense type unless the judge finds substantial and compelling reasons not to do so. If the  
27 period of earned release awarded per RCW 9.94A.728 is longer, that will be the term of my  
community custody. If the crime I have been convicted of falls into more than one category of  
offense types listed in the following chart, then the community custody range will be based on  
the offense type that dictates the longest term of community custody.

**Offense Type**

**Community Custody Range**

Serious Violent Offenses

24 to 48 months or up to the period of earned release, whichever is longer.

Violent Offenses

18 to 36 months or up to the period of earned release, whichever is longer.

Crimes Against Persons as defined by RCW 9.94A.411(2)

9 to 18 months or up to the period of earned release, whichever is longer.

Offenses under Chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.660)

9 to 12 months or up to the period of earned release, whichever is longer.

Certain sentencing alternatives may also include community custody.

During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have **restrictions and requirements placed upon me**, including additional conditions of community custody that may be imposed by the Department of Corrections. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions. If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 60 days confinement per violation and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

I do not waive any right I may have to appear before a court to contest community custody violations.

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

1. Dismiss all Counts except Count 1. Dismiss school zone enhancement but charge firearm enhancement.
2. Sentence <sup>OF 81 MONTHS</sup> within the standard range of 81-104 months, <sup>DEFENDANT</sup> ~~12-18 months~~ <sup>ARGUE 42-56</sup> ~~12-18 months~~
3. Payment of \$200 court costs, \$500 crime victim compensation fund fee, \$1,000 court appointed attorney fees, \$100 DNA fee, \$100 lab fee, \$2,000 Drug Fund Fee, \$500 fine and restitution, if any, to be determined. <sup>BASED ON STU. WORKMAN</sup>

(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 there is a finding of substantial and compelling reasons not to do so. I understand the following regarding **exceptional sentences**:

(i) The judge may impose an exceptional sentence below the standard range if the judge

1 finds mitigating circumstances supporting an exceptional sentence.

2 (ii) The judge may impose an exceptional sentence above the standard range if I am  
3 being sentenced for more than one crime and I have an offender score of more than nine

4 (iii) The judge may also impose an exceptional sentence above the standard range if  
5 the State and I stipulate that justice is best served by imposition of an exceptional  
6 sentence and the judge agrees that an exceptional sentence is consistent with and in  
7 furtherance of the interests of justice and the purposes of the Sentencing Reform Act.

8 (iv) The judge may also impose an exceptional sentence above the standard range if the  
9 State has given notice that it will seek an exceptional sentence, the notice states  
10 aggravating circumstances upon which the requested sentence will be based, and facts  
11 supporting an exceptional sentence are proven beyond a reasonable doubt to a  
12 unanimous jury, to a judge if I waive a jury, or by stipulated facts.

13 If the court imposes a standard range sentence, then no one may appeal the sentence. If the  
14 court imposes an exceptional sentence after a contested hearing, either the State or I can appeal  
15 the sentence.

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

19 (j) **I may not possess, own, or have under my control any firearm unless my right to do**  
20 **so is restored by a Superior Court in Washington State, and by a federal court if required. I**  
21 **must immediately surrender any concealed pistol license. RCW 9.41.040.**

22 (k) I will be **ineligible to vote** until that right is restored in a manner provided by law. If  
23 I am registered to vote, my voter registration will be cancelled. Wash. Const. Art. VI, § 3,  
24 RCW 29A.04.079, 29A.08.520.

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

26 (m) I will be required to have a biological sample collected for purposes of **DNA**  
27 **identification analysis**. I will be required to pay a \$100.00 DNA collection fee.

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

31 (n) This offense is a ~~most serious offense~~ or strike as defined by RCW 9.94A.030, and if  
32 I have at least two prior convictions for most serious offenses, whether in this state, in federal  
33 court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life  
34 imprisonment without the possibility of parole.

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

8 (p) If this crime involves a **kidnapping offense** involving a minor, I will be required to  
9 register where I reside, study or work. The specific registration requirements are set forth in  
10 the "Offender Registration" Attachment.

11 (q) If this is a **crime of domestic violence**, I may be ordered to pay a domestic violence  
12 assessment of up to \$100.00. If I, or the victim of the offense, have a minor child, the court  
13 may order me to participate in a domestic violence perpetrator program approved under RCW  
14 26.50.150.

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

18 (s) The judge may sentence me under the **drug offender sentencing alternative (DOSA)**  
19 if I qualify under RCW 9.94A.660. Even if I qualify, the judge may order that I be examined  
20 by a licensed or certified treatment provider before deciding to impose a DOSA sentence. If  
21 the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or  
22 a residential chemical dependency treatment-based alternative. If the judge imposes the  
23 **prison-based alternative**, the sentence will consist of a period of total confinement in a state  
24 facility for one-half of the midpoint of the standard range, or 12 months whichever is greater.  
25 During confinement, I will be required to undergo a comprehensive substance abuse assessment  
26 and to participate in treatment.

27 The judge will also impose a term of community custody of at least one-half of the midpoint  
of the standard range.

If the judge imposes the **residential chemical dependency treatment-based alternative**, the  
sentence will consist of a term of community custody equal to one-half of the midpoint of the  
standard sentence range or two years, whichever is greater, and I will have to enter and remain  
in a certified residential chemical dependency treatment program for a period of three to six  
months, as set by the court. As part of this sentencing alternative, the court is required to  
schedule a progress hearing during the period of residential chemical dependency treatment and  
a treatment termination hearing scheduled three months before the expiration of the term of

1 community custody. At either hearing, based upon reports by my treatment provider and the  
2 department of corrections on my compliance with treatment and monitoring requirements and  
3 recommendations regarding termination from treatment, the judge may modify the conditions  
4 of my community custody or order me to serve a term of total confinement equal to one-half  
5 of the midpoint of the standard sentence range, followed by a term of community custody under  
6 RCW 9.94A.715.

7 During the term of community custody for either sentencing alternative, the judge could  
8 prohibit me from using alcohol or controlled substances, require me to submit to urinalysis or  
9 other testing to monitor that status, require me to devote time to a specific employment or  
10 training, stay out of certain areas, pay \$30.00 per month to offset the cost of monitoring and  
11 require other conditions, such as affirmative conditions, and the conditions described in  
12 paragraph 6(e). The judge, on his or her own initiative, may order me to appear in court at any  
13 time during the period of community custody to evaluate my progress in treatment or to  
14 determine if I have violated the conditions of the sentence. If the court finds that I have  
15 violated the conditions of the sentence or that I have failed to make satisfactory progress in  
16 treatment, the court may modify the terms of my community custody or order me to serve a  
17 term of total confinement within the standard range.

18 (t) If I am subject to community custody and the judge finds that I have a **chemical**  
19 **dependency** that has contributed to the offense, the judge may order me to participate in  
20 rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the  
21 circumstances of the crime for which I am pleading guilty.

22 (u) If this crime involves the manufacture, delivery, or possession with the intent to deliver  
23 methamphetamine, including its salts, isomers, and salts of isomers, or amphetamine, including  
24 its salts, isomers, and salts of isomers, a mandatory **methamphetamine clean-up fine** of  
25 \$3,000 will be assessed. RCW 69.50.401(2)(b).

26 (v) If this crime involves a violation of the state drug laws, my eligibility for state and  
27 federal food stamps, welfare, and education benefits may be affected. 20 U.S.C. § 1091(r) and  
28 21 U.S.C. § 862a.

(w) If this crime **involves a motor vehicle**, my driver's license or privilege to drive will be  
suspended or revoked.

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

1  
2 (y) If I am pleading guilty to felony driving under the influence of intoxicating liquor or  
3 any drugs, or felony actual physical control of a motor vehicle while under the influence of  
4 intoxicating liquor or any drug, in addition to the provisions of chapter 9.94A RCW, I will be  
5 required to undergo alcohol or chemical dependency treatment services during incarceration.  
6 I will be required to pay the costs of treatment unless the court finds that I am indigent. My  
7 driving privileges will be suspended, revoked or denied. Following the period of suspension,  
8 revocation or denial, I must comply with ignition interlock device requirements.

9 (z) The crime of \_\_\_\_\_ has a **mandatory minimum**  
10 sentence of at least \_\_\_\_\_ years of total confinement. The law does not allow any reduction  
11 of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence  
12 of life imprisonment without the possibility of parole described in paragraph 6[n].

13 (aa) I am being sentenced for **two or more serious violent offenses** arising from separate  
14 and distinct criminal conduct and the sentences imposed on counts \_\_\_\_\_ and \_\_\_\_\_ will run  
15 consecutively unless the judge finds substantial and compelling reasons to do otherwise.

16 (bb) The offense(s) I am pleading guilty to includes a Violation of the Uniform Controlled  
17 Substances Act in a **protected zone enhancement** or manufacture of methamphetamine when  
18 a juvenile was present in or upon the premises of manufacture enhancement. I understand these  
19 enhancements are mandatory and that they must run consecutively to all other sentencing  
20 provisions.

21 (cc) The offense(s) I am pleading guilty to includes a **deadly weapon, firearm, or sexual**  
22 **motivation enhancement**. Deadly weapon, firearm, or sexual motivation enhancements are  
23 mandatory, they must be served in total confinement, and they must run consecutively to any  
24 other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.

25 (dd) The offenses I am pleading guilty to includes both a conviction under RCW 9.41.040  
26 for **unlawful possession of a firearm in the first or second degree and one or more**  
27 **convictions for the felony crimes of theft of a firearm or possession of a stolen firearm**.  
The sentences imposed for these crimes shall be served consecutively to each other. A  
consecutive sentence will also be imposed for each firearm unlawfully possessed.

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

1 (ff) The judge may authorize **work ethic camp**. To qualify for work ethic authorization my  
2 term of total confinement must be more than twelve months and less than thirty-six months,  
3 I can not currently be either pending prosecution or serving a sentence for violation of the  
4 uniform controlled substance act and I can not have a current or prior conviction for a sex or  
5 violent offense.

with a deadly weapon

6 7. **I plead guilty to Possession of a Controlled Substance, Heroin.** I have received a copy of that  
7 Information.

8 8. I make this plea **freely and voluntarily**.

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

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

13 11. The judge has asked me to state what I did in my own words that makes me guilty of this crime.  
14 This is my statement:

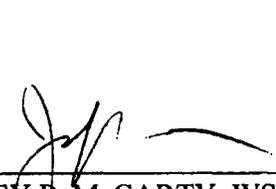
15 **IN CLARK COUNTY, WASHINGTON ON OR ABOUT NOVEMBER 20, 2008, I,**  
16 **ALFREDO GUZMAN-PARTIDA AS A PRINCIPLE OR ACCOMPLICE DID KNOWINGLY**  
17 **AND UNLAWFULLY POSSESS WITH THE INTENT TO DELIVER HEROIN, A**  
18 **CONTROLLED SUBSTANCE. I UNDERSTAND BY PLEADING GUILTY I AM WAIVING**  
19 **MY RIGHT TO APPEAL THE DENIAL OF MY MOTION TO SUPPRESS.**

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

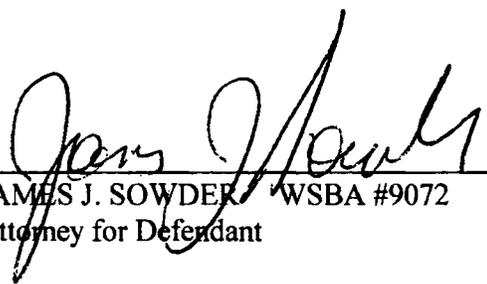
23 Alfredo Guzman Partida  
24 DEFENDANT

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

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JEFFREY P. McCARTY WSBA# 33134  
Deputy Prosecuting Attorney



JAMES J. SOWDER WSBA #9072  
Attorney for Defendant

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 one):

- (a) The defendant had previously read the entire statement above and that 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 the defendant understood it in full. The interpreter's declaration is attached.

**Interpreter's Declaration:** I am a certified interpreter or have been found otherwise qualified by the court to interpret in the SPANISH language, which the defendant understands, and I have translated this 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.

Signed at (city) Vancouver, (state) WA, on (date) 4-02-09.

Yvonne Lukus YVONNE LUKUS  
Interpreter Print Name

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 2 day of April, 2009.

  
JUDGE Wulle

# MANUFACTURE, DELIVER, OR POSSESS WITH INTENT TO DELIVER HEROIN OR COCAINE

(RCW 69.50.401(2)(a)) CLASS B - NON VIOLENT DRUG

## FIRST CONVICTION AND NOT IN A PROTECTED ZONE

### I. OFFENDER SCORING (RCW 9.94A.525(13))

**ADULT HISTORY:**

If the offender does not have a prior sex or serious violent offense in history, enter number of felony drug convictions (RCW 9.94A.525(13))\*\* ..... \_\_\_\_\_ x 1 = \_\_\_\_\_

Enter number of other felony convictions ..... \_\_\_\_\_ x 1 = \_\_\_\_\_

If the offender has a prior sex or serious violent offense in history, enter number of drug convictions (RCW 9.94A.525(13))\*\* ..... \_\_\_\_\_ x 3 = \_\_\_\_\_

**JUVENILE HISTORY:**

If the offender does not have a prior sex or serious violent offense in history, enter the number of felony drug dispositions (RCW 9.94A.525(13))\*\* ..... \_\_\_\_\_ x 1/2 = \_\_\_\_\_

Enter number of violent felony dispositions ..... \_\_\_\_\_ x 1 = \_\_\_\_\_

Enter number of nonviolent felony dispositions ..... \_\_\_\_\_ x 1/2 = \_\_\_\_\_

If the offender has a prior sex or serious violent offense in history, enter the number of felony drug convictions (RCW 9.94A.525(13))\*\* ..... \_\_\_\_\_ x 2 = \_\_\_\_\_

**OTHER CURRENT OFFENSES:** (Other current offenses which do not encompass the same conduct count in offender score)

If the offender does not have a prior sex or serious violent offense in history, enter number of felony drug convictions (as defined by RCW 9.94A.030) \*\* ..... \_\_\_\_\_ x 1 = \_\_\_\_\_

Enter number of other felony convictions ..... \_\_\_\_\_ x 1 = \_\_\_\_\_

If the offender has a prior sex or serious violent offense in history, enter number of drug convictions. .... \_\_\_\_\_ x 3 = \_\_\_\_\_

**STATUS:** Was the offender on community custody on the date the current offense was committed? (if yes), ..... + 1 = \_\_\_\_\_

Total the last column to get the **Offender Score**  
(Round down to the nearest whole number)

### II. DRUG GRID SENTENCE RANGE

| Offender Score:         | 0 to 2           | 3 to 5           | 6 to 9+           |
|-------------------------|------------------|------------------|-------------------|
| Standard Range Level II | 12+ to 20 months | 20+ to 60 months | 60+ to 120 months |

- For sentence ranges for anticipatory drug offenses, see page III-284.
- Any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.602 becomes a level III offense. See RCW 9.94A.518 – Drug Offenses Seriousness Levels.
- If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-8 or III-9
- When a court sentences an offender to the custody of the Dept. of Corrections, the court shall also sentence the offender to community custody for the range of 9 to 12 months, or to the period of earned release, whichever is longer (RCW 9.94A.715)\*\*\*
- *Statutory maximum sentence for first conviction under chapter 69.50 is 120 months (10 years) (RCW 9A.20.021(1))*

\*\*The Washington State Court of Appeals ruled that although solicitations to commit violations of 69.50 are not considered drug offenses as defined in 9.94A.030, they do score as a drug offense. See *State v. Howell*, 102 Wn. App. 288, 6 P.3d 1201 (2000).

\*\*\*Solicitations to commit violations of 69.50 RCW are not subject to the community custody requirement for drug offenses, under RCW 9.94A.715. See *In re Hopkins*, 137 Wn.2d 897 (1999).

### III. SENTENCING OPTIONS FOR VIOLATIONS OF RCW CHAPTERS. 69.50, 69.55, 69.41- See page III-288.

*Although the Washington Sentencing Guidelines Commission does all that it can to assure the accuracy of its publications, the scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules. If you find any errors or omissions, we encourage you to report them to the Sentencing Guidelines Commission.*



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

5 STATE OF WASHINGTON,

6 Plaintiff,

7 v.

8 ALFREDO GUZMAN-PARTIDA  
9 AKA CHRISTAIN GUADALUPE PONCE,

10 Defendant

No. 08-1-01982-9

APPENDIX 2.2

DECLARATION OF CRIMINAL HISTORY

11 COME NOW the parties, and do hereby declare, pursuant to RCW 9.94A.100 that to the best of  
12 the knowledge of the defendant and his/her attorney, and the Prosecuting Attorney's Office, the  
defendant has the following undisputed prior criminal convictions:

13

| CRIME                        | COUNTY/STATE<br>CAUSE NO. | DATE OF<br>CRIME | DATE OF<br>SENTENCE | PTS.   |
|------------------------------|---------------------------|------------------|---------------------|--------|
| UNLAWFUL DELIVER-<br>COCAINE | MULTNOMAH/OR<br>061136407 | 11/9/2006        | 1/3/2007            | 1      |
| UNLAWFUL DELIVER-<br>HEROIN  | MULTNOMAH/OR<br>061136407 | 11/9/2006        | 1/3/2007            | (same) |

14  
15  
16

17  The defendant committed a current offense while on community placement (adds one  
18 point to score). RCW 9.94A.525.

19 DATED this \_\_\_\_\_ day of December, 2008.

20  
21 \_\_\_\_\_  
22 Defendant

23  
24 James J. Sowder, WSBA#09072  
Attorney for Defendant

25 \_\_\_\_\_  
26 Jeffery P. McCarty, WSBA#33134  
27 Deputy Prosecuting Attorney

28  
29 DECLARATION OF CRIMINAL HISTORY  
Revised 9/14/2000

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

**APPENDIX "B"**  
**FELONY JUDGMENT AND SENTENCE**

FILED  
1:26 PM  
APR 14 2009

Sherry W. Parker, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON  
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,  
v.  
ALFREDO GUZMAN-PARTIDA, Aka CHRISTAIN  
GUADALUPE PONCE,  
Defendant.  
SID:  
DOB: 1/4/1983

No. 08-1-01982-9  
FELONY JUDGMENT AND SENTENCE  
(FJS)  
PRISON - COMMUNITY  
PLACEMENT/COMMUNITY CUSTODY  
Clerk's action required;  
 Paragraph 4.5 (SDOSA),  4.2,  
 5.3,  5.6 and  5.8

I. HEARING

09-9-02794-2

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

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on April 2, 2009,  
by  plea  jury-verdict  bench trial of:

| COUNT | CRIME  | RCW                                 | DATE OF CRIME |
|-------|--|-------------------------------------|---------------|
| 01    | POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER - HEROIN | 9A.08.020(3)<br>69.50.401(1),(2)(a) | 11/20/2008    |

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

- Additional current offenses are attached in Appendix 2.1.
- The court finds that the defendant is subject to sentencing under **RCW 9.94A.712**.
- A special verdict/finding that the offense was **predatory** was returned on Count(s) \_\_\_\_\_ RCW 9.94A.\_\_\_\_.

44  
N

- A special verdict/finding that the **victim was under 15 years of age** at the time of the offense was returned on Count(s) \_\_\_\_\_ RCW 9.94A. \_\_\_\_\_.
- A special verdict/finding that the **victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult** at the time of the offense was returned on Count(s) \_\_\_\_\_ RCW 9.94A. \_\_\_\_\_, 9A.44.010.
- A special verdict/finding of **sexual motivation** was returned on Count(s) \_\_\_\_\_ RCW 9.94A.835.
- This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- A special verdict/finding for use of **firearm** was returned on Count(s) 01RCW 9.94A.602, 533.
- A special verdict/finding for use of **deadly weapon** other than a firearm was returned on Count(s) \_\_\_\_\_ RCW 9.94A.602, 533.
- A special verdict/finding for **Violation of the Uniform Controlled Substances Act (VUCSA)** was returned on Count(s) \_\_\_\_\_, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** was returned on Count(s) \_\_\_\_\_ RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- The court finds that the offender has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- The crimes charged in Count(s) \_\_\_\_\_ is/are **Domestic Violence** offense(s) as that term is defined in RCW 10.99.020:
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are Count(s) \_\_\_\_\_ RCW 9.94A.589
- Additional misdemeanor crime(s) pertaining to this cause number are contained in a separate Judgment and Sentence.
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): \_\_\_\_\_

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

| CRIME                         | DATE OF SENTENCE | SENTENCING COURT<br>(County & State) | DATE OF CRIME | A or J<br>Adult,<br>Juv. | TYPE<br>OF<br>CRIME |
|-------------------------------|------------------|--------------------------------------|---------------|--------------------------|---------------------|
| See attached criminal history |                  |                                      |               |                          |                     |

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525.

- The court finds that the following prior convictions are one offense for purposes of determining the offender score RCW 9.94A.525: \_\_\_\_\_
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520: \_\_\_\_\_
- The State has moved to dismiss count(s) \_\_\_\_\_.

**2.3 SENTENCING DATA:**

| COUNT NO. | OFFENDER SCORE | SERIOUSNESS LEVEL | STANDARD RANGE (not including enhancements) | PLUS ENHANCEMENTS* | TOTAL STANDARD RANGE (including enhancements) | MAXIMUM TERM         |
|-----------|----------------|-------------------|---|--------------------|---|----------------------|
| 01        | 1              | III - D           | <del>51 MONTHS to 66</del><br>10 MONTHS     | 36 MONTHS(F)       | <del>87 MONTHS to 104</del><br>104 MONTHS     | 10 YEARS<br>\$25,000 |

\* (F) Firearm, (D) other Deadly Weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8).

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) \_\_\_\_\_.

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

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

The defendant waives his right to have a jury determine any issues regarding the imposition of an exceptional sentence upward. *Apprendi v. New Jersey, 530 U.S. 466, 120 S. Ct 2348, 147 L. Ed 2d 435 (2000), Blakely v. Washington, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004).*

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. RCW 9.94A.750/753.

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

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

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

**III. JUDGMENT**

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

3.2  The Court DISMISSES Counts \_\_\_\_\_.

The defendant is found NOT GUILTY of Counts \_\_\_\_\_.

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

**IV. SENTENCE AND ORDER**

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

|                         |            |  |                    |                                |
|-------------------------|------------|--|--------------------|--------------------------------|
| RTN/RJN                 | \$ _____   | Restitution to be paid to:<br><input type="checkbox"/> Victim(s) and amounts to be set by separate court order                               |                    | RCW 9.94A.750/.753             |
| PCV                     | \$500.00   | Victim Assessment  |                    | RCW 7.68.035                   |
|                         | \$ _____   | DV Penalty Assessment  |                    | RCW 10.99.080                  |
| CRC                     |            | Court Costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190  |                    |                                |
|                         | \$ 200.00  | Criminal filing fee  | FRC                | RCW 9.94A.505                  |
|                         | \$ _____   | Witness costs  | WFR                | RCW 10.01.160 and RCW 2.40.010 |
|                         | \$ _____   | Sheriff Service Fees   | SFR/SFS/SFWWR<br>F | RCW 10.01.160 and 36.18.040    |
|                         | \$ _____   | Jury Demand Fee<br>\$ 250.00   | JFR                | RCW 10.01.160 and 10.46.190    |
|                         | \$ _____   | Extradition costs  | EXT                | RCW 9.94A.505                  |
|                         | \$ _____   | Other Costs _____  |                    | RCW 9.94A.760                  |
| PUB                     | \$1,000.00 | Fees for court appointed attorney<br>Trial per diem if applicable  |                    | RCW 9.94A.505/.760/.030        |
| WFR                     | \$ _____   | Court appointed defense expert and other defense costs   |                    | RCW 9.94A.505, .760, 9.94A.030 |
| FCM/MTH                 | \$500.00   | Fine   |                    | RCW 9A.20.021                  |
| CDF/LDI/FCD/NTF/SAD/SDI | \$2,000.00 | Drug fund contribution to be paid within two (2) years<br>Fund # <input type="checkbox"/> 1015 <input checked="" type="checkbox"/> 1017 (TF) |                    | RCW 9.94A.760                  |
| CLF                     | \$100.00   | Crime lab fee - <input type="checkbox"/> Suspended due to Indigency  |                    | RCW 43.43.690                  |
|                         | \$100.00   | Felony DNA Collection fee (for crimes committed on or after July 1, 2002)  |                    | RCW 43.43.7541                 |
| RTN/RJN                 | \$ _____   | Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum)<br>To:<br>_____<br>(List Law Enforcement Agency)       |                    | RCW 38.52.430                  |

|  |          |                        |               |
|--|----------|------------------------|---------------|
|  | \$ _____ | Other Costs for: _____ | RCW 9.94A.760 |
|--|----------|------------------------|---------------|

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

shall be set by the prosecutor

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

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

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

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

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

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

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

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

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

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

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

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

A Supplemental Domestic Violence Protection Order, Antiharassment No Contact Order, or Sexual Assault Protection Order is filed with the Judgment and Sentence.

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

4.4 OTHER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4.5 **CONFINEMENT OVER ONE YEAR.** The defendant is sentenced as follows:  
(a) **CONFINEMENT.** RCW 9.94A.589. Defendant is sentenced to the following term of confinement in the custody of the Department of Corrections (DOC):

56 days/months on Count 01

Actual number of months of total confinement ordered is: 56  
(Add mandatory firearm and deadly weapons and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

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

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm, other deadly weapon, sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with a juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_  
\_\_\_\_\_

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

| Count | minimum term | maximum term |
|-------|--------------|--------------|
| 01    |              |              |

(c) Credit for 145 days time served prior to this date is given, said confinement being solely related to the crimes for which the defendant is being sentenced. RCW 9.94A.505

4.6  **COMMUNITY PLACEMENT** is ordered on Counts \_\_\_\_\_ for \_\_\_\_\_ months

**COMMUNITY CUSTODY** for Count(s) \_\_\_\_\_, sentenced under RCW 9.94A.712, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence.

**COMMUNITY CUSTODY** is ordered on Counts 1 for a range from 9 to 12 months or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700 and .705 for community placement offenses which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and Chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 committed before July 1, 2000. See

RCW 9.94A.715 for community custody range offenses, which include sex offenses not sentenced under RCW 9.94A.712 and violent offenses committed on or after July 1, 2000. Community custody follows a term for a sex offense –RCW 9.94A.505. Use paragraph 4.7 to impose community custody following work ethic camp.]

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

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

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at Department of Corrections-approved education, employment and/or community 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 the Department of Corrections; (7) perform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections and (8) for sex offenses, submit to electronic monitoring if imposed by Department of Corrections. 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 be on community placement/community custody under the charge of the Department of Corrections and shall follow and comply with the instructions, rules and regulations promulgated by said Department for the conduct of the defendant during the period of community placement/community custody and any other conditions stated in this Judgment and Sentence.

The defendant's conditions of Community Placement/Community Custody include the following:

- The defendant shall not consume any alcohol.
- Defendant shall have no contact with \_\_\_\_\_
- Defendant shall remain  within  outside of a specified geographical boundary, to wit: \_\_\_\_\_
- Defendant shall not reside in a community protection zone (within 880 feet of the facilities or grounds of a public or private school if the offense was committed on or after July 24, 2005. (RCW9.94A.030(8)).
- The defendant shall participate in the following crime-related treatment or counseling services: \_\_\_\_\_
- Defendant shall not violate any federal, state or local criminal laws, and shall not be in the company of any person known by him/her to be violating such laws.
- Defendant shall not commit any like offenses.
- Defendant shall notify his/her community corrections officer within forty-eight (48) hours of any arrest or citation.

- Defendant shall not initiate or permit communication or contact with persons known to him/her to be convicted felons, or presently on probation, community supervision/community custody or parole for any offense, juvenile or adult, except immediate family or as authorized by his/her community corrections officer for treatment purposes. Additionally, the defendant shall not initiate or permit communication or contact with the following persons:
- 
- Defendant shall not have any contact with other participants in the crime, either directly or indirectly.
- Defendant shall not initiate or permit communication or contact with persons known to him/her to be substance abusers.
- Defendant shall not possess, use or deliver drugs prohibited by the Uniform Controlled Substances Act, or any legend drugs, except by lawful prescription. The defendant shall notify his/her community corrections officer on the next working day when a controlled substance or legend drug has been medically prescribed.
- Defendant shall not possess or use any paraphernalia that can be used for the ingestion or processing of controlled substances or that can be used to facilitate the sale or transfer of controlled substances including scales, pagers, police scanners, and hand held electronic scheduling and data storage devices.
- Defendant shall not frequent known drug activity areas or residences.
- Defendant shall not use or possess alcoholic beverages  at all  to excess.  
The defendant  will  will not be required to take monitored antabuse per his/her community corrections officer's direction, at his/her own expense, as prescribed by a physician.
- Defendant shall not be in any place where alcoholic beverages are sold by the drink for consumption or are the primary sale item.
- Defendant shall undergo an evaluation for treatment for  substance abuse  mental health  anger management treatment and fully comply with all recommended treatment.
- Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a  substance abuse  mental health  anger management treatment  parenting program as established by the community corrections officer and/or the treatment facility.
- Defendant shall participate in a domestic violence perpetrator program as approved under RCW 26.50.150 and fully comply with all recommended treatment. RCW 9.94A.505 (11).
- Based upon the Pre-Sentence Report, the court finds reasonable grounds to exist to believe the defendant is a mentally ill person, and this condition was likely to have influenced the offense. Accordingly, the court orders the defendant to undergo a mental status evaluation and participate in outpatient mental health treatment. Further, the court may order additional evaluations at a later date, if deemed appropriate.
- Treatment shall be at the defendant's expense and he/she shall keep his/her account current if it is determined that the defendant is financially able to afford it.
- Defendant shall submit to urine, breath or other screening whenever requested to do so by the treatment program staff and/or the community corrections officer.
- Defendant shall not associate with any persons known by him/her to be gang members or associated with gangs.

- Defendant shall not wear or display any clothing, apparel, insignia or emblems that he/she knows are associated with or represent gang affiliation or membership as determined by the community corrections officer.
- Defendant shall not possess any gang paraphernalia as determined by the community corrections officer.
- Defendant shall not use or display any names, nicknames or monikers that are associated with gangs.
- Defendant shall comply with a curfew, the hours of which are established by the community corrections officer.
- Defendant shall attend and successfully complete a shoplifting awareness educational program as directed by the community corrections officer.
- Defendant shall attend and successfully complete the Victim Awareness Educational Program as directed by the community corrections officer.
- Defendant shall not accept employment in the following field(s):  
\_\_\_\_\_
- Defendant shall not possess burglary tools.
- Defendant's privilege to operate a motor vehicle is suspended/revoked for a period of one year; two years if the defendant is being sentenced for a vehicular homicide.
- Defendant shall not operate a motor vehicle without a valid driver's license and proof of liability insurance in his/her possession.
- Defendant shall not possess a checkbook or checking account.
- Defendant shall not possess any type of access device or P.I.N. used to withdraw funds from an automated teller machine.
- Defendant shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections.
- Defendant shall not be eligible for a Certificate of Discharge until all financial obligations are paid in full and all conditions/requirements of sentence have been completed including no contact provisions.
- Defendant shall not enter into or frequent business establishments or areas that cater to minor children without being accompanied by a responsible adult. Such establishments may include but are not limited to video game parlors, parks, pools, skating rinks, school grounds, malls or any areas routinely used by minors as areas of play/recreation.
- Defendant shall not have any unsupervised contact with minors. Minors mean persons under the age of 18 years.
- Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a sexual deviancy treatment program as established by the community corrections officer and/or the treatment facility. Defendant shall not change sex offender treatment providers or treatment conditions without first notifying the Prosecutor, community corrections officer and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. "Cooperate with" means the offender shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity.

- Defendant shall, at his or her own expense, submit to periodic polygraph examinations at the direction of his/her community corrections officer to ensure compliance with the conditions of community placement/custody.
  - Defendant shall, at his or her own expense, submit to periodic plethysmograph examinations at the direction of his/her community corrections officer to ensure compliance with the conditions of community placement/custody. Copies of the examination results shall be provided to the Prosecuting Attorney's Office upon request.
  - Defendant shall not possess or use any pornographic material, defined as any pictorial material displaying direct physical stimulation of unclothed genitals, masturbation, sodomy (i.e. bestiality or oral or anal intercourse), flagellation or torture in the context of a sexual relationship, or emphasizing the depiction of adult or child human genitals: provided however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition as defined in RCW 9.68.130(2).or any equipment of any kind used for sexual gratification and defendant shall not frequent establishments that provide such materials or equipment for view or sale.
  - If the defendant is removed/deported by the U.S. Immigration and Customs Enforcement, the community custody time is tolled during that time that the defendant is not reporting for supervision in the United States. The defendant shall not enter the United States without the knowledge and permission of U.S. Immigration and Customs Enforcement. If the defendant re-enters the United States, he/she shall immediately report to the Department of Corrections for supervision.
  - Defendant shall sign necessary release of information documents as required by the Department of Corrections.
  - 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.
  - Defendant shall adhere to the following additional crime-related prohibitions or conditions of community placement/community custody:
- 
- 

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

- 4.8 The Bail or release conditions previously imposed are hereby exonerated and the clerk shall disburse it to the appropriate person(s).
  - 4.9 This case shall not be placed on inactive or mail-in status until all financial obligations are paid in full.
  - 4.10 When there is a reasonable cause to believe that the defendant has violated a condition or requirement of this sentence, the defendant shall allow, and the Department of Corrections can conduct, searches of the defendant's person, residence, automobile or other personal property. Residence searches shall include access, for the purposes of visual inspection, all areas of the residence in which the defendant lives or has exclusive/joint control/access and automobiles owned and possessed by the defendant.
  - 4.11 Other:
- 
-

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090
- 5.2 **LENGTH OF SUPERVISION** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten (10) years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606
- 5.4 **RESTITUTION HEARING.**  
 Defendant waives any right to be present at any restitution hearing (sign initials): \_\_\_\_\_
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634
- 5.6 **FIREARMS. You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record.** (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047

**Cross off if not applicable:**

**5.7 SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200.**

- 1. General Applicability and Requirements:** Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.130, you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.
- 2. Offenders Who Leave the State and Return:** If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within three business days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within three business days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.
- 3. Change of Residence Within State and Leaving the State:** If you change your residence within a county, you must send signed written notice of your change of residence to the sheriff within 72 hours of

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

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

**5. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12):** If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution, whichever is earlier. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within 10 days of such termination. (Effective September 1, 2006) If you attend, or plan to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW, you are required to notify the sheriff of the county of your residence of your intent to attend the school. You must notify the sheriff within 10 days of enrolling or 10 days prior to arriving at the school to attend classes, whichever is earlier. If you are enrolled on September 1, 2006, you must notify the sheriff immediately. The sheriff shall promptly notify the principal of the school.

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

**7. Reporting Requirements for Persons Who Are Risk Level II or III:** If you have a fixed residence and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least 5 years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

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

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

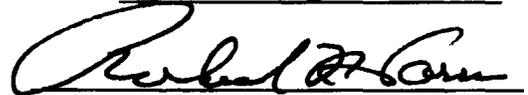
5.9 If the defendant is or becomes subject to a court-ordered mental health or chemical dependency treatment, the defendant must notify the Department of Corrections and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW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

5.10 Persistent Offense Notice

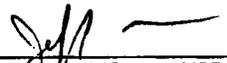
- The crime(s) in count(s) \_\_\_\_\_ is/are "most serious offense(s)." Upon a third conviction of a "most serious offense", the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community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

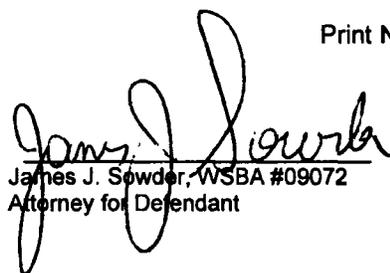
5.11 OTHER: \_\_\_\_\_

DONE in Open Court and in the presence of the defendant this date: 14 April 2009

  
JUDGE OF THE SUPERIOR COURT

Print Name: Robert L Hoams

  
Jeffery H. McCarty, WSBA #33134  
Deputy Prosecuting Attorney

  
James J. Sowder, WSBA #09072  
Attorney for Defendant

  
ALFREDO GUZMAN-PARTIDA  
Defendant

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

STATE OF WASHINGTON,

Plaintiff,

v.

ALFREDO GUZMAN-PARTIDA  
AKA CHRISTAIN GUADALUPE PONCE,

Defendant

No. 08-1-01982-9

APPENDIX 2.2

DECLARATION OF CRIMINAL HISTORY

COME NOW the parties, and do hereby declare, pursuant to RCW 9.94A.100 that to the best of the knowledge of the defendant and his/her attorney, and the Prosecuting Attorney's Office, the defendant has the following undisputed prior criminal convictions:

| CRIME                    | COUNTY/STATE CAUSE NO. | DATE OF CRIME | DATE OF SENTENCE | PTS.       |
|--------------------------|------------------------|---------------|------------------|------------|
| UNLAWFUL DELIVER-COCAINE | MULTNOMAH/OR 061136407 | 11/9/2006     | 1/3/2007         | 1          |
| UNLAWFUL DELIVER-HEROIN  | MULTNOMAH/OR 061136407 | 11/9/2006     | 1/3/2007         | <i>msg</i> |

The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525.

DATED this 2 day of April, 2009.

*Alfredo Guzman Partida*  
Defendant

*James J. Sowder*  
James J. Sowder, WSBA#09072  
Attorney for Defendant

*Jeffery P. McCarty*  
Jeffery P. McCarty, WSBA#33134  
Deputy Prosecuting Attorney

SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

NO. 08-1-01982-9

v.

ALFREDO GUZMAN-PARTIDA,

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

Defendant.

SID:

DOB: 1/4/1983

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

**GREETING:**

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

| COUNT | CRIME  | RCW                              | DATE OF CRIME |
|-------|--|----------------------------------|---------------|
| 01    | POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER - HEROIN | 9A.08.020(3)/69.50.401(1),(2)(a) | 11/20/2008    |

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

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

| COUNT | CRIME  | TERM           |
|-------|--|----------------|
| 01    | POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER - HEROIN | 56 Days/Months |

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

The defendant has credit for ~~30~~ <sup>145</sup> days served.

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

And these presents shall be authority for the same.

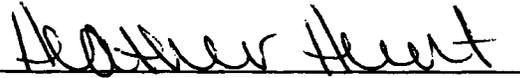
HEREIN FAIL NOT.

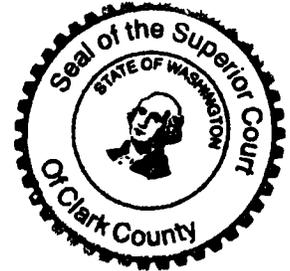
WITNESS, Honorable



JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE: 4-14-09

SHERRY W. PARKER, Clerk of the  
Clark County Superior Court

By:   
Deputy



CAUSE NUMBER of this case: 08-1-01982-9

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

Defendant's signature: X Alfredo Guzman P.

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

Interpreter signature/Print name: \_\_\_\_\_

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

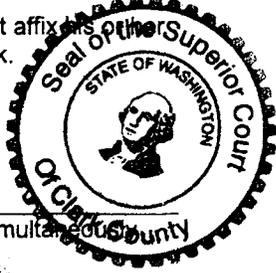
WITNESS my hand and seal of the said Superior Court affixed this date: \_\_\_\_\_

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

| IDENTIFICATION OF DEFENDANT<br>ALFREDO GUZMAN-PARTIDA         |                            |
|---|----------------------------|
| Alias name, SSN, DOB: Christain Guadalupe Ponce, 12/5/1983    |                            |
| SID No.<br>(If no SID take fingerprint card for State Patrol) | Date of Birth 1/4/1983     |
| Race: W   | Sex: M                     |
| Driver License No.  | Driver License State:      |
| FBI No. 431170HC4   | Local ID No. (CFN): 195732 |
|   | Corrections No.            |
| Other   |                            |

**FINGERPRINTS** I attest that I saw the same defendant who appeared in Court on this document affix his fingerprints and signature thereto. Clerk of the Court: Sherry W. Parker Deputy Clerk.  
Dated: 4-14-09

DEFENDANT'S SIGNATURE: X Alfredo Guzman Partida



Left four fingers taken simultaneously      Left Thumb

Right Thumb      Right four fingers taken simultaneously



