

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

In re the Personal Restraint Petition of:

MARK L. MILLER,

Petitioner.

RESPONSE OF THE
INDETERMINATE
SENTENCE REVIEW
BOARD

I. INTRODUCTION

The Respondent, the Indeterminate Sentencing Review Board (ISRB or Board), responds to Miller's personal restraint petition pursuant to RAP 16.9. Miller is in prison after the Board revoked his parole in January 2013. He brings seven claims. In his first claim, he alleges that the Legislature violated the single subject rule when it repealed a sunset provision (former RCW 9.95.0011) that would have abolished the Board. But one of the main purposes of the bill was to create a determinate-plus sentencing scheme for certain sex offenders. The Board is a necessary element of such a scheme. Thus, its preservation is well within the subject of the title, which states that the bill relates to the management of sex offenders in the criminal justice system.

In Miller's second claim, he alleges that the Board violated his due process rights because it did not afford him a hearing prior to rescinding his conditional discharge from supervision. However, the Board's action

amounted only to increasing the number of existing conditions of Miller's parole. He had still been on parole during his period of conditional discharge, but he simply did not have a requirement to report to his Community Corrections Officer (CCO) during that time. Adding the additional condition to report does not amount to a grievous loss that triggers minimal due process protections.

In Miller's third claim, he alleges that his CCO had no authority to recommend rescission of his conditional discharge from supervision because the DOC was not supervising him at the time. However, during that time, Miller was still on parole, certain conditions of parole were still in effect, and Miller violated them. By statute, his CCO was authorized to make recommendations as to how the Board should respond to Miller's violations of conditions.

In Miller's fourth claim, he alleges that because the Board held the revocation hearing more than 30 days after it had served him with the notice of alleged violations, it violated RCW 9.95.120, WAC 381-70-160, and his right to due process, and it thereby deprived the Board of jurisdiction over his violations. However, during that time Miller was in jail on new felony charges, not only the Board's allegations. As such, the due process timeline was not running. Also, the statutory timeline is not

jurisdictional, and failing to abide by it does not warrant dismissal of a revocation.

In Miller's fifth claim, he argues that because his parole condition requiring him to submit to a urinalysis stated that he was to submit to drug and alcohol testing through an agency approved by his CCO, and because his CCO did not constitute such an agency, the CCO did not have authority to directly take Miller's urine sample and test it. However, obviously the CCO approved the DOC as the agency to take the sample and perform the testing.

In Miller's sixth claim, he argues that the Board relied on hearsay to find him guilty of the allegations of drug use. But the CCO who took the urine sample and did the testing on it was at the revocation hearing and testified. Firsthand knowledge does not constitute hearsay.

In Miller's final claim, he argues that the drug use allegations were not proven by a preponderance of the evidence because they were based solely on the CCO's in-house testing of Miller's urine sample. But because the drug test was positive, it established that Miller used drugs more probably than not. This is sufficient to find him guilty of the allegation.

II. BASIS FOR CUSTODY

Miller is confined and under the jurisdiction of the ISRB pursuant to a conviction by plea for first degree robbery, committed on March 27, 1979. Exhibit 1, Order Deferring Sentence. The Clark County Superior Court originally deferred imposition of a sentence for five years. *Id.* Subsequently, however, Miller violated his conditions by committing a new crime in Oregon. As a result, in 1985 the court revoked his probation. Exhibit 2, Order of Revocation of Probation and Judgment and Sentence. The court imposed a maximum term of 40 years of confinement, to run consecutively to the 1984 sentence from Oregon. *Id.*, at 2; Exhibit 3, Judgment Order. Miller's maximum term on his 1979 sentence is set to expire on December 14, 2030. Exhibit 4, OMNI Legal Face Sheet, at 1 ("Prison Max Expiration Date").

II. STATEMENT OF FACTS OF ORIGINAL CRIME

Miller's crime involved his entering a small grocery store at night with a gun while wearing a ski mask. Exhibit 5, Presentence or Intake Summary Report, at 2-4. He demanded money from the cashier, and when police later found the gun, it was loaded. *Id.* Miller also admitted to having attempted an armed robbery of a café the same day. *Id.*

III. STATEMENT OF BOARD PROCEDURAL HISTORY

In 1991, the Board set Miller's minimum term at 33 months. Exhibit 6, Sentence Fixed by Board; *see also* Exhibit 7, Decisions and Reasons of December 10-13, 1991. On August 17, 1993, the Board found Miller parolable. Exhibit 8, Decision and Reasons of August 17, 1993. In November that same year, the Board approved Miller's parole plan to live with his father in Vancouver, Washington. Exhibit 9, Decision and Reasons of November 10, 1993. At that time, the superintendent also changed his finding for prospects for rehabilitation from poor to fair. *Id.*; *see also* RCW 9.95.052.

A little over two years after he was paroled in December 1993, Miller had an altercation with a methamphetamine dealer. During that altercation, Miller possessed a shotgun, which violated his conditions of parole. On February 27, 1996, the Board determined after a revocation hearing that although Miller had violated his conditions, parole should be reinstated. Exhibit 10, Parole Revocation Hearing: Findings and Conclusions, February 27, 1996.

A year later, the Board revoked Miller's parole after he was found to have violated conditions by, among other things, possessing methamphetamine, assaulting a police officer, and possessing a firearm.

Exhibit 11, Parole Revocation Hearing: Findings and Conclusions, February 25, 1997.

Miller also received a Sentencing Reform Act (SRA) sentence from Clark County for the assault on the police officer. Exhibit 12, Parole Revocation Hearing: Findings and Conclusions, November 12, 1998, at 2. He served that sentence in prison from June 1997 to March 24, 1998, when he was released back to parole under his 1979 sentence. Exhibit 4, at 12 (“SRA Discharge”), 3 (“PAR Intake”).

Almost six months later, Miller was found to have used amphetamine or methamphetamine and to have failed to report to the DOC. Exhibit 12, at 2. He was arrested pending a hearing. Exhibit 4, at 3 (“Parole/CCB Suspend”). On November 12, 1998, the Board entered findings and conclusions that determined that Miller had violated his conditions of parole, but that it would be in the best interest of the public and for the best welfare of Miller to reinstate parole after Miller completed a community-based drug treatment program. Exhibit 12, at 2. The Board’s reasons for its decisions were as follows:

Mr. Miller is under the Board’s jurisdiction for the crime of Robbery in the First Degree in Clark County Cause #79-1-00126-1 with a time start of March 12, 1991.

As a juvenile Mr. Miller’s history included burglary and simple assault. He picked up the nick names “Cochise” and “Karate Kid.” He was initially granted a deferred sentence and placed

on five years probation for the Clark County Robbery (above). While on probation he committed a robbery in Oregon and served seven years, part of the time in Washington as a boarder. Both Washington and Oregon robberies involved firearms. The Clark County firearm allegation was dismissed in bargaining.

Mr. Miller was initially paroled in Washington in December, 1993 and was reinstated following a revocation hearing on February 27, 1996 wherein he admitted being in possession of a 30.06 rifle during some sort of semi-domestic altercation.

On February 25, 1997 Mr. Miller's parole was revoked following a revocation hearing wherein he was convicted of assaulting a Vancouver Police Officer and attempting to steal the officer's service pistol, the subjects of Clark County Cause 96-1-00948-2, a Sentence Reform Act (SRA) offense.

Mr. Miller was paroled to the SRA offense and admonished that successful parole supervision for one year, upon release, would merit serious consideration of a Final Discharge.

In March, 1998, Mr. Miller began the current community supervision again enjoying considerable family support, gaining employment and reasonable prospects for a stable domestic situation.

On September 9, 1998 a random U/A showed positive and re-testing involving thin layer chromatography specifically confirmed presence of amphetamines/methamphetamines. On September 18, Mr. Miller claimed he had a medical explanation and was directed to provide it September 21. When he failed to appear he was visited at his employment, a construction site, and became belligerent.

Now almost 37 years old, Mr. Miller continues to demonstrate some of the behaviors of his 18 year old self in spite of the obvious support of his family and promising employment prospects. His drug use is particularly significant considering his propensity to threat and violence.

Mr. Miller shows the intellectual capacity to appreciate the immaturity of his behaviors and when he grasps his own responsibility for his predicament; he will earn consideration of his discharge. The conditions of this reinstatement are specifically to allow Mr. Miller to demonstrate that grasps and strict compliance is the only acceptable standard.

Parolee is reinstated upon completion of the Short Term Offender Program (STOP) to include anger/stress management, if possible, and while all previous conditions of parole remain in full force and effect, specific addendum requiring the entry and completion of a community based drug/alcohol treatment course under the direction of CCO is hereby incorporated.

Exhibit 12, at 2. Miller completed the short-term treatment program and was released back to parole on December 21, 1998. Exhibit 4, at 12 (“Normal Release”).

Less than a year later, the Board found that Miller had used amphetamines or methamphetamines again on September 24, 1999. Exhibit 13, Parole Revocation Hearing: Findings and Conclusions, November 9, 1999. The Board revoked his parole as a result. *Id.* The Board explained:

Mr. Miller claims to be involved in a tumultuous domestic situation and blames his putative spouse for his difficulties. He has a supportive family and the ability to support himself but his reaction to his domestic stress makes him a continuing danger to his community and thus mandates this decision by the Board.

Exhibit 13, at 2.

On September 18, 2000, the Board held an administrative parole review and determined that Miller should be paroled to his Oregon parole violation detainer, and once the Oregon detainer was resolved, he should be paroled to his parole plan dated August 30, 2000, with the special conditions listed in that plan. Exhibit 14, Decisions and Reasons, September 18, 2000. The Board explained:

Mr. Miller exhibits the capacity for regular employment and reasonable behavior in the community, leading to successful completion of the required supervision period of 36 months. Previous parole difficulties have resulted from his own actions, but seem to have been aggravated by his domestic relationship and for this reason the relationship is prohibited.

Exhibit 14, at 1-2. On October 5, 2000, the DOC released Miller to his Oregon parole violation detainer. Exhibit 4, at 10. He subsequently resumed parole in Washington on April 27, 2001 after serving almost seven months in custody in Oregon. Exhibit 15, Parole Revocation Hearing: Findings and Conclusions, June 20, 2001.

Less than a month later, Miller violated his conditions by failing to submit a urinalysis sample and by failing to attend daily Alcoholics Anonymous (AA)/Narcotics Anonymous (NA) meetings. Exhibit 15. He was arrested pending a hearing. Exhibit 4, at 3. At the hearing, the Board reinstated parole and issued special conditions for Miller to follow. Exhibit 15. The Board explained:

Mr. Miller has paroled three times on this conviction. . . . His last parole periods have been disastrous, involving methamphetamine use, and during 1996 he received a conviction for Assaulting a Police Officer and attempting to steal his gun. The Board ordered Mr. Miller's incarceration for his most recent violations and was very concerned by his hostile, aggressive and inappropriate behavior toward his Community Corrections Officer (CCO). He was uncooperative, belligerent and used profanity. He also refused to give UA's unless he stripped off all of his clothes and produced them naked. His CCO attempted to work with him and did allow four UA's (which were clear) with Mr. Miller disrobing. However, Mr. Miller apparently became increasingly irate when disrobing and redressing and this caused concerns for officer safety in the small confines of the men's restroom. Mr. Miller eventually refused to produce a UA unless he was allowed to disrobe.

Mr. Miller was warned that the Board would tolerate no more behavior of this sort and that if he refused to accept parole he would be returned to custody. Mr. Miller promised all parties that this behavior would cease. His CCO is requested to contact the Board as soon as possible if there are further violations or inappropriate behavior.

Exhibit 15, at 2. Miller was released from custody back to parole on June 20, 2001. Exhibit 4, at 3.

Miller was arrested six months later after using cocaine. Exhibit 16, Parole Revocation Hearing: Findings and Conclusions, January 28, 2002. After a hearing, the Board reinstated parole. The Board explained:

After his last hearing his Community Corrections Officer (CCO) testified his attitude improved greatly. Mr. Miller testified his most recent dirty UA was because he stopped by his friends home on his birthday, had a few drinks and then left the party when he realized his friends were free basing cocaine. Although it was not listed as a separate violation, consuming

alcohol is also a violation of his parole conditions. The Board would also note that he had two positive UA's for methamphetamines in November. Mr. Miller pled unwitting consumption due to his taking Advil at his sister's home and later finding out that the Advil bottle was used for her boyfriend's illegal stash of methamphetamines. The bottle was retrieved by the CCO and determined to contain trace amounts of methamphetamines in addition to Advil. In light of Mr. Miller's history of drug abuse, both of these explanations are suspect. In Mr. Miller's favor, he is gainfully employed, reports as directed and has not been arrested for any new offenses. At this time it is a reasonable risk to reinstate to the community. However, he is warned that this is his last chance. Any future violations for illegal drug use will result in his arrest and probably his return to prison. Any future violations of his parole conditions should be reported to the Indeterminate Sentence Review Board (ISRB) as soon as possible.

Exhibit 16, at 2. He was released from custody on January 28, 2001.

Exhibit 4, at 3.

The day of his release, he assaulted his brother, threatened to assault his parents, and had contact with his girlfriend, whom he was prohibited having contact with. Exhibit 17, Parole Revocation Hearing: Findings and Conclusions, April 24, 2002, at 2. And in March, he used methamphetamine, cocaine, opiates, and alcohol. *Id.* The Board revoked his parole on April 24, 2002, after a hearing. *Id.*, at 3. It set a new minimum term of 24 months. *Id.* The Board explained:

Mr. Miller explains the use of drugs as reaction to stress from the pain of his gun-shot wound and domestic stress and he is certainly entitled to sympathy as well for the recent death of his father.

Sympathy aside, Mr. Miller continues to display a volatility that represents a danger to the community. A period to collect himself, recover fully from his injury, and contemplate the cost, to himself and his family, of continuous resort to drugs, appears to be the only presently responsible decision.

Exhibit 17, at 2. On July 20, 2005, Miller was released from the DOC to an Oregon parole violation detainer. Exhibit 18, Parole Revocation Hearing: Findings and Conclusions, October 16, 2007, at 2. He was released from Oregon's custody less than a month later on August 16, 2005. *Id.*

Six months later, Miller used amphetamine and methamphetamine in February 2006. *Id.*, at 1. He was arrested on an Oregon parole violation warrant that same month. *Id.* at 2. After serving a year and a half in confinement in Oregon, Miller returned to Washington State on August 16, 2007. *Id.*; Exhibit 4, at 8. The Board then held a violation hearing to address the February 2006 drug use. Exhibit 18. The Board determined that Miller had violated his conditions of parole, but that his parole should be reinstated. *Id.*, at 2. The Board explained:

He has served approximately 92 months on this offense. . . . Mr. Miller produced two positive UA's for illegal drugs in February 2006. He was arrested by Oregon authorities for parole violations in February 2006 and has been continually confined since that date. Oregon is now done with Mr. Miller and he has no further supervision from that state.

Mr. Miller has been detained over 20 months. The Board is adding the time he was confined in Oregon to his period of supervision in Washington. This confinement time is a sufficient sanction for his parole violations

Exhibit 18, at 2. Miller was released from confinement on October 17, 2007. Exhibit 4, at 7.

In December 2007, Miller used amphetamines. Exhibit 19, Parole Revocation Hearing: Findings and Conclusions, March 28, 2008. In February, he used amphetamines again, failed to submit to urinalysis testing, and failed to report to his CCO. *Id.*, at 1. He was arrested on these parole violations on February 25, 2008. *Id.*; Exhibit 4, at 2. After a hearing, the Board determined that Miller had violated his conditions of parole, but that parole should be reinstated. Exhibit 19, at 2. The Board also decided to issue a conditional discharge from supervision, finding that Miller is un-supervisable, that public resources should no longer be expended to monitor his behavior, and that he has not committed a similar crime to his first degree robbery in 20 years. *Id.* The Board explained:

The decision to reinstate him to a Conditional Discharge from Supervision is a difficult decision, as it may seem to be rewarding his non-compliant behavior. On the other hand, Mr. Miller has served an aggravated sentence on an offense he committed as a juvenile, he has not committed similar crimes in 20 years and his ongoing violations seem to center around his drug addiction. The Board believes he is un-supervisable at this time, but that public resources should no longer be

expended to monitor his behavior. Any criminal convictions in the intervening months until he is final eligible may trigger another board revocation hearing.

Exhibit 19, at 2. Miller was released on March 28, 2008. Exhibit 20, Parole Revocation Hearing: Findings and Conclusions, May 7, 2008.

The day of his release, prior to the Board actually having granted Miller the conditional discharge from supervision, he used amphetamines or methamphetamines. *Id.*, at 2. Then he failed to submit to urinalysis testing and failed to report to his CCO on April 7, 2008. *Id.* Miller was arrested on April 10, 2008, pending a violation hearing. Exhibit 4, at 2. After the hearing, the Board determined that Miller had again violated the conditions of his parole. Exhibit 20, at 1. On May 7, 2008, the Board revoked Miller's parole and set a new minimum term of 36 months of confinement. *Id.*, at 2. The Board explained:

The only conclusion the Board can reach indicates Mr. Miller was released on Friday and immediately obtained and used illegal drugs. Although not listed as a separate violation, Mr. Miller's mother stated after his release she gave him morphine and percocet, prescription narcotic pain medications that were prescribed to someone else. Mr. Miller confirmed this use for his dental pain.

Although the Board was prepared to grant Mr. Miller a CDFS, it is fairly stunning that he has so few controls that he would obtain and use illegal drugs, literally within hours of release. His actions of contacting his CCO too late in the day for a monitored UA, and then failing to report or produce a UA the next day as directed are troubling. Mr. Miller's past failures on parole have virtually all involved illegal drug usage. He

additionally has a conviction in 1996 of Assault 3 and unlawful possession of a firearm that is described in file materials as his assaulting a police officer and trying to steal his gun. Mr. Miller has been out of custody a very short period of time since his release in the summer of 2005. Today's hearing is the third the Board has held in the past 6 months. Based on a review of all available information the Board believes he is an unacceptable risk to remain in the community at this time. The Board has recommended his participation in a therapeutic community to address his deep seated addictions.

Exhibit 20, at 2-3.

On November 24, 2009, while Miller was still in prison, the Board did the prior violation hearing over.¹ Exhibit 22, Parole Revocation Hearing: Findings and Conclusions, December 17, 2009. After the hearing, the Board affirmed the previous ruling. *Id.*, at 5. The Board also determined that Miller should again receive a conditional discharge from supervision upon his future release from prison. *Id.*

While Miller was still in prison, on December 9, 2009, the Board held a parolability hearing and found Miller parolable. Exhibit 23, Decisions and Reasons. It also decided to again issue a conditional discharge from supervision. *Id.*, at 1. It found that Miller had been unable to engage in any meaningful programming or work during his incarceration, due to the fact that his legal challenge to the prior

¹ The Board did the hearing over as a result of having conceded that it had failed to comply with WAC 381-70-300 at the original hearing by not issuing subpoenas for certain witnesses requested by Miller's defense counsel. *See* Exhibit 21, Response of the Indeterminate Review Board, *In re Miller*, Washington Supreme Court Case No. 82556-4.

revocation hearing necessitated frequent transfers between prison and various jails for attorney interviews. *Id.*, at 4. The Board concluded that no purpose would be served by requiring him to stay in prison any longer.

Id. The Board's complete reasons were as follows:

Mr. Miller has done little during this incarceration; however, his transfers back and forth from prison to jail explain this. . . .

Mr. Miller has two minor children who are presently in foster care. He testified at his hearing that upon release, he will be working toward getting his children returned to him. That goal may provide more motivation for Mr. Miller to stay away from drugs than anything the Department of Corrections can do.

Exhibit 23, at 4-5. Accordingly, after about two years in prison, Miller was again released on February 3, 2010, and he was also conditionally released from supervision. Exhibit 4, at 2.

After spending a little over five months in the community without being required to report to a CCO, Miller was arrested on charges of stabbing a man in the back and holding a knife to the throat of another man and threatening to kill him. Exhibit 24, Notice of Violation, November 30, 2010, at 2. The incident occurred in someone else's home. *Id.* The Board suspended Miller's parole pending outcome of an investigation. Exhibit 25, Order of Parole Suspension. Miller was charged with two counts of first degree assault and one count of

harassment. Exhibit 24, at 2. Charges were dismissed without prejudice, however, after one of the victims refused to meet with anyone regarding the case, and the other witnesses all gave conflicting stories. *Id.*

As a result of the incident, Miller's assigned CCO recommended to the Board that Miller be put back on active supervision. *Id.*, at 3. But the Board instead issued another conditional discharge from supervision, reasoning that, among other things, the witnesses to Miller's alleged stabbing incident would be unlikely to cooperate in a parole violation hearing. Exhibit 26, Probable Cause Review Sheet. The Board's decision to issue the conditional discharge was based on the following recommendation of the Board's investigator:

Court dismissed all charges without prejudice on 11-29-10. Witnesses were uncooperative with authorities and/or gave conflicting statements. [*sic*] As Miller has not been convicted of any parole violations ther [*sic*] is no reason to sanction him by returning him to active supervision rather than returning him to CDFS status. Other than this incident he has been arrest-free since the CDFS was granted 02-10. He will be eligible for his Final 02-13. There is no reason to believe witnesses will be any more cooperative with ISRB in this matter.

Exhibit 26. Miller was released from custody and received his conditional discharge from supervision on December 9, 2010. Exhibit 4, at 2.

A little over a year later, Miller's assigned CCO requested again that the Board return Miller to active supervision. Exhibit 27, Board

Special. The CCO explained that Miller had been arrested only six times between 1995 and 2010, while he was on active supervision, yet Miller had been arrested seven times in the 22 months when he was *not* on active supervision. *Id.* The Board agreed to rescind the conditional discharge from supervision and return Miller to active supervision, because local law enforcement had asked the DOC to request it from the Board. Exhibit 28, Administrative Decision Sheet, December 22, 2011. The Board's investigator summarized the situation as follows:

Miller was granted a CDFS 12-10 as he was basically unsuperviseable. In the past year he has been arrested 7 times — 3 of the matters were dismissed. The other 4 matters, including a Burglary, are still pending. He continues to be a local nuisance, & law enforcement has asked DOC to ask the Board to do something. I do not feel any of these matters would or could be impacted by supervision, not [*sic*] do any of these warrant a return to prison, particularly when all of the arrests that have gone to court have been dismissed. That is not a good track record for local authorities. It appears that in at least one court proceeding Miller represented himself & the matter was still dismissed. Some of the pending matters date to August.

Exhibit 28. Miller began active supervision again on December 29, 2011.

Exhibit 4, at 2.

Less than two weeks later, the Board suspended Miller's parole because he had absconded from supervision in Goldendale. Exhibit 29, Administrative Decision Sheet, April 12, 2012. A week after that, Miller

was arrested on misdemeanor charges in Lynwood. *Id.* But because the Board did not feel that the behaviors leading to the arrest rose to a level requiring parole revocation, it reinstated him back to active supervision after he was released from jail on his local charges three months later in late April 2012. *Id.*

Two months after his release, Miller submitted a urinalysis sample on June 18, 2012, that initially tested positive for methamphetamine. Exhibit 30, Notice of Violation, July 5, 2012, at 2. After the finding was confirmed by a laboratory, Miller was arrested on June 27, 2012, and his parole was suspended. Exhibit 4, at 2. In the violation report, Miller's CCO recommended that Miller's parole be reinstated, but that he be required to obtain drug or alcohol treatment. Exhibit 30, at 3. The Board agreed and reinstated his supervised parole, including a requirement to obtain treatment. Exhibit 31, Probable Cause Review Sheet. The Board's decision was based on the following recommendation from the Board's investigator:

Miller was returned to active supervision from CDFS 12-11. This is his first violation since that time & the CCO's reco appears to be measured & appropriate for a first violation. The VR indicates his outstanding misdemeanors are slowly being settled. On 7-12-12 we received via fax information from an attorney indicating Miller has recently taken temporary custody of his 17 year old daughter & he is described as the only one who has been able to control her. Included in the packet is a home study done by DSHS

in May & June 2012. If he is allowed to continue custody this may be a very positive move in his life. The attorney advised today that another relative of Miller's is caring for the girl while he is detained on the Board matter.

Exhibit 31. Miller was released from custody and returned to supervision on July 16, 2012. Exhibit 4, at 2.

Four days later, Miller was seen buying beer, which was a violation of his conditions. Exhibit 32, Notice of Violation, July 25, 2012, at 2-3. Miller was arrested the same date as a result. *Id.* The CCO recommended that Miller's parole be reinstated, with more frequent reporting requirements for eight weeks and a requirement to have a drug and alcohol evaluation within 15 days of release. *Id.*, at 3. The Board followed those recommendations, setting the date of reinstatement of parole on the date Miller was arrested. Exhibit 33, Order of Reinstatement of Parole; Exhibit 34, Order of Parole Conditions. Miller was released from custody on July 26, 2012. *Id.*

Miller failed to report soon thereafter on August 8, 2012, and was arrested. Exhibit 35, Notice of Violation, November 9, 2012, at 2. The Board then reinstated his parole, with the additional condition to not travel outside the county without permission. *Id.*, at 2; Exhibit 36, Order of Parole Conditions. Miller was released back to supervision on August 21, 2012. Exhibit 35, at 2.

Within a week, he failed to report as directed on August 28, 2012. *Id.* The next day he reported. *Id.*, at 3. Miller then failed to report on September 4, 2012, and could not be located. *Id.* He was arrested on October 26, 2012. Exhibit 37, Findings and Conclusions, January 17, 2013, at 2. The Board conditionally released him on December 5, 2012, pending a revocation hearing. *Id.* Miller then used methamphetamines and opiates on December 27, 2012. Exhibit 38, Supplemental Notice of Violation, December 31, 2012, at 2. After a violation hearing, the Board revoked his parole. Exhibit 37, at 2. The Board's reasons were as follows:

CCO Nielsen read each violation and Mr. Miller pled Not Guilty to alleged violations 2, 4 and 5. He pled Guilty to alleged violation 1 and 3 with explanation. Mr. Miller explained that he was in custody during some of the period of time he did not report to his CCO as ordered. He also alleged that another offender had threatened him, that he became stranded and without a phone, and he was "working up the courage" to turn himself in, knowing that he had an outstanding warrant for his arrest. Regarding not having completed a drug/alcohol evaluation as ordered by the Board, he explained that he refused to have the evaluation done locally as his CCOs "fingers run deeply" in the community. He claimed to have gone to Vancouver where tribal resources were available, but that they required more information from DOC to conduct the evaluation and then he got arrested and lost their contact information.

Regarding violation 2, CCO Nielsen testified that Mr. Miller had told her in an August 29, 2012 conversation that he was looking for a new residence. When he did not report she and two other CCOs attempted to contact him at his

listed address on September 10, 2012. They observed City Water employees making repairs to a water leak and observed a male enter the residence as they arrived. The male was not Mr. Miller. When they knocked on the door no one answered. Materials that were not present in the past were observed at the residence and it appeared that Mr. Miller no longer lived there.

...

Regarding violations 4 and 5, Mr. Miller's attorney objected to the violations being considered. He argued that the sole evidence was hearsay and would not be admissible in Superior Court citing WAC 381.70.140. The Presiding Member ruled that the violations would be heard and that any finding would not be made based on uncorroborated hearsay.

CCO Nielsen testified that Mr. Miller reported to the DOC office on December 27, 2012 and a urine sample was collected. CCO Conrad was present in the men's bathroom and he witnessed Mr. Miller urinate into the sample cup. Both CCOs and Mr. Miller then went to the UA room and observed that the sample indicated positive for the presence of Methamphetamine and Opiates. Mr. Miller requested that the sample cup be sent to a laboratory for confirmation. CCO Nielsen spoke with her supervisor and it was determined that the necessary criteria for additional testing as required by new DOC policy had not been met. When asked, Mr. Miller denied using any illegal drugs, then said that it was possible the test was positive because he saw some white powdery substance in the bottom of his purse and that he stuck his finger into it to see what it was. He indicated that it tasted bitter and that it could be Opiates but that it did not taste like Methamphetamine. Mr. Miller was arrested and has been in custody since this occurred.

CCO Nathaniel Conrad was contacted telephonically and sworn in. He testified that the UA sample cup was sealed when he accompanied Mr. Miller in the bathroom. Mr. Miller took off his jacket and laid it aside. CCO Conrad

then unsealed the cup and Mr. Miller urinated into it. CCO Conrad took possession of the cup and it was in his control as they walked to the UA room. He observed the sample results to test positive for Methamphetamine and Opiates and negative for 4 other substances. After it was decided that the sample cup would not be sent to the lab, it was discarded.

Mr. Miller's attorney asked both CCOs if they asked Mr. Miller if he was on prescription medications. Neither CCO recalled asking Mr. Miller about prescriptions at that time. CCO Nielsen asked Mr. Miller if he remembered signing a consent form requiring him to advise the CCO if he was on any prescription or other medications and Mr. Miller admitted that he did remember signing forms but was uncertain of the exact wording of the forms. Mr. Miller stated that UA tests administered in 2006 had been positive but that the results were thrown out after further testing. This is why he asked the sample be tested further. He testified that he is certain that the white powder he tasted was not Methamphetamine and insisted that he had taken no illegal drugs.

The Presiding Member did not find that there was sufficient proof that Mr. Miller had changed his residency and found him Not Guilty of Violation 2. The Presiding Member found Mr. Miller Guilty of the remaining violations and combined 4 and 5 into one violation. The testimony of CCOs Nielsen and Conrad were first-hand observations and directly related to the alleged violation and are not hearsay. In addition, Mr. Miller's testimony regarding tasting the white powder corroborates the likelihood that he ingested a substance which later tested positive in his urine.

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This brought up discussion of the current charge of Possession of Stolen Property 2nd Degree out of Lynnwood, WA for which Mr. Lanz is representing Mr. Miller. The status of this charge has not yet been determined and there is a conference date set for January

22, 2013, with a trial date set for February 6, 2013. Mr. Lanz agreed to keep the Board informed of the outcome of these proceedings.

Mr. Miller asked the Board to return him to the community and to grant a Conditional Discharge From Supervision (CDFS). He said that he had been under the jurisdiction of the ISRB for a robbery conviction since he was 17 years old and was a “good part of the community”. He described himself as a 51 year old man with “a fantastic reputation and work record” who has lost jobs due to being supervised by DOC, and arrested for violations he did not commit. He said that he prevailed on all appeals that he has brought against his CCO and DOC and characterized the past and current violations as more technical than criminal.

CCO Nielsen testified that Mr. Miller had been granted a CDFS, but that shortly thereafter he was arrested numerous times. This caused DOC to request a “Board Special” asking the ISRB for guidance as he was not demonstrating rehabilitation in the community. After the Board rescinded the CDFS Mr. Miller continued to violate conditions of parole and now has a felony charge pending trial. In addition, he was found Guilty in Linwood of Giving a False Statement, a misdemeanor. She described actions against Mr. Miller since 2006 which includes the submission of at least 8 Violation Reports, Mr. Miller’s parole revocation in 2008, his CDFS being rescinded in 2011 and his recent violations while on active supervision. Mr. Miller would not report when ordered creating concern for his whereabouts and activity. CCO Nielsen said that “I do not know what he is capable of especially if/when is using drugs and she disputed that his violations and arrests were merely technical in nature. She observed that Mr. Miller has not shown that he can live in the community without breaking the law and violating conditions of parole and is therefore not rehabilitated and should be returned to prison where he can participate in CD treatment which he has been unwilling to do.

Mr. Miller said that he “does not have a problem with alcohol or drugs” and that he does not need treatment. He admitted that he needed to take care of “legal issues” and then has a possible job in Arizona. He begged for the Board to allow him to see “the light at the end of the tunnel” again.

The Board has tried repeatedly to work with Mr. Miller, recognizing the length of time he has served in prison and under supervision in the community. However, when paroled and especially while not under active supervision he has continually demonstrated an ongoing disregard for appropriate behavior and rule following. His attitude and actions clearly do not meet the statutory standard of being totally rehabilitated and as a result the Board has the responsibility to return him to prison.

Exhibit 37, at 2-6. Miller’s current early release date is October 25, 2013.

Exhibit 4, at 1.

IV. GROUNDS RAISED IN THE PETITION

Miller’s petition presents this court with seven grounds for relief,

which are summarized as follows:

1. Does the statute (i.e., Laws of 2001, 2nd Spec. Sess., ch. 12) that repeals the termination provision for the ISRB violate Art. II, sec. 19, of the Washington Constitution (i.e., the single subject rule)?
2. Is the ISRB required to provide a parolee minimal due process before revoking a conditional discharge from supervision at the request of the DOC?
3. Does the DOC have legal authority to request that the ISRB revoke the conditional discharge from supervision of an offender not under DOC jurisdiction?
4. Does the ISRB’s failure to hear charged violations within 30 days constitute a denial of due process?

5. Did the DOC have legal authority to require Petitioner to provide a urine specimen directly to the DOC on December 27, 2012?

6. Does an uncorroborated result from an on-site drug screen violate the hearsay prohibition of WAC 381-70-400?

7. Does an uncorroborated result from an on-site drug screen constitute “some evidence”?

V. STANDARD OF REVIEW

Inmates have no liberty interest in being released before serving the full maximum sentence. *In re Marler*, 108 Wn. App. 799, 807, 33 P.3d 743 (2001) (citing *Greenholtz v. Inmates of Nebraska Penal and Correctional Complex*, 442 U.S. 1, 7, 99 S. Ct. 2100, 60 L. Ed. 2d 668 [1979]); *In re Ayers*, 105 Wn.2d 161, 164-66, 713 P.2d 88 (1986). When it imposes sentences outside the standard range, the ISRB may consider the pre-SRA offender’s level of rehabilitation. *In re Chavez*, 56 Wn. App. 672, 675, 784 P.2d 1298 (1990).

The statute governing the standard for parolability decisions expressly confers broad discretion on the Board to make those decisions. It prohibits the Board from releasing a prisoner prior to expiration of the maximum term unless “in its opinion his rehabilitation has been complete and he is a fit subject for release.” RCW 9.95.100. Further, RCW 9.95.009(3) requires the Board to “*give public safety considerations the highest priority* when making all discretionary decisions on the remaining

indeterminate population regarding the ability for parole” RCW 9.95.009(3) (emphasis added). Based on the above statutes, the Board can legitimately be seen as a guarantor of the public’s safety.

An offender may seek relief by way of a personal restraint petition if he demonstrates that the Board failed to follow its own rules making minimum term determinations. *In re Cashaw*, 123 Wn.2d 138, 150, 866 P.2d 8 (1994). Otherwise, all Board decisions are subject to review only for an abuse of discretion. *In re Dyer*, 175 Wn.2d 186, 196, 283 P.3d 1103 (2012). An abuse of discretion may be found where the ISRB fails to follow its own procedural rules for parolability hearings or where the ISRB bases its decision on speculation and conjecture only. *Dyer*, 175 Wn.2d at 196 (citing *In re Dyer (Dyer II)*, 164 Wn.2d 274, 286, 189 P.3d 759 (2008)). “The petitioner bears the burden to prove the ISRB abused its discretion.” *Id.* (citation omitted).

The Court must approach the Board’s decisions “with substantial deference” because “the courts are *not* a super [ISRB] and will not interfere with a[n ISRB] determination in this area unless the [ISRB] is first shown to have *abused its discretion*” *Dyer*, 175 Wn.2d at 196 (emphasis in original). The courts “will not substitute their discretion for that of the [ISRB].” *Id.* (citations omitted). A prisoner is “subject entirely to the discretion of the [ISRB], *which may parole him now or never.*”

Dyer, 175 Wn.2d at 197 (emphasis in original; quotations and citations omitted).

As the above statutes indicate, “[p]ublic safety is the paramount concern in making parolability decisions.” *Id.* (internal quotations and citations omitted). Although the Board has broad discretion, “it is statutorily *mandated* to ‘give public safety considerations the highest priority’” *Id.* (quoting RCW 9.95.009(3)) (emphasis in original).

VI. ARGUMENT

A. **Laws Of 2001, 2nd Spec. Sess., Ch. 12, Does Not Violate The Single Subject Rule**

Miller argues that the Legislature violated the single subject rule when it repealed a sunset provision (former RCW 9.95.0011) that would have abolished the Board. But one of the main purposes of the bill was to create a determinate-plus sentencing scheme for certain sex offenders. The Board is a necessary element of determinate-plus sentencing. As a result, the preservation of the Board is well within the subject of the bill’s title: “AN ACT Relating to the management of sex offenders in the civil commitment and criminal justice systems.” Laws of 2001, 2nd Spec. Sess., ch. 12.

Article II, Section 19, of the Washington Constitution provides: “No bill shall embrace more than one subject, and that shall be expressed

in the title.” Wash. Const. Art. II, S. 19. The policies underlying the constitutional provision are the prevention of “‘logrolling’ or pushing legislation through by attaching it to other necessary or desirable legislation”” and general notice to members of the legislature and the public of what is contained in the proposed legislation. *State v. Thorne*, 129 Wn.2d 736, 757, 921 P.2d 514 (1996), *abrogation on other grounds recognized by In re Eastmond*, 173 Wn.2d 632, 636, 272 P.3d 188 (2012). Generally, a legislative title is constitutionally sufficient if it “gives such notice as should reasonably lead to an inquiry into the body of the act itself, or indicates, to an inquiring mind, the scope and purpose of the law.” *State ex. re. Washington Tollbridge Auth. v. Yelle*, 32 Wn.2d 13, 26, 200 P.2d 467 (1948) (citations omitted).

A legislative title can be either general or restrictive and it is this distinction that determines the legal analysis that is applied. *See Thorne*, 129 Wn.2d at 758, *Yelle*, 32 Wn.2d at 26. “A restrictive title expressly limits the scope of the act to that expressed in the title.” *State v. Broadaway*, 133 Wn.2d 118, 127, 942 P.2d 363 (1997). A restrictive title is “one where a particular part or branch of a subject is carved out and selected as the subject of the legislation.”² *Gruen v. State Tax Comm’n*,

² Titles that courts have held to be restrictive include: “An Act Relating to increasing penalties for armed crimes....” (*Broadaway*, 133 Wn.2d at 127); “Shall

35 Wn.2d 1, 23, 211 P.2d 651 (1949), *overruled on other grounds by State ex. rel. State Fin. Comm. v. Martin*, 62 Wn.2d 645, 384 P.2d 833 (1963). Accordingly, the title “will not be regarded as liberally and a provision not fairly within it will not be given force.” *Id.* at 127; *Thorne*, 129 Wn.2d at 758; *Yelle*, 32 Wn.2d at 26.

Where a legislative title is general, “any subject reasonably germane to such title may be embraced within the body of the bill.” *Washington Fed’n of State Employees v. State*, 127 Wn.2d 544, 555-56, 901 P.2d 1028 (1995). “[A] general title consisting of a few well-chosen words, suggesting the general subject stated, is all that is necessary to comply with” Article II, Section 19. *In re Boot*, 130 Wn.2d 553, 566, 925 P.2d 964 (1996).³

criminals who are convicted of ‘most serious offenses’ on three occasions be sentenced to life in prison without parole?” (*Thorne*, 129 Wn.2d at 758).

³ Titles that courts have held to be general include: “An Act relating to violence prevention.” (*Boot*, 130 Wn.2d at 566); “An Act Relating to the amendment or repeal of statutes superseded by court rule.” (*State v. Howard*, 106 Wn.2d 39, 45, 722 P.2d 783 (1985)); “Shall campaign contributions be limited; public funding of state and local campaigns be prohibited; and campaign related activities be restricted?” (*Wash. Fed’n of State Employees*, 127 Wn.2d at 555); “[A]n act relating to capital projects...” (*State Fin. Comm. v. O’Brien*, 105 Wn.2d 78, 80, 711 P.2d 993 (1986)); “An Act to provide an Insurance Code for the State of Washington; to regulate insurance companies and the insurance business; to provide for an Insurance Commissioner; to establish the office of State Fire Marshall; to provide penalties for the violation of the provisions of this act...” (*Kueckelhan v. Fed. Old Line Ins. Co.*, 69 Wn.2d 392, 402, 418 P.2d 443 (1966)); “An Act authorizing the incorporation of mutual savings banks, defining their powers and duties, and prescribing penalties for violations hereof.” *In re Peterson’s Estate*, 182 Wn.2d, 33, 45 P.2d 45 (1935)).

A general title is given liberal construction and no unconstitutionality exists even if the “general subject contains several incidental subjects or subdivisions. . . . All that is required is that there be some “rational unity” between the general subject and the incidental subdivisions.” *State v. Grisby*, 97 Wn.2d 493, 498, 647 P.2d 6 (1982) (quoting *Kueckelhan v. Federal Old Line Ins. Co.*, 69 Wn.2d 392, 403, 418 P.2d 443 (1966), *superseded on other grounds by rule as stated in State v. WWJ Corp.*, 138 Wn.2d 595, 601, 980 P.2d 1257, 1260 (1999)).

The scope of a general title embraces any provision of the bill that is directly or indirectly related to the subject expressed in the title and that is naturally and reasonably connected to it. *Amalgamated Transit Union, Local 587 v. State*, 142 Wn.2d 183, 209, 11 P.2d 756 (2000) (quoting *Kueckelhan*, 69 Wn.2d at 403). This includes any provision that “may facilitate the accomplishment of the purpose” of the legislative act. *Id.*

In this case, the bill’s title is general. It states, “AN ACT Relating to the management of sex offenders in the civil commitment and criminal justice systems.” Laws of 2001, 2nd Spec. Sess., ch. 12. It does not expressly limit the scope of the act to that expressed in the title. And it does not carve out a particular part or branch of a subject.

Miller essentially claims that the title of Laws of 2001, 2nd Spec. Sess., ch. 12, concerned only sex offenders, that he is not a sex offender,

and that therefore, the act violated the single-subject rule by failing to specify in the title that the act also related to non-sex offenders. *See* Petition of Miller, at 16-17. But this is not the proper analytical framework for deciding a challenge under the single-subject rule. Rather, one instead looks at the challenged provision and determines whether it has a natural connection to the title. *Amalgamated Transit Union*, 142 Wn.2d at 209.

In this case, the provision retaining the Board facilitates the accomplishment of the purpose of the act, which is to create a determinate-plus sentencing scheme for certain sex offenders. Section 101 of the act states in part, “The legislature intends the following omnibus bill to address the management of sex offenders in the civil commitment and criminal justice systems for purposes of public health, safety, and welfare.” Laws of 2001, 2nd Spec. Sess., ch. 12, § 101. Part three of the act pertains to “Sentencing Structure.” Section 303 sets out a new sentencing scheme for certain sex offenders that provides a minimum term and a maximum term, with community custody under the authority of the DOC and the Board. And Section 306 creates standards by which the Board is to determine whether a sex offender sentenced under the determinate-plus sentencing scheme can be released from prison.

Repealing the sunset provision that would have eliminated the Board is necessary to accomplish the purposes of the act. Without the Board, the sentence structure provisions would not function. The determinate-plus sentencing scheme would be impossible to carry out. Because the challenged provision has a natural connection with one of the purposes of Laws of 2001, 2nd Spec. Sess., ch. 12, the act does not violate the single subject rule.

B. Miller Was Not Entitled To A Violation Hearing Prior To Being Put Back On Active Supervision

In his second claim, Miller argues that the Board violated his due process rights because it did not afford him a hearing prior to rescinding his conditional discharge from supervision. Petition of Miller, at 23-25. However, the Board's action amounted only to increasing the number of Miller's conditions of parole. He had still been on parole during his period of conditional discharge, but he simply did not have a requirement to report to his CCO during that time. Adding the condition to report to his CCO is a modification of his parole. A modification of parole does not amount to a grievous loss that triggers the minimal due process protections of *Morrissey v. Brewer*, 408 U.S. 471, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972). See, e.g., *State v. McDonald*, 272 Kan. 222, 228, 32 P.3d 1167 (2001) (surveying cases) ("Several state courts have followed the logic of

Skipworth [*v. United States*, 508 F.2d 598 (3rd Cir. 1975)] and its progeny in refusing to recognize a due process right to a hearing for probation extension or modification”).

The applicable regulation defines a conditional discharge from supervision as a “state of parole”:

Conditional discharge from supervision is defined as that state of parole where a parolee is no longer required to report to an officer of the department of corrections but is required to observe all laws and make an annual written report to the board. Civil rights lost at the time of conviction are not restored.

WAC 381-80-040. Because Miller’s parole was still in effect during his period of conditions discharge, the rescission of that discharge was simply a modification of parole such that Miller received additional conditions. As such, the Board’s actions do not constitute a grievous loss requiring a hearing.

“[T]he probationer must be accorded a hearing before he is deprived of his liberty for any period of time other than a reasonably short one.” *Moore v. Stamps*, 507 S.W.2d 939, 950-51 (Mo. Ct. App. 1974) (remanding to court for a revocation hearing). It stands to reason, then, that if the offender is deprived of his or her liberty for a reasonably short time, or if he or she is not deprived of his liberty at all, a hearing is not necessary.

Whether procedural protections are necessary “depends on the extent to which an individual would be condemned to suffer grievous loss.” *Morrissey v. Brewer*, 408 U.S. at 481. In Miller’s case, he was previously not required to report to a CCO. After the Board rescinded his conditional discharge from supervision, he was again required to report. This was not a grievous loss.

The Board’s actions also were not tantamount to an extension of Miller’s term of parole. But even where a term of parole has been extended, courts have held that a hearing is not required. “[T]he loss of liberty in an extension proceeding is only a potential one and that the judge in an extension proceeding need not make a detailed factual inquiry into whether the probationer committed a violation, but only must determine what is in the best interest of society.” *U.S. v. Silver*, 83 F.3d 289, 292 (9th Cir. 1996).

In *Silver*, the probation officer requested the district court to extend the offender’s probation for two years because of “possible wrongdoing by Mr. Silver in connection with his business practices.” After providing notice to Silver and his counsel, the court extended the probation two years. It did so without holding a hearing. *Silver*, at 290-291.

Because Miller was not entitled to a hearing before the Board rescinded his conditional discharge from supervision, the Court should dismiss his petition.

C. The CCO Was Authorized To Request Rescission Of The Conditional Discharge From Supervision

In his third claim, Miller argues that the DOC had no authority to recommend rescission of his conditional discharge from supervision because the DOC was not supervising him at the time. Petition of Miller, at 26. However, this is a fallacy. Miller was on parole during his period of conditional discharge, as discussed above. Miller had conditions of parole during that time, as indicated by the term “conditional” discharge. And Miller violated those conditions. Under RCW 9.95.120, the DOC is authorized to inform the Board if an offender on parole violates his or her conditions, and the DOC is authorized to make “recommendations” as to how the Board should respond:

Whenever the board or a community corrections officer of this state has reason to believe a person convicted of a crime committed before July 1, 1984, has breached a condition of his or her parole . . . , [a]ll facts and circumstances surrounding the violation by such convicted person *shall be reported to the board by the community corrections officer, with recommendations.* . . . On the basis of the report by the community corrections officer, or at any time upon its own discretion, the board may revise or modify the conditions of parole

RCW 9.95.120 (emphasis added).

As indicated in WAC 381-80-040, Miller was still subject to conditions of parole even though he had been discharged from supervision conditionally. Under RCW 9.95.120, his CCO was authorized to make recommendations to the Board when the CCO had reason to believe Miller had violated his condition of parole to be law abiding. The condition to obey all laws was still in effect during the period that Miller was not required to report to his CCO. *See* Exhibit 39, Conditional Discharge From Supervision (“the parolee shall obey the laws at all times”). When Miller violated that condition by being charged with new crimes, the CCO properly informed the Board and made a recommendation. The Court should dismiss Miller’s petition.

D. The Delay In Miller’s Revocation Hearing Did Not Violate Due Process Or Deprive The Board Of Jurisdiction

In his fourth claim, Miller argues that because the Board held his most recent revocation hearing more than 30 days after it had served him with the notice of alleged violations, it violated his right to due process. *Petition of Miller*, at 30-32. He also asserts that its failure to hold the hearing within 30 days violated RCW 9.95.120 and WAC 381-70-160 and thereby deprived the Board of jurisdiction over his violations. However, because Miller’s custody in jail was not due solely to the Board’s

allegations but also was the result of new felony charges, the due process timeline was not running during that time. Also, the timelines in the statute and the regulation are not jurisdictional, and failing to abide by them does not warrant dismissal of a revocation. Finally, the 30-day period arguably does not run unless an offender is confined, and Miller had been conditionally released pending his revocation hearing and therefore was not confined after December 7, 2012.

RCW 9.95.120 provides in part that if a parolee is arrested based on an order of the Board, the parolee shall not be released unless the Board reinstates parole with the same or modified conditions of parole:

Any parolee arrested and detained in physical custody by the authority of a state community corrections officer, or upon the written order of the board, shall not be released from custody on bail or personal recognizance, except upon approval of the board and the issuance by the board of an order of reinstatement on parole on the same or modified conditions of parole.

RCW 9.95.120. The statute also provides that the Board can reinstate parole pending disposition of a new criminal charge:

In the event that the board suspends a parole by reason of an alleged parole violation or *in the event that a parole is suspended pending the disposition of a new criminal charge*, the board shall have the power to nullify the order of suspension and reinstate the individual to parole under previous conditions or any new conditions that the board may determine advisable. Before the board shall nullify an order of suspension and reinstate a parole they shall have determined that the best interests of society and

the individual shall best be served by such reinstatement rather than a return to a correctional institution.

RCW 9.95.120 (emphasis added).

As to the timeline for a revocation hearing, the statute provides that if a parolee is charged with violating conditions of parole, other than a conviction for a new felony or misdemeanor, he or she is entitled to a hearing within 30 days of being served the notice of allegations, “after his or her arrest and detention.”

Whenever a paroled prisoner is accused of a violation of his or her parole, *other than the commission of, and conviction for, a felony or misdemeanor . . .* he or she shall be entitled to a fair and impartial hearing of such charges within thirty days from the time that he or she is served with charges of the violation of conditions of parole *after his or her arrest and detention.*

RCW 9.95.120 (emphasis added). However, as stated in RCW 9.95.120, the 30-day timeline is inapplicable if the offender is convicted of a new felony and sentenced to prison. In that case, the offender is entitled to a hearing only as to disposition, and the hearing is to occur at the prison institution:

A parolee who has been convicted and sentenced to prison on a new felony charge will have the right to a hearing pertaining to disposition only pursuant to *In Re Akridge*, 90 Wn.2d 350 (1978), and the hearing will be held at the institution of confinement.

WAC 381-70-160(9).

On October 26, 2012, police arrested Miller based on the warrant that the DOC had issued for parole violations. Exhibit 35, at 4. Miller resisted arrest and also was in possession of stolen jewelry when he was arrested. *Id.* As a result, Miller was held in jail not only for parole violations, but also for new felony charges of resisting arrest and possession of stolen property. *Id.*

On October 30, 2012, while he was still in jail, Miller was served with the notice of parole violations, which alleged that he had failed to report, had failed to obtain a drug and alcohol evaluation, and had changed his residence without prior approval. Exhibit 40, OMNI Chronos, at entry dated 10/30/2012; Exhibit 35. On November 5, 2012, Miller's CCO received the police report for Miller's pending charge of resisting arrest, which indicated that to arrest Miller, police had to shoot him with a taser twice and had to use the assistance of a police dog, which bit Miller on the arm and held on to him to keep him from fleeing. Exhibit 40, at entry dated 11/8/2012.

On November 14, 2012, the Board postponed scheduling a date for a revocation hearing until Miller's new local felony charges were resolved. *Id.*, at entry dated 11/14/2012. This decision was apparently due to the fact that a new felony conviction and prison sentence affects the nature of the hearing that the Board can conduct (i.e., if Miller was to

receive a conviction on the new charges, the Board's hearing would merely be a disposition-only hearing and would not be subject to the 30-day timeline). *See* WAC 381-70-160(9).

Two weeks later, on November 28, 2012 Miller's CCO informed the Board that Miller had just received pretrial release from his local charges and was currently being held only on the Board's order. *Id.*, at entry dated 11/28/2012. As a result, the Board decided to conditionally release Miller from jail, pending a revocation hearing. Exhibit 41, Administrative Decision Sheet. Miller was released in part because he had indicated that he was afraid of losing his housing due to his continued confinement. Exhibit 41. By releasing Miller, the Board effectively reinstated Miller's parole pending disposition of a new criminal charge. *See* RCW 9.95.120.

Miller was released on December 7, 2012, with conditions, and his revocation hearing was set for January 8, 2013. Exhibit 40, at entries dated 12/07/2012; Exhibit 42, Order of Conditional Release. Miller's conditional release occurred 42 days after his arrest and 38 days after he was served with notice of the violations. But his release occurred only nine days after he received an order of pretrial release from his local charges.

The Board did not violate due process by failing to hold a revocation hearing within the 38 days between the service of the notice of alleged violations and Miller's conditional release. This is because Miller was not being held solely on his alleged parole violation. He was being held on new felony charges. For this reason, the due process timeline did not start until late November 2012, when the local authorities granted him pretrial release on his felony charges.

Morrissey's requirement for an immediate preliminary probable cause hearing does not apply if the parolee is in custody on another matter such as a new criminal offense. *See Moody v. Daggett*, 429 U.S. 78, 86, n.7, 50 L. Ed.2d 236, 97 S. Ct. 274 (1976) (holding that parole board could defer executing its violator warrant until after parolee finished his new 10-year sentence); *see also State v. Valentine*, 20 Wn. App. 511, 515, 580 P.2d 1119 (1978) ("as long as Mr. Valentine was being held on another criminal charge, *Moody* expressly negatives any conclusion that *Gagnon*⁴ and *Morrissey* require that he receive an immediate revocation hearing"). "This is so both because the subsequent conviction obviously gives the parole authority 'probable cause or reasonable ground to believe that the . . . parolee has committed acts that would constitute a violation of parole conditions,' . . . and because issuance of the warrant does not immediately deprive the

⁴ *Gagnon v. Scarpelli*, 411 U.S. 778, 93 S. Ct. 1756, 36 L. Ed.2d 656 (1973).

parolee of liberty.” *Moody*, 429 U.S. at 86, n.7; *cf. State v. Fry*, 15 Wn. App. 499, 501, 550 P.2d 697 (1976) (holding that no probable cause hearing is necessary if parolee is not in custody due to violation warrant).

The Court in *Moody* held that even though the parole authority had lodged a detainer with the institution where the parole violator was confined for the new crime, *Moody*, 429 U.S. at 80, the timeline for holding a violation hearing would not begin until later, when the parole board finally executed the warrant by serving it on the parolee after he had finished his 10-year prison term on the new conviction. *Id.* at 81 and 86. Thus, due process allowed the parole authority to delay holding a probable cause hearing for ten years in that case.

In addition to not violating Miller’s due process, the Board also was not divested of jurisdiction when it failed to hold the revocation hearing within 30 days of Miller being served the notice of alleged violations. In a very similar situation, this Court upheld a parole revocation decision where the hearing timeline in RCW 9.95.120 was not followed. This Court held in *In re Knoke*, 17 Wn. App. 874, 565 P.2d 1187 (1977), that “the statutory right to a hearing within 30 days is enforceable by way of mandamus.” *Knoke*, 17 Wn. App. at 876 (citing *January v. Porter*, 75 Wn.2d 768, 453 P.2d 876 (1969)). “However, RCW 9.95.120 is not jurisdictional, and failure to hold the hearing within 30 days does not

entitle the petitioner to dismissal of the parole revocation proceedings.” *Id.* “A final parole revocation hearing must be tendered within a reasonable time after the parolee is taken into custody.” *Knoke*, 17 Wn. App. at 876 (citing *Morrissey v. Brewer*, 408 U.S. 471, 92 S. Ct. 2593, 33 L. Ed.2d 484 (1972); *Monohan v. Burdman*, 84 Wn.2d 922, 530 P.2d 334 (1975)).

In *Knoke*, the prisoner argued that “he has been denied due process by not being afforded an onsite parole revocation hearing until 75 days after being incarcerated and 64 days after his preliminary hearing.” *Knoke*, 17 Wn. App. at 875. The prisoner’s hearing had been delayed because he had been transferred from one county’s jail to another county’s jail nine days before his scheduled hearing. *Id.*, at 875-876.

In denying the prisoner’s due process claim, this Court noted that in *Morrissey*, the Supreme Court held that a delay of two months between the arrest and the revocation hearing was not unreasonable. *Id.*, 17 Wn. App. at 876. As to the prisoner’s claim that the delay violated the 30-day rule in RCW 9.95.120, the Court noted that the Board’s failure to adhere to the statutory timeline did not deprive the Board of jurisdiction and did not entitle the prisoner to dismissal of the revocation proceedings. *Id.*

As in *Knoke*, the Board in this case was not deprived of jurisdiction when it failed to hold Miller’s revocation hearing within 30

days of service of the notice of alleged violations. Therefore, Miller is not entitled to dismissal of the revocation.

Finally, Miller is incorrect when he asserts that the days during which he was on conditional release status count toward the delay in complying with the 30-day rule in RCW 9.95.120. He claims that the delay was 70 days between the date of service and the date of his hearing on January 8, 2013. Petition of Miller, at 31. But RCW 9.95.120 states that the hearing must occur within 30 days after service of the notice of violations, “after his or her arrest and detention.” Arguably, if the offender is not in detention, the 30-day period does not continue to run.

Because the Board had jurisdiction to revoke Miller’s parole after the January 8, 2013, hearing, the Court should dismiss Miller’s petition.

E. The DOC Was Authorized To Require Miller To Submit A Urine Sample To His CCO

In his fifth claim, Miller argues that because his condition to submit to urinalysis testing stated that he was to submit to drug and alcohol testing through an agency approved by his CCO, and because his CCO did not constitute such an agency, the CCO did not have authority to directly take Miller’s urine sample and test it. Petition of Miller, at 33-38. He claims that only a third party was authorized to do the testing. *Id.*, at 35.

This claim is frivolous. Obviously, the CCO approved the DOC as the agency to take the sample and perform the testing. The Court should dismiss Miller's petition.

F. The Board Did Not Rely Solely On Hearsay To Revoke Miller's Parole

In his sixth claim, Miller argues that the Board relied on hearsay to find him guilty of the allegations of drug use. Petition of Miller, at 39-43. He claims this violates WAC 381-70-400, which provides that if the sole evidence of a violation is hearsay that would not be admissible in superior court, and if the hearsay is not corroborated, the Board cannot find the offender guilty of the allegation. But the evidence in this case was not hearsay. The CCO who took the urine sample and did the testing was at the revocation hearing and testified. *See* Exhibit 37, at 4. Firsthand knowledge does not constitute hearsay.

WAC 381-70-400 does not require a urinalysis done by a CCO to be corroborated by outside testing. Rather, it states that all relevant evidence shall be admissible which, in the opinion of the presiding officer, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. *See* WAC 381-70-400. The same WAC provision defines relevant evidence as meaning "evidence having a tendency to make the existence of any fact that is of consequence

to the determination of the action more or less probable than it would be without the evidence.” *Id.*

The Board properly determined that the urinalysis test results were not hearsay because the CCO who accompanied Miller to the restroom and watched Miller as he submitted the sample, and who performed the drug test on the sample, testified of his firsthand observations and knowledge at the revocation hearing. Exhibit 37, at 4.

In any case, the drug use violations were not the only basis upon which the Board revoked Miller’s parole. It also found him guilty of failing to report to his CCO and failing to obtain a drug and alcohol evaluation. Exhibit 37, at 1. The Court should dismiss Miller’s petition.

G. The Board Found By A Preponderance Of The Evidence That Miller Had Used Illegal Drugs

In his seventh claim, Miller argues that the drug use allegations were not proven by a preponderance of the evidence because they were based solely on the CCO’s in-house testing of Miller’s urine sample. Petition of Miller, at 44-46. However, he cited no case law, statute, or regulation in support of this contention.

In a parole revocation hearing, the State has the burden of proving noncompliance with a condition or requirement of a sentence by a preponderance of the evidence:

If the member or members having heard the matter should conclude that the allegations of violation of the conditions of parole have been proven by a preponderance of the evidence and constitute sufficient cause for the revocation of parole, then such member or members shall enter an order of parole revocation and return the parole violator to state custody.

RCW 9.95.125.

The preponderance of the evidence standard requires that the evidence establish the proposition at issue is more probably true than not true. *In re the Dependency of H.W.*, 92 Wn. App. 420, 425, 961 P.2d 963 (1998); *In re Sego*, 82 Wn.2d 736, 739 n.2, 513 P.2d 831, 833 n.2 (1973). *See also* 6 Wash. Prac., Wash. Pattern Jury Instr. Civ. WPI 21.01 (4th ed.) (“When it is said that a party has the burden of proof on any proposition, or that any proposition must be proved by a preponderance of the evidence, or the expression ‘if you find’ is used, it means that you must be persuaded, considering all the evidence in the case, that the proposition on which that party has the burden of proof is more probably true than not true.”)

When the CCO performed an in-house test on the urine sample, and it was positive for illegal drug use, this was sufficient to satisfy the preponderance of the evidence standard for purposes of the allegations that Miller had used illegal drugs. Because the drug test was positive, it established that Miller used drugs more probably than not. Miller cites no

studies or case law indicating that in-house urinalyses are incorrect more often than not. The Court should dismiss Miller's petition.

VII. CONCLUSION

Miller's petition is without merit. Respondent respectfully requests that this Court dismiss his personal restraint petition with prejudice.

RESPECTFULLY SUBMITTED this 11th day of July, 2013.

ROBERT W. FERGUSON
Attorney General

RONDA D. LARSON, WSBA #31833
Assistant Attorney General
Corrections Division, OID #91025
PO Box 40116
Olympia WA 98504-0116
(360) 586-1445

CERTIFICATE OF SERVICE

I certify that I served a copy of the foregoing RESPONSE OF THE INDETERMINATE SENTENCE REVIEW BOARD on all parties or their counsel of record as follows:

- US Mail Postage Prepaid
- United Parcel Service, Next Day Air
- ABC/Legal Messenger
- State Campus Delivery
- Hand delivered by _____

MARK L. MILLER, DOC #265210
MONROE CORRECTIONAL COMPLEX-TRU
PO BOX 888
MONROE WA 98272

EXECUTED this ____ day of July, 2013, at Olympia, WA.

KAREN THOMPSON
Legal Assistant

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

STATE OF WASHINGTON,)
 Plaintiff,) No. 79-1-00126-1
 vs.)

MARK LEE MILLER,)
 Defendant.) ORDER DEFERRING
 SENTENCE PURSUANT
 TO RCW 9.95.200-.240

THIS MATTER having come on regularly for hearing this 9 day of Nov, 1979, the defendant being present in person and represented by his undersigned attorney, the state being represented by the undersigned deputy prosecuting attorney, the defendant having previously (entered valid pleas of guilty to) (been convicted at trial of):

Count I, charging: 1ST DEGREE ROBBERY

committed on or about: 27th March, 1979

Count _____, charging: _____

committed on or about: _____

the court having afforded each counsel the right to speak, having asked the defendant if he wished to make a statement on his behalf or present information in mitigation of punishment, and having heard and considered both counsel and the defendant, now, therefore, the court ORDERS, ADJUDGES AND DECREES:

1. The defendant is guilty of the above crimes.
2. Imposition of sentence is deferred for five (5) year(s) from today, and the defendant will be on probation for the same period. While on probation, the defendant shall follow every condition indicated on the attached appendix, which is incorporated herein by reference.

EXHIBIT 1

3. The court retains jurisdiction over the defendant for life year(s) from today, unless jurisdiction is terminated sooner by court order.

FILED
 NOV 9 1979



I attest that I saw the same defendant who appeared in court on this document affix his thumbprints hereto.
 CLERK OF THE SUPERIOR COURT OF CLARK COUNTY: BY: Debra A. Mordred-Bohl
 (SEAL) Deputy



34/144

22

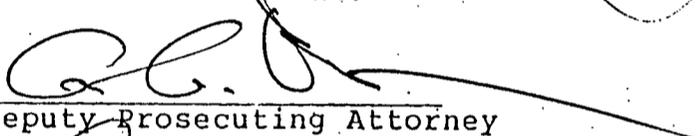
If defendant violates any condition indicated in the attached appendix, the court may modify or revoke this order. At that time, the court may impose the maximum sentence(s) on the crime(s) of which the defendant has been convicted, and such sentence(s) will begin to run only at that time. In this case, the maximum sentences are:

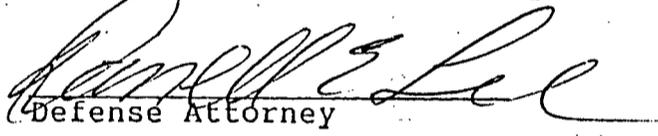
Count 1, life years.
Count _____, _____ years.
Count _____, _____ years.
Count _____, _____ years.

DONE In Open Court and in the presence of the defendant this 9 day of Nov, 1979.

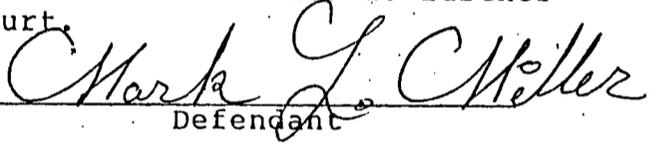

JUDGE OF THE SUPERIOR COURT

APPROVED AS TO FORM:


Deputy Prosecuting Attorney


Defense Attorney

I have received a copy of this Order, with attached Appendix. I understand it and have no further questions to ask of the Court.


Defendant

ADVICE TO DEFENDANT

After you have successfully performed all of the provisions of your probation and within the time that the court retains jurisdiction (see paragraph 3 above), you may come back in to court and ask to withdraw your plea of guilty and enter a plea of not guilty. If the court lets you do this, it will then dismiss this case and you will be released from all penalties and disabilities which have resulted from it.

The burden of requesting a dismissal of the case is upon you. The court will not dismiss it unless you ask. You may request dismissal yourself, or through your attorney or probation officer.

APPENDIX, CONDITIONS OF PROBATION

DM

A. LAW: Defendant shall not violate any federal, state or local criminal law, nor shall defendant be in the company of any person known to him to be doing so.

DM

B. JAIL: Defendant shall serve 365 days in the Clark County Jail commencing now

with credit for time served, and ~~_____ days suspended.~~

1. *DM* Said Jail time may be served on (work-release) ~~(school-release)~~ under a program approved by the corrections staff.
2. _____ The defendant (may) (may not) be released from the security part of the jail for the purpose of securing: employment, school or special counseling approved by the corrections staff.
3. _____ Trustee status is not authorized.

C. TREATMENT: Defendant shall attend and successfully complete all inpatient and outpatient phases of the _____

_____ program of _____ treatment. He shall begin on or before: _____.

D. EDUCATION: Defendant shall attend and successfully complete all phases of the _____

_____ educational program. He shall begin on or before: _____.

DM

E. EMPLOYMENT: Defendant shall seek, obtain and maintain full time employment, and not change employment without prior permission of the court or his probation officer.

DM

F. RESIDENCE: Defendant shall live at 19537 NE 174TH
St, Brush Prairie - 254-2078

unless given prior permission to move by the court or his probation officer.

DM

G. ASSOCIATION: Defendant shall not initiate or permit communication or contact with persons known to the defendant to be or presently on probation or parole for any offense, except immediate family. Additionally, defendant shall not initiate or permit communication or contact with _____

H. POSSESSION OR USE:

- DM 1. Except by lawful medical prescription, defendant shall not possess, use or deliver drugs prohibited by the Uniform Controlled Substances Act.
- ___ 2. Defendant shall not use alcoholic beverages to excess.
- DM 3. Defendant shall not possess or consume any alcoholic beverage.
- DM 4. Defendant shall not go into any place where alcoholic beverages are the primary item of sale.
- ___ 5. Defendant shall submit to a program of monitored antabuse until notified by his probation officer that such program is no longer necessary.
- DM 6. Defendant shall submit to urine, breath or other screening to detect usage of drugs or alcohol, as requested by his probation officer.
- DM 7. Defendant shall not possess or use any firearm or deadly weapon except for military duty.

I. MONEY:

Defendant shall pay the following to the County Clerk:

- ___ 1. A \$ _____ fine.
- DM 2. \$ to be set by pd. officer restitution.
- DM 3. \$ 32.00 court costs.
- ___ 4. \$ _____ reimbursement for the cost of court appointed counsel.
- ___ 5. The sum of the applicable provisions above shall be paid at not less than \$ _____ per month, commencing _____, and to be paid in full on or before _____.
(If any of the above subparagraphs are applicable to this defendant but no amount is set out, such amounts shall be set by the probation officer. In the event the probation officer and defendant cannot agree on such amounts, the probation officer will notify the court and a hearing will be scheduled.)

DM J. PROBATION SUPERVISION: The defendant shall be under the charge and supervision of a probation and parole officer ^{DE PSY/S} and shall follow the conditions in this order and the rules imposed by that officer. Defendant shall fully and truthfully report to such officer at _____

such times as the officer directs. Defendant shall first report to the officer at or before the close of business on the first business day following today or the defendant's release from jail or inpatient treatment, whichever is later. The deputy prosecutor whose signature appears on this order shall cause a copy of this order to be delivered to the probation office by the close of business today, and the probation office shall immediately notify the court and the prosecutor if the defendant does not appear at the probation office by the close of business on the business day following today.

K. BENCH PROBATION: The defendant shall be on bench probation.

L. ADDITIONAL CONDITIONS:

Def's father will continue to transport him from work release to the job and back again. If def is laid off for weather or other reasons, he'll remain in jail.

Copies

not copied

To PA

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

265210

3-15-91

No. 79-1-126-1

STATE OF WASHINGTON,)
)
Plaintiff,)
)
vs.)
Mark Lee Miller,)
)
Defendant.)

ORDER OF REVOCATION
OF PROBATION AND
JUDGMENT AND SENTENCE

THIS MATTER having come on regularly for probation violation hearing this 15th day of April 1985, the defendant being present in person and represented by his undersigned attorney, and the state being represented by the undersigned deputy prosecuting attorney, the defendant having previously entered (valid pleas of guilty to) ~~(been convicted at trial of)~~:
Count I, charging robbery in first degree

committed on or about 3/27/79

Count _____, charging _____

committed on or about _____

and the defendant having been previously given probation pursuant to an order deferring or suspending sentence as authorized by either RCW 9.95.200-.240 or RCW 9.92.060, and the Court having heard the evidence, the arguments of counsel and having asked the defendant if he wished to make a statement on his behalf or present information in mitigation of punishment, and having heard the defendant, now, therefore, the court ORDERS, ADJUDGES AND DECREES:

1. The defendant is in violation of his probation as alleged in violations specified numbers: one and two

2. Defendant's probation should be and hereby is revoked.

EXHIBIT 2

3. If imposition of sentence was previously deferred as authorized by RCW 9.95.200-.240, defendant is hereby sentenced to confinement at hard labor under the jurisdiction of the Department of Social and Health Services Division of

Left Thumb
I attest that I saw the same defendant who appeared in court on this document affix his thumbprints hereto.
CLERK OF THE SUPERIOR COURT OF CLARK COUNTY
By: George J. Miller
Deputy

Right Thumb

FILED
APR 2 - 1985

George J. Miller, Clerk, Clark Co.

240
340

49

Institutions for (a) maximum term(s) of:

forty (40) years on Count I

said terms to run consecutive to Multnomah County, Ore., #84-3-30993.

4. If execution of sentence was previously suspended as authorized by RCW 9.95.200-.240 or RCW 9.92.060, defendant's suspension is hereby vacated. The sentence previously imposed shall be executed forthwith, with the result that defendant is now remanded to the custody of the Department of Social and Health Services Department of Institutions for confinement at hard labor in a penal institution under the jurisdiction of said department, the maximum term of such confinement to be:

The maximum terms to run _____

5. Defendant shall be detained by the Clark County Sheriff until delivered into the custody of officers of the Department of Social and Health Services for transportation to a correctional facility designated by the department.

DONE IN OPEN COURT and in the presence of the defendant this 15th day of April, 1985.

SAIC 88 DAYS
13 G.T.

[Signature]
MORGAN
JUDGE OF THE SUPERIOR COURT

Approved as to form:
[Signature]
Deputy Prosecuting Attorney

DOS: 11-9-79

[Signature]
Defense Attorney

STATE OF WASHINGTON)

COUNTY OF CLARK) :SS

I, JOANNE McBRIDE, County Clerk and Clerk of the Superior Court of the State of Washington, for the County of Clark, holding terms at Vancouver, in said County, do hereby 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 the seal fo the said Superior Court affixed this 13 day of March, 1991.

JOANNE McBRIDE
Clerk of said County and State



By: Ronald E. Brown
Deputy

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

STATE OF WASHINGTON,

Plaintiff,
vs.

MARK LEE MILLER

Defendant.

NO. 79-1-00126-1

WARRANT OF COMMITMENT
TO STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

STATE OF WASHINGTON)
):SS
COUNTY OF CLARK)

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

GREETING:

WHEREAS, MARK LEE MILLER has been duly convicted in the Superior Court of the State of Washington of the County of Clark of the crime(s) of

1st DEGREE ROBBERY

and judgment has been pronounced against him/~~her~~ that he/~~she~~ 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 and a minimum term to be fixed by the Board of Prison Terms and Paroles. All of which appears to us of record; a certified copy of said judgment being endorsed hereon and made a part hereof.

NOW, THIS IS TO COMMAND YOU, the said Sheriff, to detain the said MARK LEE MILLER until called for by the transportation officers of the State of Washington, Department of Corrections, authorized to conduct him/~~her~~ to the appropriate facility, and this is to command you, the said Superintendent of the appropriate facility to receive of and from the said officer or officers the said

MARK LEE MILLER for confinement, classification and placement in such correctional facilities under the supervision of the State of Washington, Department of Corrections, as shall be designated by the State of Washington, Department of Corrections for a maximum term of confinement of not more than forty (40)

years and a minimum term to be fixed by the Board of Prison Terms and Paroles. Consecutive to Multnomah County #84-3-30893

And these presents shall be authority for the same.
HEREIN FAIL NOT.

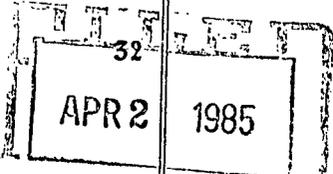
WITNESS THE HONORABLE JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS 1 day of April, 1985.

GEORGE J. MILLER, Clerk of the Clark County Superior Court

By [Signature] Deputy



CLARK COUNTY PROSECUTING ATTORNEY
1200 FRANKLIN
P. O. BOX 5000
VANCOUVER, WASHINGTON 98668
(206) 699-2281



George J. Miller, Clerk, Clark Co.

OSP

47591

**In The Circuit Court of the State of Oregon
For Multnomah County**

THE STATE OF OREGON,

Plaintiff,

v.

HARK LEE MILLER,

Defendant.

)
) No. C 84-03-30992
) DA 272454
)
)
)
)
)

JUDGMENT ORDER

On August 22, 1984, this matter came before the court, the plaintiff appearing by Janet Klapstein, Deputy District Attorney, and the defendant appearing in person, in custody of the sheriff, and with his attorney, John Gail.

IT IS ADJUDGED that the said defendant has been convicted on his plea of Not Guilty and judgment of GUILTY of the offense of RE-CONVICT IN POSSESSION OF FIREARM, and this being the time for imposition of sentence, and no reason appearing to the court why sentence should not be pronounced at this time,

IT IS FURTHER ADJUDGED that said defendant be imprisoned in a correctional facility of the State of Oregon for an indeterminate period of time, the maximum term of which shall be and hereby is fixed at Five (5) Years, with full credit for all time served in the within matter, said sentence to run concurrently with the sentences imposed on Counts I and II in Circuit Court Case No. C 84-03-30993, and said defendant is hereby committed to the legal and physical custody of the Corrections Division of the State of Oregon.

Stenographic notes of this proceeding were made by the court reporter, Rita Fitzpatrick.

Dated: September 10, 1984

/s/ ROBERT P. JONES

R. P. JONES, Judge

RECEIVED

OCT 4 1991

Indeterminate Sentence
Review Board

JUDGMENT ORDER

EXHIBIT 3

[CORRECTIONS DIVISION, STATE OF OREGON
State Office Building
Portland, Oregon 97201]

JK/ab

CCU

PPB 84-18172

Pol. File No.

Count: 1 – RCW 9A.56.200 – Robbery 1

Anticipatory: Modifier: Enhancement: Mandatory: Confinement Length: ERT %: ERD: MaxEx: Stat Max: Violent Offense?
 0Y, 18M, 0D 33.33% 10/25/2013 12/14/2030 12/14/2030 Yes

Supervision Type: PAR
 Supervision Length: 0Y, 0M, 0D
 Consecutive Count:
 Hold To Stat Max Expiration:

Gain-Loss

Cause - 791001261 - Clark

Cause Info

Convicted Name: Mark Miller Date Of Sentence: 11/09/1979 Schedule End Date: 10/25/2013 Cause Status: CLOSED
 Offense Type: Robbery 1 DOSA: No Intake Complete: Yes EM Flag: No

Distinct Supervision Info

Cause Prefix: AC Type: PAR Statutory Max Date: 12/14/2030 Schedule End Date: 10/25/2013 Tolling Indicator: No

Supervision Activities

Supervision Type	Activity Type	Activity Date	State	Supervising Officer	Field Office
PAR	Parole/CCB Revocation Technical	02/04/2013	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Return Inactive Prison-Work Release	02/04/2013	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Inactive-Prison/Work Release	02/04/2013	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Return Parole/CCB Suspend	02/04/2013	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Suspend	12/27/2012	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Return Parole/CCB Abscond	12/07/2012	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Abscond Jail	10/26/2012	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Abscond	09/06/2012	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Return Parole/CCB Suspend	07/16/2012	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Suspend	06/27/2012	Washington	Nielsen, Ronda L	Goldendale Office
PAR	CC Confinement End	04/18/2012	Washington	Goble, Jodery A	Goldendale Office
PAR	CC Confine Non-DOC	01/14/2012	Washington	Goble, Jodery A	Goldendale Office
PAR	Return From Conditional Discharge From Supervision	12/29/2011	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Conditional Discharge from Supervision (CDFS)	12/09/2010	Washington	Goble, Jodery A	Goldendale Office
PAR	Return Parole/CCB Suspend	12/09/2010	Washington	Goble, Jodery A	Goldendale Office
PAR	Parole/CCB Suspend	07/30/2010	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Return From Conditional Discharge From Supervision	07/30/2010	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Conditional Discharge from Supervision (CDFS)	02/03/2010	Washington	Gyory, Cecilia G	West Vancouver CJC
PAR	Intake	02/03/2010	Washington	Gyory, Cecilia G	West Vancouver CJC
PAR	Parole/CCB Revocation Technical	05/06/2008	Washington	Goble, Jodery A	Goldendale Office
PAR	Parole/CCB Suspend	04/10/2008	Washington	Goble, Jodery A	Goldendale Office
PAR	Return Parole/CCB Suspend	03/25/2008	Washington	Goble, Jodery A	Goldendale Office
PAR	Parole/CCB Suspend	02/25/2008	Washington	Goble, Jodery A	Goldendale Office
PAR	Return Inactive Prison-Work Release	10/17/2007	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Inactive-Prison/Work Release	10/04/2007	Washington	Nielsen, Ronda L	Goldendale Office
PAR	Return Inactive Prison-Work Release	10/01/2007	Washington	Nielsen, Ronda L	Goldendale Office

County Confinement Time -

PAR	Prison/Work Release	08/16/2007	Washington Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Suspend	03/20/2006	Washington Nielsen, Ronda L	Goldendale Office
PAR	Intake	07/20/2005	Washington Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Revocation Technical	04/24/2002	Washington Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Suspend	03/12/2002	Washington Nielsen, Ronda L	Goldendale Office
PAR	Return Parole/CCB Suspend	01/28/2002	Washington Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Suspend	12/18/2001	Washington Nielsen, Ronda L	Goldendale Office
PAR	Return Parole/CCB Suspend	06/20/2001	Washington Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Suspend	05/24/2001	Washington Nielsen, Ronda L	Goldendale Office
PAR	Intake	10/05/2000	Washington Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Revocation Technical	11/09/1999	Washington Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Suspend	10/04/1999	Washington Nielsen, Ronda L	Goldendale Office
PAR	Return Inactive Prison-Work Release	12/21/1998	Washington Nielsen, Ronda L	Goldendale Office
PAR	Inactive-Prison/Work Release	11/28/1998	Washington Nielsen, Ronda L	Goldendale Office
PAR	Return Parole/CCB Suspend	11/28/1998	Washington Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Suspend	09/30/1998	Washington Nielsen, Ronda L	Goldendale Office
PAR	Intake	03/24/1998	Washington Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Revocation Technical	02/25/1997	Washington Hall, Edward J	Vancouver Central Intake-clsd
PAR	Parole/CCB Suspend	07/09/1996	Washington Allum, Gerald V	Goldendale Office
PAR	Return Parole/CCB Suspend	01/25/1996	Washington Nielsen, Ronda L	Goldendale Office
PAR	Parole/CCB Suspend	01/25/1996	Washington Nielsen, Ronda L	Goldendale Office
PAR	Return Parole/CCB Suspend	02/01/1995	Washington Powell, Jane S	Vancouver East Unit 1
PAR	Parole/CCB Suspend	02/01/1995	Washington Powell, Jane S	Vancouver East Unit 1
PAR	Intake	12/02/1993	Washington Powell, Jane S	Vancouver East Unit 1

External / Internal Movements

Movement Date/Time	From Location	To Location	Movement Type		Movement Reason		Created By	
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
MCC-TRU	06/03/2013	D1182	Sager, Steven M	70047527	06/03/2013			Whittlesey, Timothy D
MCC-TRU	06/03/2013	D1182	Sager, Steven M	70047527	06/03/2013			Whittlesey, Timothy D
06/03/2013 09:08:48	WCC-RC	MCC-TRU		Transfer Between Prisons		Initial Classification		Whittlesey, Timothy D
06/03/2013 05:35:52	WCC-RC	MCC-TRU		Transfer Between Prisons		Initial Classification		Roman, Ramses
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	03/13/2013	5E13L	Anderson, Marko J	71006286	03/21/2013			Roman, Ramses
WCC-RC	03/13/2013	5E13L	Anderson, Marko J	71006286	03/21/2013			Roman, Ramses
WCC-RC	03/12/2013	5E15F	Anderson, Marko J	71006286	03/21/2013			Goodwin, James W

03/12/2013 08:42:43	WCC-IMU	WCC-RC	Transfer Between Prisons			Facility Assignment Change		Goodwin, James W
03/12/2013 08:41:22	WCC-IMU	WCC-RC	Transfer Between Prisons			Facility Assignment Change		Goodwin, James W
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-IMU	03/08/2013	B210	Anderson, Marko J	71006286	03/21/2013			Goodwin, James W
03/08/2013 11:39:42	WCC-RC	WCC-IMU	Transfer Between Prisons			Security Risk		Shriner, Harold E
03/08/2013 11:38:32	WCC-RC	WCC-IMU	Transfer Between Prisons			Security Risk		Shriner, Harold E
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	02/25/2013	1F08L	Anderson, Marko J	71006286	03/21/2013			Shriner, Harold E
WCC-RC	02/06/2013	3D10U	Anderson, Marko J	71006286	03/21/2013			Hughes, William H
02/06/2013 01:41:54	Yakima Co Violator Facility	WCC-RC	Transfer Between Prisons			Field Parole		Montalvo, Jenelle L
02/06/2013 08:00:00	Yakima Co Violator Facility	WCC-RC	Transfer Between Prisons			Field Parole		Montalvo, Jenelle L
02/05/2013 07:31:24	Klickitat Co. Violator Fac.	Yakima Co Violator Facility	Transfer Between Prisons			Field Parole		Montalvo, Jenelle L
02/05/2013 07:04:16	Klickitat Co. Violator Fac.	WCC-RC	Transfer Between Prisons			Field Parole		Montalvo, Jenelle L
02/04/2013 07:00:46	Klickitat	Klickitat Co. Violator Fac.	Admission To Prison			Field Parole		Montalvo, Jenelle L
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
MICC (Closed)	05/04/2010	A3262	Anderson, Marko J	71006286	03/21/2013			Schuler, Sue M
MICC (Closed)	04/29/2010	A3262	Anderson, Marko J	71006286	03/21/2013			Schuler, Sue M
02/03/2010 01:18:43	MICC (Closed)	Clark	Release From Prison			CDFS		Dayton, Arrel L
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
MICC (Closed)	01/19/2010	A3262	Jones, Rachel D	70051186	01/26/2010			Schuler, Sue M
MICC (Closed)	01/19/2010	A3262	Wooten, Dairyene G	70051514	12/03/2009			Chun Fook, Renee L
MICC	12/10/2009	D4052	Wooten,	70051514	12/03/2009			System,

(Closed)			Dairyene G					Obts
MICC (Closed)	12/10/2009	FA30	Wooten, Dairyene G	70051514	12/03/2009	Floor		Hedgers, Gladys M
			Wooten, Dairyene G	70051514	12/03/2009			Tabb, Dennis E
MICC (Closed)	12/03/2009	D3182	Wooten, Dairyene G	70051514	12/03/2009			Chun Fook, Renee L
12/03/2009 09:30:00	WCC-RC	MICC (Closed)		Transfer Between Prisons			Return From Court	Chun Fook, Renee L
12/03/2009 07:19:41	WCC-RC	MICC (Closed)		Transfer Between Prisons			Return From Court	Ricker, Eugene K
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	11/30/2009	4E04U	Wooten, Dairyene G	70051514	12/03/2009			Ricker, Eugene K
11/30/2009 01:26:29	Clark County Violator Fac.	WCC-RC		Transfer Between Prisons			Parole Violator	Brunetti, Melanie S
11/30/2009 06:23:52	Clark County Violator Fac.	WCC-RC		Transfer Between Prisons			Parole Violator	Brunetti, Melanie S
11/06/2009 12:56:39	WCC-RC	Clark County Violator Fac.		Transfer Between Prisons			Parole Violator	Mcdonald, Rene M
11/06/2009 12:55:54	WCC-RC	Clark County Violator Fac.		Transfer Between Prisons			Parole Violator	Mcdonald, Rene M
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	11/04/2009	5E09L	Wooten, Dairyene G	70051514	12/03/2009			Goodwin, James W
11/04/2009 01:00:29	Klickitat	WCC-RC		Temporary Absence From Prison			Return From Court	Brunetti, Melanie S
10/22/2009 05:45:38	WCC-RC	Klickitat		Temporary Absence From Prison			Court Order	Krona, Miriam E
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	10/21/2009	7A05L	Wooten, Dairyene G	70051514	12/03/2009			Krona, Miriam E
10/21/2009 12:52:50	MICC (Closed)	WCC-RC		Transfer Between Prisons			Board Docket Mv	Brunetti, Melanie S
10/21/2009 10:30:00	MICC (Closed)	WCC-RC		Transfer Between Prisons			Board Docket Mv	Chun Fook, Renee L
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
			Wooten, Dairyene G	70051514	10/01/2009			Chun Fook, Renee L
MICC (Closed)	10/01/2009	D1362	Wooten, Dairyene G	70051514	10/01/2009			Chun Fook, Renee L

10/01/2009 09:30:00	WCC-RC	MICC (Closed)		Transfer Between Prisons		Return From Court		Chun Fook, Renee L
10/01/2009 07:53:44	WCC-RC	MICC (Closed)		Transfer Between Prisons		Return From Court		Ricker, Eugene K
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	09/25/2009	4D08U	Wooten, Dairyene G	70051514	10/01/2009			Ricker, Eugene K
09/25/2009 01:09:12	Clark	WCC-RC		Temporary Absence From Prison		Return From Court		Brunetti, Melanie S
09/04/2009 05:32:48	WCC-RC	Clark		Temporary Absence From Prison		Court Order		Goodwin, James W
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	09/03/2009	5A03F	Wooten, Dairyene G	70051514	10/01/2009			Goodwin, James W
09/03/2009 01:31:53	MICC (Closed)	WCC-RC		Transfer Between Prisons		Board Docket Mv		Brunetti, Melanie S
09/03/2009 10:00:24	MICC (Closed)	WCC-RC		Transfer Between Prisons		Board Docket Mv		Chun Fook, Renee L
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
			Wooten, Dairyene G	70051514	07/23/2009			Chun Fook, Renee L
MICC (Closed)	07/23/2009	D2272	Wooten, Dairyene G	70051514	07/23/2009			Chun Fook, Renee L
07/23/2009 10:30:37	WCC-RC	MICC (Closed)		Transfer Between Prisons		Return From Court		Chun Fook, Renee L
07/23/2009 10:20:51	WCC-RC	MICC (Closed)		Transfer Between Prisons		Return From Court		Stucke, Heather D
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	07/17/2009	5E10U	Wooten, Dairyene G	70051514	07/23/2009			Stucke, Heather D
07/17/2009 02:26:54	Clark	WCC-RC		Temporary Absence From Prison		Return From Court		Brunetti, Melanie S
06/19/2009 06:06:57	WCC-RC	Clark		Temporary Absence From Prison		Court Order		Ricker, Eugene K
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	06/05/2009	6A08L	Wooten, Dairyene G	70051514	07/23/2009			Ricker, Eugene K
WCC-RC	06/04/2009	6D13F	Wooten, Dairyene G	70051514	07/23/2009			Stucke, Heather D
06/04/2009	MICC			Transfer Between				Brunetti,

02:04:06	(Closed)	WCC-RC		Prisons		Court Order		Melanie S
06/04/2009 10:30:06	MICC (Closed)	WCC-RC		Transfer Between Prisons		Court Order		Chun Fook, Renee L
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
MICC (Closed)	10/14/2008	D3321	Wooten, Dairyene G	70051514	07/31/2008			Chun Fook, Renee L
MICC (Closed)	07/31/2008	D3311	Wooten, Dairyene G	70051514	07/31/2008			Wyman, David G
07/31/2008 09:30:00	WCC-RC	MICC (Closed)		Transfer Between Prisons		Initial Classification		System, Obts
07/31/2008 06:09:00	WCC-RC	MICC (Closed)		Transfer Between Prisons		Initial Classification		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
			Wooten, Dairyene G	70051514	07/31/2008			Chun Fook, Renee L
WCC-RC	06/23/2008	5B02L	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	06/19/2008	5A01U	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	05/21/2008	1H06L	Korus, Charles C Jr.	70045014	05/21/2008			System, Obts
WCC-RC	05/21/2008	1H06L	(Vacant)	BK65	02/28/1989			System, Obts
05/21/2008 12:45:00	Clark	WCC-RC		Admission To Prison		Field Parole		System, Obts
10/17/2007 10:07:00	WCC-RC	Klickitat		Release From Prison		Regular Supervision		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	10/10/2007	3F01L	(Vacant)	BK65	02/28/1989			System, Obts
10/10/2007 02:30:00	Yakima Co Violator Facility	WCC-RC		Transfer Between Prisons		CC Detainee		System, Obts
10/10/2007 08:30:00	Yakima Co Violator Facility	WCC-RC		Transfer Between Prisons		CC Detainee		System, Obts
10/04/2007 01:15:00	Klickitat	Yakima Co Violator Facility		Admission To Prison		CC Detainee		System, Obts
10/01/2007 06:00:00	WCC-RC	Klickitat		Release From Prison		On-Site Hearing		System, Obts
Facility	Bed	Bed ID	Assigned	Position	Counselor	Segregation	Segregation	Created By

Name	Assignment	Counselor	ID	Assignment	Placement	Narrative		
WCC-RC	08/17/2007	3F01U	(Vacant)	BK65	02/28/1989		System, Obts	
08/17/2007 02:00:00	Clark County Violator Fac.	WCC-RC		Transfer Between Prisons	CC Detainee		System, Obts	
08/17/2007 08:25:00	Clark County Violator Fac.	WCC-RC		Transfer Between Prisons	CC Detainee		System, Obts	
08/16/2007 12:00:00	Klickitat	Clark County Violator Fac.		Admission To Prison	CC Detainee		System, Obts	
07/20/2005 11:06:00	AHCC	Clark		Release From Prison	Released To Detainer		System, Obts	
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
AHCC	06/17/2005	RA18L	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	06/03/2005	RA33U	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	05/31/2005	SA23L	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	08/18/2004	RA19L	(Vacant)	BK65	02/28/1989			System, Obts
06/11/2004 10:10:00	Spokane	AHCC		Temporary Absence From Prison		Medical Completed		System, Obts
06/11/2004 08:25:00	AHCC	Spokane		Temporary Absence From Prison		Medical Needs		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
AHCC	07/31/2003	RA24L	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	07/24/2003	RA64B	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	03/28/2003	RA42L	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	11/05/2002	RA08L	Grimes, Justin A	70049422	06/28/2008			System, Obts
AHCC	11/05/2002	RA08L	Milton, Robert E	70049422	06/28/2008			System, Obts
AHCC	11/05/2002	RA08L	Burk, Genevieve D	70049422	06/28/2008			System, Obts
AHCC	11/05/2002	RA08L	Albertson, Rena Y	70049422	06/27/2008			System, Obts
AHCC	11/05/2002	RA08L	(Vacant)	70049418	12/24/2002			System, Obts
								System,

AHCC	11/05/2002	RA08L	(Vacant)	BK65	02/28/1989			Obts
AHCC	09/28/2002	RA11L	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	09/23/2002	RA65A	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	09/17/2002	RA65A	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	09/17/2002	RA33L	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	09/17/2002	RA33L	(Vacant)	70049422	09/17/2002			System, Obts
AHCC	09/10/2002	NA32L	(Vacant)	70049261	09/10/2002			System, Obts
AHCC	09/10/2002	NA32L	(Vacant)	BK65	02/28/1989			System, Obts
09/10/2002 09:11:00	WSP-MSC	AHCC		Transfer Between Prisons		Program Change		System, Obts
09/10/2002 05:30:00	WSP-MSC	AHCC		Transfer Between Prisons		Program Change		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WSP-MSC	08/21/2002	AC1051	(Vacant)	BK65	02/28/1989			System, Obts
WSP-MSC	08/16/2002	BA2031	(Vacant)	BK65	02/28/1989			System, Obts
WSP-MSC	08/16/2002	BA1061	(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	70045906	08/16/2002			System, Obts
08/15/2002 02:05:00	WCC-RC	WSP-MSC		Transfer Between Prisons		Initial Classification		System, Obts
08/15/2002 06:05:00	WCC-RC	WSP-MSC		Transfer Between Prisons		Initial Classification		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	06/02/2002	4D05L	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	05/03/2002	4A10L	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	05/01/2002	4C08F	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	05/01/2002	4C08F	(Vacant)	70045302	05/01/2002			System, Obts
05/01/2002 02:30:00	Klickitat	WCC-RC		Admission To Prison		Field Parole		System, Obts

10/05/2000 09:20:00	WSP-Main	Oregon		Release From Prison		Released To Detainer		System, Obts
10/04/2000 09:30:00	Walla Walla	WSP-Main		Temporary Absence From Prison		Return From Court		System, Obts
10/04/2000 07:45:00	WSP-Main	Walla Walla		Temporary Absence From Prison		Court Order		System, Obts
10/03/2000 03:45:00	AHCC	WSP-Main		Transfer Between Prisons		Pending Detainer		System, Obts
10/03/2000 11:30:00	AHCC	WSP-Main		Transfer Between Prisons		Pending Detainer		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WSP-Main	10/03/2000	7A042	(Vacant)	BG59	10/03/2000			System, Obts
WSP-Main	10/03/2000	7A042	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	10/02/2000	MA33L	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	09/29/2000	MA65D	(Vacant)	BK65	02/28/1989			System, Obts
09/29/2000 05:00:00	PLCC (Closed) U01 Is PLCC	AHCC		Transfer Between Prisons		Pending Detainer		System, Obts
09/29/2000 04:28:00	PLCC (Closed) U01 Is PLCC	WSP-Main		Transfer Between Prisons		Pending Detainer		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
PLCC (Closed) U01 Is PLCC	09/27/2000	SH02	(Vacant)	BK65	02/28/1989			System, Obts
PLCC (Closed) U01 Is PLCC	09/27/2000	SH03	(Vacant)	BK65	02/28/1989			System, Obts
PLCC (Closed) U01 Is PLCC	09/22/2000	SH09	(Vacant)	BK65	02/28/1989			System, Obts
PLCC (Closed) U01 Is PLCC	05/11/2000	D06A	(Vacant)	BK65	02/28/1989			System, Obts
PLCC (Closed) U01 Is PLCC	05/11/2000	D06A	(Vacant)	70050928	05/11/2000			System, Obts

05/11/2000 10:30:00	AHCC	PLCC (Closed) U01 Is PLCC		Transfer Between Prisons		Accepted In Prerelease		System, Obts
05/11/2000 09:30:00	AHCC	PLCC (Closed) U01 Is PLCC		Transfer Between Prisons		Accepted In Prerelease		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
AHCC	02/10/2000	TA31U	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	01/25/2000	TA64B	(Vacant)	70049419	01/25/2000			System, Obts
AHCC	01/25/2000	TA64B	(Vacant)	BK65	02/28/1989			System, Obts
AHCC	01/24/2000	NA09U	(Vacant)	70049261	01/24/2000			System, Obts
AHCC	01/24/2000	NA09U	(Vacant)	BK65	02/28/1989			System, Obts
01/24/2000 08:50:00		PLCC (Closed) U01 Is PLCC	AHCC	Transfer Between Prisons		Prerelease Terminated		System, Obts
01/24/2000 08:09:00		PLCC (Closed) U01 Is PLCC	AHCC	Transfer Between Prisons		Prerelease Terminated		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
PLCC (Closed) U01 Is PLCC	01/19/2000	SH09	(Vacant)	BK65	02/28/1989			System, Obts
PLCC (Closed) U01 Is PLCC	01/05/2000	C13C	(Vacant)	70050887	01/05/2000			System, Obts
PLCC (Closed) U01 Is PLCC	01/05/2000	C13C	(Vacant)	BK65	02/28/1989			System, Obts
01/05/2000 12:05:00	WCC-RC	PLCC (Closed) U01 Is PLCC		Transfer Between Prisons		Accepted In Prerelease		System, Obts
01/05/2000 05:19:00	WCC-RC	PLCC (Closed) U01 Is PLCC		Transfer Between Prisons		Parole Violation-No N/S		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	12/28/1999	4H11L	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	12/23/1999	4B10F	(Vacant)	BK65	02/28/1989			System, Obts
12/23/1999				Transfer Between				System,

12:46:00	WCC-IMU	WCC-RC		Prisons		Program Change		Obts
12/23/1999 12:45:00	WCC-IMU	WCC-RC		Transfer Between Prisons		Program Change		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-IMU	12/20/1999	E210	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	12/20/1999	4H11U	(Vacant)	BK65	02/28/1989			System, Obts
12/20/1999 08:50:00	WCC-RC	WCC-IMU		Transfer Between Prisons		Program Change		System, Obts
12/20/1999 08:49:00	WCC-RC	WCC-IMU		Transfer Between Prisons		Program Change		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	12/16/1999	4B07F	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	12/16/1999	4B07F	(Vacant)	70045302	12/16/1999			System, Obts
WCC-RC	11/17/1999	1C01U	(Vacant)	70045089	11/17/1999			System, Obts
WCC-RC	11/17/1999	1C01U	(Vacant)	BK65	02/28/1989			System, Obts
11/17/1999 03:30:00	Klickitat	WCC-RC		Admission To Prison		Field Parole		System, Obts
12/21/1998 08:00:00	PLCC (Closed) U01 Is PLCC	Klickitat		Release From Prison		Normal Release		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
PLCC (Closed) U01 Is PLCC	12/14/1998	A18C	(Vacant)	BK65	02/28/1989			System, Obts
PLCC (Closed) U01 Is PLCC	11/12/1998	A18A	(Vacant)	70050988	11/12/1998			System, Obts
PLCC (Closed) U01 Is PLCC	11/12/1998	A18A	(Vacant)	BK65	02/28/1989			System, Obts
11/12/1998 02:25:00	Klickitat	PLCC (Closed) U01 Is PLCC		Admission To Prison		Field Parole		System, Obts
03/24/1998 03:25:00	WSP-MSU	Klickitat		Release From Prison		SRA Discharge		System, Obts

Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WSP-MSU	03/02/1998	U2D082	(Vacant)	BK65	02/28/1989			System, Obts
WSP-MSU	02/14/1998	U2I061	(Vacant)	BK65	02/28/1989			System, Obts
WSP-MSU	02/13/1998	U2K061	(Vacant)	BK65	02/28/1989			System, Obts
01/13/1998 08:49:00	WSP-MSC	WSP-MSU		Transfer Between Prisons		Program Change		System, Obts
01/13/1998 08:48:00	WSP-MSC	WSP-MSU		Transfer Between Prisons		Program Change		System, Obts

Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WSP-MSU	01/06/1998	U2I061	(Vacant)	BK65	02/28/1989			System, Obts
WSP-MSU	01/06/1998	U2I061	(Vacant)	70046142	01/06/1998			System, Obts
WSP-MSC	12/31/1997	S3A041	(Vacant)	BK65	02/28/1989			System, Obts
WSP-MSC	12/18/1997	S3E182	(Vacant)	BK65	02/28/1989			System, Obts
WSP-MSC	12/03/1997	S3F071	(Vacant)	BJ88	12/03/1997			System, Obts
WSP-MSC	12/03/1997	S3F071	(Vacant)	BK65	02/28/1989			System, Obts
12/03/1997 01:33:00	WSP-Main	WSP-MSC		Transfer Between Prisons		Medical Completed		System, Obts
12/03/1997 01:32:00	WSP-Main	WSP-MSC		Transfer Between Prisons		Medical Completed		System, Obts
12/02/1997 03:30:00	Walla Walla	WSP-Main		Temporary Absence From Prison		Medical Completed		System, Obts
12/02/1997 10:30:00	WSP-Main	Walla Walla		Temporary Absence From Prison		Medical Needs		System, Obts
12/01/1997 07:06:00	WSP-MSC	WSP-Main		Transfer Between Prisons		Medical Needs		System, Obts
12/01/1997 07:00:00	WSP-MSC	WSP-Main		Transfer Between Prisons		Medical Needs		System, Obts

Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WSP-Main	12/01/1997	22061	(Vacant)	BG55	12/01/1997			System, Obts
WSP-Main	12/01/1997	22061	(Vacant)	BK65	02/28/1989			System, Obts
								System,

WSP-MSC	11/05/1997	S3F071	(Vacant)	BJ88	11/05/1997			Obts
WSP-MSC	11/05/1997	S3D181	(Vacant)	BK65	02/28/1989			System, Obts
WSP-MSC	11/05/1997	S3F071	(Vacant)	BK65	02/28/1989			System, Obts
WSP-MSC	10/31/1997	BA2051	(Vacant)	BK65	02/28/1989			System, Obts
10/31/1997 08:45:00	WSP-Main	WSP-MSC		Transfer Between Prisons		Program Change		System, Obts
10/31/1997 08:30:00	WSP-Main	WSP-MSC		Transfer Between Prisons		Program Change		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WSP-Main	10/13/1997	6C154	(Vacant)	70045906	10/31/1997			System, Obts
WSP-Main	10/13/1997	6C154	(Vacant)	BK65	02/28/1989			System, Obts
WSP-Main	09/24/1997	6C153	(Vacant)	BK65	02/28/1989			System, Obts
WSP-Main	09/05/1997	6F114	(Vacant)	BK65	02/28/1989			System, Obts
WSP-Main	08/27/1997	6D171	(Vacant)	BK65	02/28/1989			System, Obts
WSP-Main	07/21/1997	6E172	(Vacant)	BK65	02/28/1989			System, Obts
WSP-Main	07/01/1997	6F012	(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	70046477	07/01/1997			System, Obts
WSP-Main	06/26/1997	1A08N	(Vacant)	70046066	06/26/1997			System, Obts
WSP-Main	06/26/1997	1A08N	(Vacant)	BK65	02/28/1989			System, Obts
06/26/1997 02:31:00	WCC-RC	WSP-Main		Transfer Between Prisons		Initial Classification		System, Obts
06/26/1997 05:43:00	WCC-RC	WSP-Main		Transfer Between Prisons		Initial Classification		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	06/10/1997	4E06L	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	06/06/1997	4E10L	(Vacant)	70045302	06/06/1997			System, Obts
WCC-RC	06/06/1997	4E10L	(Vacant)	BK65	02/28/1989			System, Obts

WCC-RC	06/05/1997	2C06U	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	06/04/1997	2B04F	(Vacant)	70045088	06/04/1997			System, Obts
WCC-RC	06/04/1997	2B04F	(Vacant)	BK65	02/28/1989			System, Obts
06/04/1997 03:00:00	Yakima	WCC-RC		Temporary Absence From Prison		Return From Court		System, Obts
04/03/1997 05:32:00	WCC-RC	Yakima		Temporary Absence From Prison		Court Order		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	03/12/1997	4A15L	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	03/05/1997	4A06F	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	03/05/1997	4A06F	(Vacant)	70045302	03/05/1997			System, Obts
WCC-RC	02/28/1997	2H06F	(Vacant)	70045088	02/28/1997			System, Obts
WCC-RC	02/28/1997	2H06F	(Vacant)	BK65	02/28/1989			System, Obts
02/28/1997 01:49:00	Clark	WCC-RC		Temporary Absence From Prison		Parole Violation-No N/S		System, Obts
02/21/1997 05:28:00	WCC-RC	Clark		Temporary Absence From Prison		On-Site Hearing		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
WCC-RC	02/07/1997	1D06L	(Vacant)	BK65	02/28/1989			System, Obts
WCC-RC	01/31/1997	1C06F	(Vacant)	70045089	01/31/1997			System, Obts
WCC-RC	01/31/1997	1C06F	(Vacant)	BK65	02/28/1989			System, Obts
01/31/1997 01:29:00	Clark	WCC-RC		Admission To Prison		Field Parole		System, Obts
12/02/1993 07:07:00	WSP-MSU	Clark		Release From Prison		Regular Supervision		System, Obts
10/26/1993 02:08:00	WSP-MSU	WSP-MSU		Transfer Between Prisons		Disciplinary Problem		System, Obts
10/26/1993 02:07:00	WSP-MSU	WSP-MSU		Transfer Between Prisons		Disciplinary Problem		System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
								System,

Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative	Created By
			(Vacant)	70046418	10/26/1993			Obts
			(Vacant)	70045951	09/28/1993			System, Obts
09/28/1993 08:31:00	WSP-MSU	WSP-MSU		Transfer Between Prisons		Program Change		System, Obts
09/28/1993 08:30:00	WSP-MSU	WSP-MSU		Transfer Between Prisons		Program Change		System, Obts
08/19/1993 10:18:00	WSP-Main	WSP-MSU		Transfer Between Prisons		Program Change		System, Obts
08/19/1993 10:17:00	WSP-Main	WSP-MSU		Transfer Between Prisons		Program Change		System, Obts
			(Vacant)	70046418	08/19/1993			System, Obts
			(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	BG59	03/18/1993			System, Obts
			(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	70046476	01/13/1993			System, Obts
			(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	70046475	01/11/1993			System, Obts
			(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	70046476	10/29/1992			System, Obts
			(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	BK65	02/28/1989			System, Obts
			(Vacant)	70046141	05/06/1992			System, Obts

WSP-Main	05/05/1992	7C044	(Vacant)	BK65	02/28/1989				System, Obts
WSP-Main	04/09/1992	7C041	(Vacant)	BG59	04/09/1992				System, Obts
WSP-Main	04/09/1992	7C041	(Vacant)	BK65	02/28/1989				System, Obts
WSP-Main	02/10/1992	7B062	(Vacant)	BK65	02/28/1989				System, Obts
WSP-Main	02/07/1992	7B012	(Vacant)	BK65	02/28/1989				System, Obts
WSP-Main	09/26/1991	7B062	(Vacant)	BK65	02/28/1989				System, Obts
			(Vacant)	70046141	09/26/1991				System, Obts
WSP-Main	09/20/1991	7C042	(Vacant)	BK65	02/28/1989				System, Obts
WSP-Main	09/05/1991	7E014	(Vacant)	BK65	02/28/1989				System, Obts
WSP-Main	09/05/1991	7E014	(Vacant)	BG59	09/05/1991				System, Obts
WSP-Main	06/07/1991	8C011	(Vacant)	BK65	02/28/1989				System, Obts
			(Vacant)	70046138	06/07/1991				System, Obts
WSP-Main	05/10/1991	4D172	(Vacant)	BG55	05/10/1991				System, Obts
WSP-Main	05/10/1991	4D172	(Vacant)	BK65	02/28/1989				System, Obts
WSP-Main	05/03/1991	8A164	(Vacant)	BK65	05/03/1991				System, Obts
WSP-Main	05/03/1991	8A164	(Vacant)	BK65	02/28/1989				System, Obts
WSP-Main	05/01/1991	1A03N	(Vacant)	BG55	05/01/1991				System, Obts
WSP-Main	05/01/1991	1A03N	(Vacant)	BK65	02/28/1989				System, Obts
05/01/1991 12:15:00	WCC-RC	WSP-Main		Transfer Between Prisons		Initial Classification			System, Obts
05/01/1991 06:00:00	WCC-RC	WSP-Main		Transfer Between Prisons		Initial Classification			System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative		Created By
WCC-RC	04/17/1991	4C08U	(Vacant)	70045302	04/17/1991				System, Obts
									System,

WCC-RC	04/17/1991	4C08U	(Vacant)	BK65	02/28/1989				Obts
WCC-RC	03/25/1991	1G09U	(Vacant)	BK65	02/28/1989				System, Obts
WCC-RC	03/15/1991	1G01L	(Vacant)	70045348	03/15/1991				System, Obts
WCC-RC	03/15/1991	1G01L	(Vacant)	BK65	02/28/1989				System, Obts
03/15/1991 12:45:00	Clark	WCC-RC		Admission To Prison	Initial Classification				System, Obts
03/23/1989 09:50:00	WSP-Main	Oregon		Release From Prison	Oregon Boarder				System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative		Created By
WSP-Main	02/28/1989	8B044	(Vacant)	BK65	02/28/1989				System, Obts
WSP-Main	02/28/1989	8B044	(Vacant)	BK65	02/28/1989				System, Obts
			(Vacant)	70046066	02/24/1989				System, Obts
02/24/1989 02:55:00	MICC (Closed)	WSP-Main		Transfer Between Prisons	Facility Assignment Change				System, Obts
02/24/1989 08:01:00	MICC (Closed)	WSP-Main		Transfer Between Prisons	Facility Assignment Change				System, Obts
07/26/1988 10:13:00	Oregon	MICC (Closed)		Admission To Prison	Oregon Boarder				System, Obts
Facility Name	Bed Assignment	Bed ID	Assigned Counselor	Position ID	Counselor Assignment	Segregation Placement	Segregation Narrative		Created By
			(Vacant)	HD81	07/26/1988				System, Obts

79-1-00126-1

RACE: White
HT: 6'11"
WT: 160
EYES: Brown

STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
PRESENTENCE OR INTAKE SUMMARY REPORT

1 TYPE OF REPORT
 PRESENTENCE
 INTAKE SUMMARY

HAIR COL: Dark brown

TO: THE HONORABLE J. LEAN MORGAN

2 REPORT DATE: MO 6 DA 25 YR 17 '9

3 NAME: LAST MILLER, FIRST Mark Lee, MIDDLE Lee

6 ADDRESS: CITY Brush Prairie, STATE WA, ZIP 98606

5 DSHS NUMBER: 12652110

8 S.I.D. NUMBER: [REDACTED]

9 SEX: M

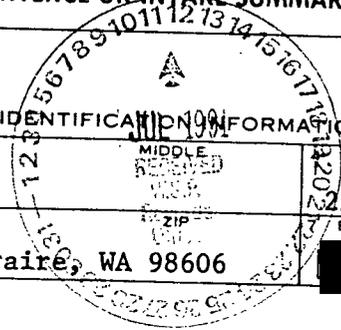
10 ALSO KNOWN AS: Cochise and Karate Kid

11 SOCIAL SECURITY NO: [REDACTED]

12 NO OF KNOWN SURNAME ALIASES: 0

13 FBI NO: Unknown

14 ETHNICITY: WHITE, BLACK, AM. INDIAN, CHINESE, JAPANESE, OTHER, UNKNOWN



CURRENT OFFENSES

15 DATE OF ARREST: MO 3 DA 12 YR 17 '9

16 COUNTY OF CONVICTION: Clark

17 PLEA TRIAL COMPLETED: MO 10 DA 5 YR 17 '9

18 SHERIFF NO: 61231

19 CURRENT OFFENSE(S):
A 9A.56.190 RCW CODE (7) 79-1-00126-1 CAUSE NO. (6) FIRST DEGREE ROBBERY OFFENSE

B [REDACTED] RCW CODE (7) [REDACTED] CAUSE NO. (6)

C [REDACTED] RCW CODE (7) [REDACTED] CAUSE NO. (6)

20 PHYSICAL FORCE INVOLVED: YES, NO

21 ALCOHOL INVOLVED IN OFFENSE: YES, NO

22 DRUGS INVOLVED IN OFFENSE: YES (TYPE) _____ SPECIFY _____, NO

23 WEAPON INVOLVED IN OFFENSE: NO, FIREARM, OTHER (SPECIFY) _____

24 FINDING OF FACT (DEADLY WEAPON): YES, NO

25 GUILT DETERMINED BY: COURT TRIAL, GUILTY PLEA

26 CUSTODY STATUS: JAIL, BAIL, PERSONAL RECOGNIZANCE

27 NO. OF CO-DEFENDANTS: 0

28 NO. OF VICTIMS: 1

29 NAME OF DEFENSE ATTORNEY: Darrell Lee

31 NAME(S) OF CRIME PARTNER(S): None

32 NAME(S) AND ADDRESS(S) OF VICTIM(S): [REDACTED] Vancouver, WA

30 METHOD OF RETAINING DEFENSE ATTORNEY: HIRED, COURT APPOINTED, WAIVED, PUBLIC DEFENDER

33 IS VICTIM OR ANY OF VICTIMS PERSONALLY ACQUAINTED WITH OFFENDER: YES, NO

34 BIRTHPLACE OF CLIENT: Oregon

35 U.S. CITIZEN: YES, NO

36 CURRENT MARITAL STATUS: NEVER MARRIED, MARRIED, SEPARATED, DIVORCED, WIDOWER, UNKNOWN

37 CURRENT LIVING ARRANGEMENT: ALONE, SPOUSE, PARENTS, SIBLINGS, OTHER RELATIVES, FRIENDS, COHABITATION, OTHER (SPECIFY) _____

38 NAME AND ADDRESS OF NEAREST RELATIVE: [REDACTED] Brush Prairie, WA (parents)

39 [REDACTED] RESPONSIBLE

40 TOTAL LEGAL SUPPORT AMOUNT: \$ 0 PER MO.

41 TOTAL NO. OF PERSONS OTHER THAN CLIENT RESIDING IN CURRENT HOUSEHOLD: 0

42 KNOWN MEDICAL OR BEHAVIOR PROBLEMS OF CLIENT (CHECK ALL APPROPRIATE): ALCOHOL, DRUG, ASSAULTIVE, CHRONIC ILLNESS OR DISABILITY (TYPE) _____

EXHIBIT 5

REC'D 10.6

JUL 6 1979

CLERK, CLARK

PRESENTENCE OR INTAKE SUMMARY REPORT

43 NAME: LAST FIRST MIDDLE
MILLER, Mark Lee

CHILDHOOD DEVELOPMENT (FIRST 18 YEARS OF CLIENT'S LIFE)

44 CLIENT RAISED BY
 NATURAL PARENTS
 FOSTER PARENTS
 INSTITUTIONS
 OTHER
 SPECIFY _____
 45 NUMBER OF SIBLINGS IN FAMILY: 0, 5

EDUCATIONAL RECORD

46 DATE OF LAST ACADEMIC ATTENDANCE: YEAR ONLY 7, 7
 47 HIGHEST ACADEMIC GRADE COMPLETED (ENTER CODE OF HIGHEST GRADE): 0, 8 (CODE 121)
 48 DEGREE: none
 49 SPECIALTY: none
 50 TYPE OF VOCATIONAL TRAINING IF ANY: 0 (CODE 121)
 51 DATE OF LAST ATTENDANCE OF VOCATIONAL TRAINING: NA
 52 RECEIVED VOCATIONAL CERTIFICATE: YES NO
 53 DID CLIENT RECEIVE DVR BENEFITS FOR TRAINING: YES NO

MILITARY SERVICE

54 SERVICE DATES: A BEGINNING MO YR B ENDING MO YR
 55 MOST RECENT BRANCH OF SERVICE: NO SERVICE ARMY NAVY AIR FORCE MARINES COAST GUARD OTHER SPECIFY _____
 56 STATUS: ACTIVE RESERVE RETIRED DISCHARGED
 57 TYPE OF DISCHARGE: HONORABLE GENERAL UNDESIRABLE DISHONORABLE MEDICAL BAD CONDUCT

EMPLOYMENT RECORD

58 NAME OF LAST EMPLOYER: Willamette Industries
 59 JOB TITLE: laborer
 60 EMPLOYMENT OF CLIENT SUFFICIENT TO SUPPORT: YES NO
 61 DATE LAST EMPLOYED: current
 62 OCCUPATION: construction worker
 63 WAS CLIENT EMPLOYED AT TIME OF ARREST?: YES NO

JUVENILE COURT HISTORY

64 AGE FIRST CONTACT OCCURRED: 1, 2
 65 CLIENT HAS APPEARED BEFORE JUVENILE COURT FOR: DEPENDENCY DELINQUENCY INCORRIGIBILITY
 COUNTY OR STATE: 0, 0, 6
 66 HAS CLIENT EVER BEEN COMMITTED TO A JUVENILE INSTITUTION: YES NO

PRIOR ADULT OFFENSE HISTORY

67 NO KNOWN MISDEMEANOR CONVICTIONS: 0, 0 FELONY
 68 NO. PRIOR ARRESTS: 0, 0
 69 NO. PRIOR OUT OF STATE CONVICTIONS: 0, 0
 70 NO PROBATIONS SUCCESSFULLY COMPLETED: 0, 0
 71 NO PROBATIONS CURRENT: 0, 0
 72 NO. PAROLES REVOKED: 0, 0
 73 OFFENSE OF FIRST ADULT FELONY CONVICTION: 0, 0, 0, 0, 0, 0, 0, 0 RCW CODE
 74 NO PRIOR WASH CONVICTIONS: 0, 0
 75 NO PRIOR JAIL SENTENCES: 0, 0
 76 NO PROBATIONS REVOKED: 0, 0
 77 NO PAROLES SUCCESSFULLY COMPLETED: 0, 0
 78 AGE AT FIRST FELONY ARREST AS AN ADULT: 0, 0
 79 NO PRIOR PRISON COMMITMENTS: (A) WASHINGTON: 0, 0 (B) OTHER: 0, 0

Robert C. [Signature]
SUPERVISOR'S SIGNATURE

Vancouver OFFICE (B01) 6, 6, 6 OFFICE I.D. NO.

Anita Baker PROBATION/PAROLE OFFICER OR COUNSELOR (B11) 6, 1, 6, 7 I.D. NO.

CRIMINAL RECORD:

JUVENILE:

According to the records of the Clark County Juvenile Court, Miller had the following referrals to their agency:

<u>Date</u>	<u>Charge</u>	<u>Disposition</u>
6/18/73	Assault with a knife	Cancelled and referred to parents
12/21/73	Shoplifting	Informal adjustment
9/13/77	Arson/Assault with a gun	Charges were dismissed due to lack of evidence
10/1/77	Theft II -	Informal probation
9/30/78	Simple assault/Resisting arrest <i>11-1-78, 11-1-78, 11-1-78</i>	8 months community supervision; 35 hours community service; \$75.00 fine.

On 4/18/79 Miller appeared in juvenile court on the instant offense and was remanded on that date. In the report submitted to the court by his probation officer, Gary Ripley, he stated that the robbery had been committed in a "premeditated and willful manner". In a conversation that I had with Mr. Ripley, he termed Miller as "assaultive and always aggressive". According to Ripley, the Arson and Assault With A Gun Charge dated 9/13/77 involved Miller's reportedly holding 2 neighbors at bay with a gun, when the neighbors confronted Miller regarding his being suspected in setting a house on fire. In the period of time that Miller was under probation supervision, Mr. Ripley stated that he did not report as instructed.

ADULT:

None

OFFICIAL VERSION OF THE OFFENSE:

On 4/20/79 information #79-1-00126-1 was filed before the Clark County Superior Court charging Miller with Robbery I While Armed With A Deadly Weapon. An amended information was filed on 5/4/79 charging Miller with First Degree Robbery Without the Deadly Weapon. On 5/21/79, Miller pled guilty to this charge and on that date Presentence Investigation was ordered.

According to the investigative files of the Clark County Sheriff's Office, on 3/27/79 they received information that an armed robbery had just occurred at a Minit Mart store. The victim, Mrs. Catherine Marie Docken, related that a white male, 16 to 17 years of age, had entered the Minit Mart store at approximately 9:15 p.m. The same white male purchased a can of pop and then departed store. The same white male reentered the store approximately 10 minutes later wearing a blue ski mask pulled over his face. The white male approached her at the counter pointing a gun at her stating, "this time I want all your money". Mrs. Docken related that she replied that she thought he was kidding. The suspect then stated, "that I'm not," and instructed her to put the money in a bag.

Mrs. Docken then reported that she then opened the cash register and stuffed U.S. currency bills in a brown paper bag. She related that she told the suspect that he was scaring the "shit" out of her and he replied, "I'll bet I am". As Mrs. Docken started to pull one dollar bills from the cash register and put them into the bag, the suspect replied that was enough and grabbed the bag and departed out the front door. Miller was arrested a short time later by the Clark County Sheriff's Deputies. At that time, they located the gun which was used in the robbery inside of the truck with Miller. The gun was loaded.

Miller was also involved in an attempted armed robbery which occurred on 3/27/79 at Highway 99 Cafe. According to the police reports, Miller had on a dark blue stocking mask when he entered the cafe. When asked by one of the employees what he wanted, Miller replied, "go out and get all the money out of the register and put it in a sack, or I'll blow her away". At that time Miller was pointing a rifle at Karen Allison, a dishwasher at the cafe. The employee then exited the kitchen area where Miller was and advised the owner that they were being robbed. A waitress then ordered everyone out of the restaurant explaining that they were being robbed. As the customers began exiting the cafe, Miller also left without any money. Following his arrest on the instant offense, Miller admitted his involvement in this attempted robbery.

DEFENDANT'S VERSION OF OFFENSE:

Miller explained to me that he had wrecked two of his parents' automobiles, ruined a good amplifier system, and was costing his parents a lot of money. Miller decided to take a drive and attempt to collect money which was owed to him by his friends. He was unable to obtain any money that way. Miller went on to state that he had been looking for a job for the last 8 months with no success. While riding home, he stopped at a store and claims that he bought a "pack of smokes". He then went back out to his truck and smoked a couple of cigarettes. He then got to thinking, saw the gun and the ski mask in the truck, then thought of an "idea". He remained sitting in the truck waiting until everyone was gone, then he walked into the store and told the woman to give him all the money. She did so and then he left the store and got back into his truck and drove off.

In discussing the Instant Offense, Miller expressed some regret pertaining to the Instant Offense in considering the impact that it is allegedly having on his parents. He claims that he committed the robbery in order to obtain money and that apparently was his motive in the previous robbery attempt. Other than the possible impact this may be having on his family, Miller did not express any guilt with regard to his actions.

PERSONAL HISTORY:

FAMILY BACKGROUND:

Miller's father, Leroy Arthur Miller, age 45, is currently employed as a laborer in construction work for Willamette Industries. Miller's mother, Cecile Marie Miller, age 40, also is employed at Willamette Industries as a flag person. This is the first marriage for Mr. and Mrs. Miller and they have 6 children. Shawn Marie, age 20, works in Portland as model. Diana Marie, age 15, ran away from home in February of this year, she has been gone ever since. Mrs. Miller related to me that her daughter was into drugs and got involved with the Gypsy Jokers. Mrs. Miller claims that she currently knows the whereabouts of her daughter. Lisa Lynn, age 14, Bret Leroy, age 13, and Angel Chire age 10, all live at home and are students. Miller had one other sister who died in a house fire in 1969 at the age of 16 months. Of all the siblings, Miller is closest to his brother.

Other members of the Miller family have delinquent records. Diana has been on probation through the Clark County Juvenile Court due to her "uncontrollable behavior". Shawn, was also on probation through Clark County Juvenile Court for shoplifting. Miller's father, was convicted of Statutory Rape at the age of 17 and spent 5-years in prison as a result.

In talking to Miller, it is obvious that he has a very close relationship with his father. His mother somewhat reaffirmed this when she stated that her son Mark is "very special" to his father. Mrs. Miller went so far as to state that her husband favors his eldest son over his other children. When I asked Mrs. Miller if they had encountered any serious problems with their son Mark, she replied that he "never required close supervision". Mrs. Miller did admit however, that on one occasion that her son had been referred to the authorities for having "assaulted" his sister Lisa Lynn. Reportedly, he had beat his sister with a belt and buckle, and used his fists and beat on her. Miller claims that he was merely disciplining her. Miller's mother admits that there is a definite "division" between Miller and his sisters.

Miller's Juvenile Probation Officer, Gary Ripley, informed me that he believes that there is a lot of "abuse" in the family. He stated that the parents are always gone and that they can never be located when Miller has been arrested in the past. According to Mr. Ripley, Mr. Miller is very supportive of his son and is also very "aggressive".

EDUCATION AND TRAINING:

Miller last attended Jason Lee Junior High School in the 9th grade in June 1977. Miller informed me that he had completed the 9th grade, however, according to the grade transcript which I received, it would indicate that that was not the case. Between September 1 1976 and June 8, 1977, Miller was present in school 58 days and absent 96. According to his transcript, the first "trimester" the majority of his grades were below average. The grades for his last "trimester" were all failures and non completes. Miller and his mother both explained to me on separate occasions, that he had been taken out of school by his parents 3 weeks prior to the end of the school year for "health reasons". Allegedly, the school principal had given Miller money to buy marijuana from other students and these other students were then arrested. As result, reportedly Miller became known as a "snitch" and was "beat up" on numerous occasions by fellow students. His parents then removed him from school for "his own protection". Miller has not been involved in any other type of academic or vocational training program since that time.

MARITAL HISTORY:

Not applicable

MILITARY SERVICE:

None

EMPLOYMENT HISTORY:

Miller is currently employed as a laborer in the field of construction for Willamette Industries. His parents posted a \$15,000 Property Bond in order to have their son released from jail so that he might obtain employment. Miller is currently working with his father in the construction of the new 205 Bridge. According to his mother, Miller is earning \$10.66 per hour on his full-time job and he began work on 6/8/79. By getting him out of jail for the purpose of going to work, he's now able to help meet the expenses of his hired attorney. The last job Miller had prior to this, was when he did forestry type of work in the summer of 1978 for Rick Cramer. He informed me that her son quit the job because he wasn't making enough money. Mrs. Miller stated that her son has worked ever since he was 14 years of age "pumping gas, roofing, washing dishes,

and forest work". However, Miller's Juvenile Probation Officer informed me that Miller had no employment history.

SUBSTANCE USE OR ABUSE:

Miller admits to smoking a "little" marijuana. He claims that he has had other opportunities to use other types of drugs but doesn't like them because he claims that they "screw you up". He explained that he smokes marijuana whenever somebody else has it to share with him. He has been smoking marijuana for approximately 3 years.

When it comes to alcohol, Miller described himself as an extremely light drinker. He said that on special occasions, he will drink a couple glasses of wine. He informed me that he does not like beer. Miller denies having a problem with either drugs or alcohol.

MENTAL HEALTH HISTORY:

None

MEDICAL HISTORY:

None

PLAN AND RECOMMENDATION:

If allowed to remain in the community, Miller intends to continue with his current employment and maintain residence with his parents. Before his arrest when he was living with his parents, Miller claims that he spent all of his time working on their "ranch". Reportedly they have numerous animals to care for which entail a large number of chores. Miller will continue to assist in this area should he remain living at home.

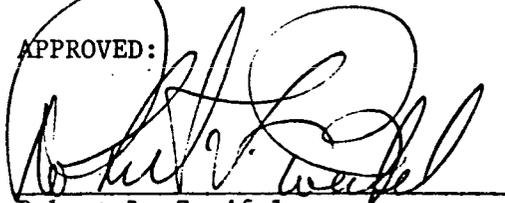
It is my recommendation that Mark Lee Miller be sentenced to a Washington State Correctional Facility. I have been told that should he be sent to a coorectional facility, there is a possibility that he will be considered as a candidate for intensive parole. I do not feel that Miller is a good candidate for this. He has a history of assualtive behavior and I view him as definite threat to the community. Miller's Juvenile Probation Officer Gary Ripley, agrees with my assessment. Mr. Ripley is of the opinion that Miller should be incarcerated in a Washington State Correctional Facility for at least 18 months in considering his agressive and assualtive behavior within the community.

Submitted by,



Anita Baker PPO III
Vancouver, WA

APPROVED:



Robert L. Zweifel
District Supervisor

AB:lq
6/25/79
6/29/79

Orig.: Judge ✓
cc: Prosecutor
cc: Ad File (2)
cc: Field File (2)

STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD

SENTENCE FIXED BY BOARD.

NO. 265210

Mark Lee MILLER, having been, by the Superior
Court of Clark County, Washington, crime of
FIRST DEGREE ROBBERY Cause #79-1-00126-1

AND SENTENCED FOR A MAXIMUM TERM OF FORTY (40)

years of confinement in a Washington Correctional Facility, and

The Indeterminate Sentence Review Board, having fully considered the
Prosecuting Attorney's and Judge's statements of the facts surrounding said
convicted person's crime and other information relative to such convicted
person and having interviewed said convicted person; NOW, THEREFORE, by virtue
of the authority in it vested by the laws of the State of Washington, and
within six months after the admission of such convicted person to a Washington
Correctional Facility, the Indeterminate Sentence Review Board fixes the
duration of his confinement as follows:

That said Mark Lee MILLER is
hereby ordered to be confined in a Washington Correctional Facility for a
period of THIRTY THREE (33) MONTHS.

and he is hereby required to perform as many hours of faithful labor in each
and every day during said term of imprisonment as shall be prescribed by the
rules and regulations of said institution.

Done at Olympia, Washington this 10th day of Jan December, 1991.

INDETERMINATE SENTENCE REVIEW BOARD

George W. Johnson
Robert C. Thibodeau

EXHIBIT 6



STATE OF WASHINGTON

INDETERMINATE SENTENCE REVIEW BOARD

300 Sixth Avenue Center, 4317 Sixth Ave., S.E. • MS QJ-33 • Lacey, Washington 98504 • (206) 493-9266

DECISION AND REASONS

NAME:	MILLER, Mark
NUMBER:	265210
INSTITUTION:	WSP
TYPE OF MEETING:	In-Person Admissions
DATE:	December 10-13, 1991
PANEL MEMBERS:	GJ/RT

BOARD DECISION:

The panel sets Mr. Miller's minimum term at 33 months on Clark County cause #79-1-00126-1, which is within the adjusted Sentencing Reform Act (SRA) guideline range of 28 to 38 months.

NEXT ACTION:

Schedule a .100 hearing 90 days prior to his Parole Eligibility Review Date (PERD). The Board specifically requests an updated 530X and an .052 recommendation from the superintendent which is current at the time of the hearing. The Board also requests a psych evaluation which is no more than two years old at the time of the hearing.

REASONS:

The facts of the crime are that Mr. Miller robbed a mini mart and got \$42. He used a loaded rifle and he received probation. Prior to this effort there had been an attempted robbery effort earlier that he chickened out of. While on probation he committed robberies in Oregon, was convicted of those crimes and served seven years and twelve days and was returned to Washington. During the course of the time that he was serving the seven years and twelve days he was housed in Washington as an Oregon boarder. That is, Oregon leased bed space from Washington and he was actually housed in the Washington system.

Mr. Miller does not dispute the Sinka material, the only explanation he can give is that he was young and dumb at the time when he committed the offenses. In view of his subsequent robbery with violence and weapons convictions in Oregon, it appears that he is a very dangerous person. His parolability should be assessed prior to any future consideration of parole plans. His adjustment in the institution during this

CONTINUED (NEXT PAGE)

EXHIBIT 7
11/3/92 PB

MILLER, Mark

265210

REASONS CONTINUED - PAGE 2

incarceration, plus psychological information will be evaluated at the parolability hearing.

GJ/rls

1/8/92

CC: INSTITUTION
RESIDENT
FILE



STATE OF WASHINGTON

INDETERMINATE SENTENCE REVIEW BOARD

4317 Sixth Ave., S.E. • P.O. Box 40907 • Olympia, Washington 98504-0907 • (206) 493-9266

DECISION AND REASONS

NAME: MILLER, Mark
NUMBER: 265210
INSTITUTION: WSP
TYPE OF MEETING: .100
DATE: August 17, 1993
PANEL MEMBERS: DC/KA

BOARD DECISION:

The panel finds Mr. Miller parolable.

NEXT ACTION:

Submit a parole plan as soon as possible. The conditions of that plan should include the following:

1. No alcohol.
2. No drugs.
3. Submit to UA's and BA's to monitor.
4. Be employed full time or a student full time or a combination that would equal full time.

HISTORY/COMMENTS:

As a juvenile Mr. Miller had some history with burglary and simple assault. In 1979 he committed the current Robbery First Degree. He was granted a deferred sentence with five years probation and while on probation committed a robbery in Oregon where he served seven years incarcerated. Part of that time he was housed here in the State of Washington as a boarder. His actual time start here in the State of Washington is in March of 1991, which is when he officially transferred here and began his Washington sentence. He was convicted in Oregon of Robbery and an Ex-felon in Possession of a Firearm. The firearm was a .357 magnum and he also had 3/4 of a pound of black powder.

During his institutionalization in Oregon he took a number of programs to include chemical dependency and Anger Management, he also was able to take a lot of educational courses and he is now within approximately one year of completing a Bachelor of Arts degree in computer science/math. During his

CONTINUED (NEXT PAGE)

EXHIBIT 8

9/15/93 AB

MILLER, Mark

265210

HISTORY/COMMENTS CONTINUED - PAGE 2

period of incarceration here he has worked consistently in the kitchen and also participates regularly in educational classes in a variety of areas to broaden his skills. He does have two infractions, one in May of 1991 for a fight, which was listed as an assault. He and his cell mate got into it and his cell mate ended up with a broken jaw. We would note that Mr. Miller is a pretty good sized man, he is obviously a strong man and was on the boxing team in Oregon. In October of 1992, he was infraacted for refusing to work.

We have considered the June 1993 report of Dr. Page, which talks about his educational abilities, indicates that he has got an anti-social personality, but other than that is fairly supportive of release.

REASONS:

Mr. Miller has completed the minimum term set by the Board of 33 months, which was mid range for the robbery. The robbery carried a range of 28 to 38 months, there were no recommendations from the court or the prosecutor and as indicated he had a minimum term of 33 months, which he has served. He has clearly done a number of things to assist in his rehabilitation, primarily in the area of education, but also he has taken some self help programming. He has been incarcerated a long time, between this state and Oregon, almost nine and a half years now. He has, however, clearly made significant progress and he has pretty good insight into his own needs and certainly he is at a point where he can proceed to safely enter society and have a reasonable attempt at making a good adjustment. Lastly, this is not actually a reason to find him parolable, but it is noteworthy that he is a member of the Cowlitz Tribe and does have educational benefits so he should be able to complete his education without to much difficulty.

FACTS RELIED UPON:

We have reviewed the .052 report, which is "fair", and we have had our personal interview with Mr. Miller today, we have reviewed the psychological report of June 1993 by Dr. Page.

By way of brief summary, this is a man who has been convicted of two robberies, one in the State of Oregon and one in the State of Washington, he has been incarcerated now a total of nine and a half years,

CONTINUED (NEXT PAGE)

MILLER, Mark

265210

FACTS RELIED UPON CONTINUED - PAGE 3

he is less than a year away from a Bachelor of Arts Degree in computer science and math, he has taken chemical dependency and Anger Management while in Oregon, he has benefits through the tribe to complete his education, he has parents in the Vancouver area who are supportive and to whom he can parole. By his own statement, he needs to be employed or in school, when he gets restless that is when his self esteem goes down and he becomes more susceptible to acting out in criminal behavior.

DC/rls

9/13/93

CC: INSTITUTION
RESIDENT
FILE



STATE OF WASHINGTON

INDETERMINATE SENTENCE REVIEW BOARD

4317 Sixth Ave., S.E. • P.O. Box 40907 • Olympia, Washington 98504-0907 • (206) 493-9266

DECISION AND REASONS

NAME: MILLER, Mark Lee
NUMBER: 265210
INSTITUTION: ISRB
TYPE OF MEETING: Admin Parole Review
DATE: November 10, 1993
PANEL MEMBERS: GJ & DC

BOARD DECISION:

The Board approves the plan dated October 15, 1993 which calls for him to parole to the home of his father in Vancouver, Washington.

REASONS:

The father was very honest and candid with the field staff. He indicated to them that he had served five years in an Oregon prison for Statutory Rape, that he does not drink or allow intoxicating beverages in the home. The field staff was impressed with the senior Miller's candidness and honesty and recommends the plan be approved. Mr. Miller is being paroled after having served 32 months for Robbery in the First Degree. The Sentencing Reform Act (SRA) range is 31 to 41 months. The judge and prosecutor made no recommendation as Mr. Miller had participated in a series of robberies down the I-5 corridor to include Washington and Oregon. He served the Oregon time first, he served seven years in that state and was returned to the state of Washington where he has now served some 32 months. We do note two infractions since he was seen in August at the .100 hearing at which time he was found parolable. The infractions were for possession of contraband which included a broken radio cassette, a wad of hair, and an altered razor. It appeared that he had shaved his or someone's head and had the hair bundled up, and this was unauthorized. The other infraction was for washing the food cart with a dirty rag. The institution recommends that he be paroled in light of the infractions as they have been handled administratively. All told, Mr. Miller has served about 10 years. The plan is to his parents, they are receptive and are eagerly awaiting his arrival. Mr. Miller plans to continue his education and also may get a degree. We do note that the superintendent has changed the 052 prognosis from poor in August to fair at this time.

GJ:rr

CC: INSTITUTION
RESIDENT
FILE

EXHIBIT 9

BEFORE THE INDETERMINATE SENTENCE REVIEW BOARD
OLYMPIA, WASHINGTON

In the Matter of)
Mark Lee MILLER) No. 265210
A PAROLEE) PAROLE REVOCATION HEARING:
FINDINGS AND CONCLUSIONS

This matter coming on for an On-Site Parole Revocation Hearing in accordance with the provisions of Chapter 98 of the Laws of 1969, on the 27th day of February, 1996, before the undersigned Member of the Indeterminate Sentence Review Board, and said parolee appearing in person and being represented by his attorney, Kate Mathews, and present for the Department of Corrections, Division of Community Corrections being Floyd McCullough, and the Member of the Indeterminate Sentence Review Board having heard all the evidence and testimony of witnesses and considering arguments of counsel and any memoranda submitted by the parties and being fully advised in the premises, makes the following:

FINDINGS:

I. That said parolee was convicted of the following offense(s) in the designated Superior Court(s): FIRST DEGREE ROBBERY/Clark/#79-1-00126-1

And was released on parole by an order of the Board of Prison Terms and Paroles/Indeterminate Sentence Review Board after having served the duration of confinement fixed by said Board.

II. That said parolee was released from custody on the 2nd day of December, 1993, subject to the rules and conditions of parole and under the supervision of a Community Corrections Officer; and

III. That on the 25th day of January, 1996, an order was made suspending the parole of and ordering the arrest and detention of said parolee for allegedly violating the following conditions of parole:

1. Being in possession of a firearm, 30-06, on or about January 21, 1996.

That the above violation indicated is in connection with the Order of Parole issued by the said Board on the 17th day of November, 1993.

IV. That said parolee pled Guilty to violation #1 as charged. The Member presiding hereby finds that the parolee was and is in fact Guilty of violation #1 as charged.

MILLER, Mark Lee
DOC #265210
Page 2 (Findings and Conclusions)

V. Evidence relied upon:

Plea of parolee. Testimony of parolee, Community Corrections Officer, and Lt. Dave Hill.

Based upon the foregoing findings of fact, the Indeterminate Sentence Review Board makes the following:

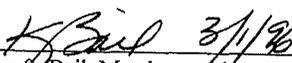
CONCLUSIONS:

- I. That said parolee has violated the conditions of parole as stated above.
- II. That it would be in the best interest of the public and for the best welfare of said parolee that an Order of REINSTATEMENT of Parole be issued and that said parolee be released from custody and placed back under the supervision of the Division of Community Corrections.

III. Reasons for decision:

Parolee had an altercation with an individual, known to local authorities as a methamphetamine user/dealer. The altercation had to do with the individual supplying drugs to his fiance and mother of his child. During the altercation, the individual retrieved a 30-06 rifle and threatened the parolee. Parolee chased him and when he was unsuccessful catching him, returned to the residence, retrieved the 30-06, and in the presence of his father, left the area. Only hours later he gave the rifle to a third party and asked him to keep it for a few days, until things quieted down. In this member's opinion, Mr. Miller acted responsibly. He should, however, have gone immediately to his Community Corrections Officer. Parolee is reinstated.

Done at Goldendale, Washington on the 27th day of February, 1996.


Kathryn S. Bail, Member date
Indeterminate Sentence Review Board

KSB:isr

cc: Parolee
Attorney - Kate Matthews
CCO - Floyd McCullough, Goldendale
Attorney General - none

BEFORE THE INDETERMINATE SENTENCE REVIEW BOARD

OLYMPIA, WASHINGTON

In the Matter of)	
)	No. 265210
MILLER, Mark Lee)	
)	PAROLE REVOCATION HEARING:
)	FINDINGS AND CONCLUSIONS
A PAROLEE)	

This matter coming on for an On-Site Parole Revocation Hearing in accordance with the provisions of Chapter 98 of the Laws of 1969, on the 25th day of February, 1997, before the undersigned Member of the Indeterminate Sentence Review Board, and said parolee appearing in person and being represented by Robert Lewis, his attorney, and present for the Department of Corrections, Division of Community Corrections being Richard Mades represented by John Wooley, Assistant Attorney General, and the Member of the Indeterminate Sentence Review Board having heard all the evidence and testimony of witnesses and considering arguments of counsel and any memoranda submitted by the parties and being fully advised in the premises, makes the following:

FINDINGS:

I. That said parolee was convicted of the following offenses in the designated Superior Courts: FIRST DEGREE ROBBERY under County Cause No. 79-1-00126-1 in the Superior Court of Clark County and was released on parole by an order of the Board of Prison Terms and Paroles/Indeterminate Sentence Review Board after having served the duration of confinement fixed by said Board.

II. That said parolee was released from custody on the 2nd day of December, 1993, subject to the rules and conditions of parole and under the supervision of a Community Corrections Officer; and

III. That on the 9th day of July, 1996, an order was made suspending the parole of and ordering the arrest and detention of said parolee for allegedly violating the following conditions of parole:

1. Being in possession of amphetamine/methamphetamine on or about 7/2/96 in Klickitat County, Washington.
2. Assaulting Vancouver Police Officer Charles M. Ford in Vancouver, Washington on 7/8/96.
3. Attempting to steal the service revolver of Vancouver Police Office Charles M. Ford in Vancouver, Washington on 7/8/96.
4. Being in possession of a firearm/pistol in Vancouver, Washington on 7/8/96.
5. Resisting arrest by Vancouver Police Officer Charles H. Ford in Vancouver, Washington on 7/8/96.
6. Escaping from the custody of Vancouver Police Officer Charles H. Ford in Vancouver, Washington on 7/8/96.

That the above violations indicated are in connection with the Order of Parole issued by the said Board on the 2nd day of December, 1993.

IV. That said parolee at the hearing conducted on the above date before the undersigned pled not guilty to violations numbered 1, 3, 4, 5, and 6, guilty to violation number 2 as charged. The Member presiding

hereby finds that the parolee was and is in fact guilty of violations numbered 2, 3, 4, 5, and 6 as charged; violation 1 dismissed by Board.

V. Evidence relied upon:

Testimony of Officer Charles M. Ford, Vancouver Police Department; Testimony of CCO Richard Mades; Violation Report; Testimony of Parolee.

Based upon the foregoing findings of fact, the Indeterminate Sentence Review Board makes the following:

CONCLUSIONS:

I. That said parolee has violated the conditions of parole as stated above.

II. That it would be in the best interest of the public and for the best welfare of said parolee that Order of Parole Revocation be issued and that said parolee be returned to the Washington Corrections Center at Shelton, Washington, or other institution as determined by the Department of Corrections.

III. Reasons for decision:

The key issue here is whether the Vancouver Police Department Officer saw a firearm in Miller's car when stopped, or whether it was, as Miller alleges, his son's BB gun. Miller acknowledges that it "looks like a real revolver." In addition, his struggle with Officer Ford was an example of colossal bad judgment and faulty thinking. He was given a sentence of 25.5 months for Attempted Theft of a Firearm and 9 months concurrent for Assault 3 on Officer Ford out of Clark County Superior Court. In the opinion of this Board Member, that is sufficient incarceration time and a new minimum term is set at three (3) months. Issue parole to SRA condition primarily to retain Mr. Miller under supervision upon his release. If upon release, he is successful under parole supervision for one year, the Board will give serious consideration to granting a Final Discharge at that time. Acknowledging that Miller has served 2 1/2 years on parole, his underlying conviction of Robbery 1 carries a range of 28-38 months after Phelan adjustment. Mr. Miller served approximately 2 1/2 years on parole prior to parole revocation.

By virtue of the authority of RCW 9.95.125, the Indeterminate Sentence Review Board fixes a new minimum sentence at three (3) months. Next action, parole to Sentencing Reform Act at Parole Eligibility Review Date.

Done at Olympia, Washington on the 25th day of February, 1997.

Kathryn S. Bail
Kathryn S. Bail, Member Date
Indeterminate Sentence Review Board

Julia Garratt 3/3/97
Julia Garratt, Member Date
Indeterminate Sentence Review Board

KSB:rd

Typed: 2/28/97

cc: Mark Miller, Parolee
Robert Lewis, Attorney
Washington Corrections Center
Richard Mades, Community Corrections Supervisor
John Wooley, Office of the Attorney General

BEFORE THE INDETERMINATE SENTENCE REVIEW BOARD

OLYMPIA, WASHINGTON

In the Matter of)
)
MILLER, Mark) No. 265210
)
) PAROLE REVOCATION HEARING:
) FINDINGS AND CONCLUSIONS
A PAROLEE)

This matter coming on for a Parole Revocation Hearing in accordance with the provisions of Chapter 98 of the Laws of 1969, on the 28th day of October, 1998, before the undersigned Member of the Indeterminate Sentence Review Board, and said parolee appearing in person and being represented by Christopher R. Lanz, his attorney, and present for the Department of Corrections, Division of Community Corrections being Ronda Nielsen represented by Kimberly Loranz, Assistant Attorney General, and the Member of the Indeterminate Sentence Review Board having heard all the evidence and testimony of witnesses and considering arguments of counsel and any memoranda submitted by the parties and being fully advised in the premises, makes the following:

FINDINGS:

I. That said parolee was convicted of the following offense in the designated Superior Court: FIRST DEGREE ROBBERY/CLARK COUNTY/79-1-00126-1 and was released on parole by an order of the Board of Prison Terms and Paroles/Indeterminate Sentence Review Board after having served the duration of confinement fixed by said Board.

II. That said parolee was released from custody on the 24th day of March, 1998, subject to the rules and conditions of parole and under the supervision of a Community Corrections Officer; and

III. That on the 30th day of September, 1998, an order was made suspending the parole of and ordering the arrest and detention of said parolee for allegedly violating the following conditions of parole:

1. Using illegal drugs, to wit, amphetamine/methamphetamine on or about September 9, 1998 in Klickitat County, Washington.
2. Failing to report to the Department of Corrections on September 21, 1998 as directed in Goldendale, Washington.

That the above violations indicated are in connection with the Order of Parole issued by the said Board on the 14th day of July, 1997.

IV. That said parolee at the hearing conducted on the above date before the undersigned pled not guilty to violations one and two as charged. The Member presiding hereby finds that the parolee was and is in fact guilty of violations one and two as charged.

V. Evidence relied upon:

Testimony of Community Corrections Officer (CCO) Ken Bridges; Comprehensive Toxicology Services laboratory supervisor Jim Heit; CCO Ronda Nielsen and parolee Mark Miller; Exhibits 1, 2, and 3 laboratory reports and argument of counsel.

Based upon the foregoing findings of fact, the Indeterminate Sentence Review Board makes the following:

EXHIBIT 12

CONCLUSIONS:

I. That said parolee has violated the conditions of parole as stated above.

II. That it would be in the best interest of the public and for the best welfare of said parolee that an Order of Reinstatement of Parole be issued and that said parolee complete the Short Term Offender Program in pre-release and placed back under the supervision of the Division of Community Services. Special conditions listed here:

1. Enter into and successfully complete the Short Term Offender Program at pre-release.
2. Obey all rules while at the pre-release facility.
3. Complete anger/stress management while at pre-release.
4. Enter into and successfully complete a community based drug/alcohol treatment program as directed by supervising CCO.
5. All other previous conditions of parole remain in full force and effect.

III. Reasons for decision:

Mr. Miller is under the Board's jurisdiction for the crime of Robbery in the First Degree in Clark County Cause #79-1-00126-1 with a time start of March 12, 1991.

As a juvenile Mr. Miller's history included burglary and simple assault. He picked up the nick names "Cochise" and "Karate Kid." He was initially granted a deferred sentence and placed on five years probation for the Clark County Robbery (above). While on probation he committed a robbery in Oregon and served seven years, part of the time in Washington as a boarder. Both Washington and Oregon robberies involved firearms. The Clark County firearm allegation was dismissed in bargaining.

Mr. Miller was initially paroled in Washington in December, 1993 and was reinstated following a revocation hearing on February 27, 1996 wherein he admitted being in possession of a 30.06 rifle during some sort of semi-domestic altercation.

On February 25, 1997 Mr. Miller's parole was revoked following a revocation hearing wherein he was convicted of assaulting a Vancouver Police Officer and attempting to steal the officer's service pistol, the subjects of Clark County Cause 96-1-00948-2, a Sentence Reform Act (SRA) offense.

Mr. Miller was paroled to the SRA offense and admonished that successful parole supervision for one year, upon release, would merit serious consideration of a Final Discharge.

In March, 1998, Mr. Miller began the current community supervision again enjoying considerable family support, gaining employment and reasonable prospects for a stable domestic situation.

On September 9, 1998 a random U/A showed positive and re-testing involving thin layer chromatography specifically confirmed presence of amphetamines/methamphetamines. On September 18, Mr. Miller claimed he had a medical explanation and was directed to provide it September 21. When he failed to appear he was visited at his employment, a construction site, and became belligerent.

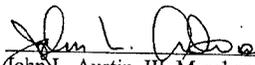
Now almost 37 years old, Mr. Miller continues to demonstrate some of the behaviors of his 18 year old self in spite of the obvious support of his family and promising employment prospects. His drug use is particularly significant considering his propensity to threat and violence.

Mr. Miller shows the intellectual capacity to appreciate the immaturity of his behaviors and when he grasps his own responsibility for his predicament; he will earn consideration of his discharge. The conditions of this reinstatement are specifically to allow Mr. Miller to demonstrate that grasps and strict compliance is the only acceptable standard.

Parolee is reinstated upon completion of the Short Term Offender Program (STOP) to include anger/stress management, if possible, and while all previous conditions of parole remain in full force and effect, specific addendum requiring the entry and completion of a community based drug/alcohol treatment course under the direction of CCO is hereby incorporated.

MILLER, Mark
DOC #265210
Page 3 (Findings and Conclusions)

Done at Olympia, Washington on the 12th day of November, 1998.


John L. Austin, III, Member Date 11/16/98
Indeterminate Sentence Review Board

JLA:rlr

cc: Mark Miller/Parolee/PLPR
Christopher Lanz/Attorney
Pine Lodge Pre-Release
Ronda Nielsen/CCO/Goldendale
Office of the Attorney General

BEFORE THE INDETERMINATE SENTENCE REVIEW BOARD

OLYMPIA, WASHINGTON

In the Matter of)

Mark Miller)

A PAROLEE)

No. 265210

PAROLE REVOCATION HEARING:
FINDINGS AND CONCLUSIONS

This matter coming on for a Parole Revocation Hearing in accordance with the provisions of Chapter 98 of the Laws of 1969, on the 3rd day of November, 1999, before the undersigned Member of the Indeterminate Sentence Review Board, and said parolee appearing in person and being represented by Gwendolyn Grundel, his attorney, and present for the Department of Corrections, Division of Community Corrections being Ronda Neilsen represented by Matt Johnson, Assistant Attorney General, and the Member of the Indeterminate Sentence Review Board having heard all the evidence and testimony of witnesses and considering arguments of counsel and any memoranda submitted by the parties and being fully advised in the premises, makes the following:

FINDINGS:

- I. That said parolee was convicted of the following offense in the designated Superior Courts: FIRST DEGREE ROBBERY/CLARK COUNTY/79-1-00126-1 and was released on parole by an order of the Board of Prison Terms and Paroles/Indeterminate Sentence Review Board after having served the duration of confinement fixed by said Board.
- II. That said parolee was released from custody on the 18th day of August, 1997, subject to the rules and conditions of parole and under the supervision of a Community Corrections Officer; and
- III. That on the 1st day of October, 1999, an order was made suspending the parole of and ordering the arrest and detention of said parolee for allegedly violating the following conditions of parole:
 1. Using illegal drugs, amphetamines/methamphetamines, since September 24, 1999 in Klickitat County, Washington.

That the above violations indicated are in connection with the Order of Parole issued by the said Board on the 14th day of July, 1997.

- IV. That said parolee at the hearing conducted on the above date before the undersigned pled not guilty to violation one as charged. The Member presiding hereby finds that the parolee was and is in fact guilty of violation one as charged.

V. Evidence relied upon:

Testimony of Community Corrections Officer Ronda Neilsen, Ken Bridges; Comprehensive Toxicology Services Laboratory Supervisor Jim Heit; Dr. Vincent Remcho, Cliff McCollum, Beth Miller-Scherf, Julie Scherf, Mark Miller; Exhibits one and two lab reports and evaluation of White Salmon Counseling.

Based upon the foregoing findings of fact, the Indeterminate Sentence Review Board makes the following:

EXHIBIT 13

CONCLUSIONS:

- I. That said parolee has violated the conditions of parole as stated above.
- II. That it would be in the best interest of the public and for the best welfare of said parolee that an Order of Parole Revocation be issued and that said parolee be returned to the Washington Corrections Center at Shelton, Washington, or other institution as determined by the Department of Corrections for further determination of a new minimum term of confinement. Mr. Miller is revoked to the Fast Track:

III. Reasons for decision:

Mr. Miller is under the Board's jurisdiction for the crime of Robbery in the First Degree in Clark County cause #79-1-00126-1 with a time start of March 12, 1991. He had originally been granted a deferred sentence and five years of probation. During his probation he committed robbery in Oregon and served seven years, partly in Washington as a Boarder. Firearms were involved in the robberies. Dismissed is the attempted robbery.

Mr. Miller was paroled in December, 1993 and was reinstated following a revocation hearing in February, 1996, wherein he admitted being in possession of a 30.06 rifle during a domestic altercation.

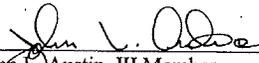
His parole was revoked a year later in February, 1997 after conviction of an assault on a Vancouver Police Officer and trying to steal the officer's service pistol in Clark County cause #96-1-00948-2, as SRA offense.

In March, 1998 Mr. Miller once again returned to the community. He was found guilty of using amphetamines/methamphetamines and failing to report on October 28, 1998 and was reinstated on parole upon completion of short-term offender program.

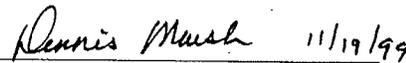
Mr. Miller claims to be involved in a tumultuous domestic situation and blames his putative spouse for his difficulties. he has a supportive family and the ability to support himself but his reaction to his domestic stress makes him a continuing danger to his community and thus mandates this decision by the Board.

By virtue of the authority of RCW 9.95.125, the Indeterminate Sentence Review Board fixes a new minimum sentence at one (1) year. Mr. Miller must complete intensive drug/alcohol treatment and follow-up for drug abuse as well as Moral Reconciliation Therapy, Stress Management and Victim Awareness. Upon completion of required programming, submit pre-parole investigation.

Done at Olympia, Washington on the 9th day of November, 1999.


John L. Austin, III Member Date 11/12/99
Indeterminate Sentence Review Board


Julia Garratt, Member Date 11/22/99
Indeterminate Sentence Review Board


Dennis Marsh, Member Date 11/19/99
Indeterminate Sentence Review Board

JLA:rlr

cc: Mark Miller/Parolee
Gwendolyn Grundei/Attorney
Washington Corrections Center
Ronda Neilsen/CCO/Goldendale
Office of the Attorney General

** Corrected 1-10-2000



STATE OF WASHINGTON

INDETERMINATE SENTENCE REVIEW BOARD

4317 Sixth Ave., S.E. • P.O. Box 40907 • Olympia, Washington 98504-0907 • (360) 493-9266
(TDD Relay 1-800-833-6388)

DECISION AND REASONS

NAME:	Mark MILLER
NUMBER:	265210
INSTITUTION:	ISRB
TYPE OF MEETING:	Administrative Parole Review
DATE:	September 18, 2000
PANEL MEMBERS:	JA & MM

BOARD DECISION:

Parole to Oregon parole violation detainer. Once the Oregon detainer is resolved, the Board authorizes parole to the plan dated August 30, 2000, with the special conditions listed in the plan. You are to report to your assigned Washington Community Corrections Officer (CCO) within 24 hours of your release. The Board also adds the following conditions: 1. Submit no less than one clean UA/BA weekly; 2. Attend 60 12-step meetings in 60 days, and provide adequate proof of attendance; 3. Acquire an AA or NA sponsor and home group within two weeks (14 days) of reporting to your field CCO; 4. Participate in an approved course of therapy or actively participate in a support group which addresses domestic violence/physical violence alternatives.

REASONS:

Mr. Miller is under the Board's jurisdiction for Robbery 1st Degree, with a time start of 3-12-91. The judge set a minimum term of 33 months. The Sentence Reform Act (SRA) guideline range was 28 – 38 months. He first paroled in 1993, and paroled again in 1997 to an SRA conviction. In 1998, he was required to complete the short-term offender program at pre-release for consuming amphetamines. His parole was revoked to the revocation track in 1999 for again consuming.

EXHIBIT 14



MILLER, Mark

DOC #265210

CONTINUED - PAGE 2

Mr. Miller will parole to his parents, Roy and Cecile Marie Miller at [REDACTED] Goldendale. He is specifically prohibited from contacts with Julie Scherf. The only exception is through an appropriate intermediary for resolution of child custody matters. This condition is especially important due to his history.

Mr. Miller exhibits the capacity for regular employment and reasonable behavior in the community, leading to successful completion of the required supervision period of 36 months. Previous parole difficulties have resulted from his own actions, but seem to have been aggravated by his domestic relationship and for this reason the relationship is prohibited.

JA:is

September 15, 2000

CC: INSTITUTION
RESIDENT
FILE

BEFORE THE INDETERMINATE SENTENCE REVIEW BOARD

OLYMPIA, WASHINGTON

In the Matter of)	
)	No. 265210
MILLER, Mark Lee)	
)	PAROLE REVOCATION HEARING:
DOB/12-10-61)	FINDINGS AND CONCLUSIONS
)	
A PAROLEE)	

This matter coming on for a Parole Revocation Hearing in accordance with the provisions of Chapter 98 of the Laws of 1969, on the 20th day of June, 2001, before the undersigned Member of the Indeterminate Sentence Review Board, and said parolee appearing in person and being represented by Gwendolyn Grundei, his attorney, and present for the Department of Corrections, Division of Community Corrections being Ronda Nielsen represented by Cathleen Carpenter, Assistant Attorney General, and the Member of the Indeterminate Sentence Review Board having heard all the evidence and testimony of witnesses and considering arguments of counsel and any memoranda submitted by the parties and being fully advised in the premises, makes the following:

FINDINGS:

I. That said parolee was convicted of the following offenses in the designated Superior Court: FIRST DEGREE ROBBERY/CLARK/79-1-00126-1 and was released on parole by an order of the Board of Prison Terms and Paroles/Indeterminate Sentence Review Board after having served the duration of confinement fixed by said Board.

II. That said parolee was released from custody on the 6th day of October, 2000, subject to the rules and conditions of parole and under the supervision of a Community Corrections Officer; and

III. That on the 24th day of May, 2001 an order was made suspending the parole of and ordering the arrest and detention of said parolee for allegedly violating the following conditions of parole:

1. Failing to provide a urinalysis sample to the Department of Corrections on May 23, 2001 as directed in Goldendale, WA.
2. Failing to attend daily AA/NA meetings as directed since April 25, 2001 in Goldendale, WA.

That the above violations indicated are in connection with the Order of Parole issued by the said Board on the 26th day of September, 2000.

IV. That said parolee at the hearing conducted on the above date before the undersigned pled guilty with explanation to violations one and two as charged. The Member presiding hereby finds that the parolee was and is in fact guilty of violations one and two as charged.

IV. Evidence relied upon:

Mr. Miller plead guilty with explanation to the two violations. Testifying for the state was Community Corrections Officer Ronda Nielsen. Also considered was a Notice of Violation dated May 30, 2001. Mr. Miller testified on his own behalf.

Based upon the foregoing findings of fact, the Indeterminate Sentence Review Board makes the following:

CONCLUSIONS:

- I. That said parolee has violated the conditions of parole as stated above.
- II. That it would be in the best interest of the public and for the best welfare of said parolee that an

Order of Reinstatement of Parole be issued and that said parolee be released from custody and placed back under the supervision of the Department of Corrections. Special conditions listed here:

1. Do not possess or consume any alcoholic beverages.
2. Do not enter any establishment where alcohol is the primary commodity for sale, with the exception of entering your mother's place of employment during normal work hours if you need to contact her.
3. Successfully complete Anger Management as directed by supervising Community Corrections Officer.
4. Attend no fewer than 1 AA meeting per week. Proof of attendance is to be provided to supervising Community Corrections Officer.
5. Random UA's are to be provided at no less than two UA's per month. UA's are to be produced in a manner directed by Community Corrections Officer.
6. Complete any other treatment as directed by Community Corrections Officer.

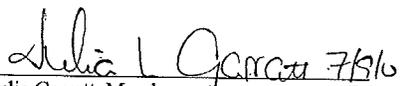
III. Reasons for decision:

Mr. Miller is under the Board's jurisdiction for First Degree Robbery. The time start was March 12, 1991 with a maximum expiration date of December 14, 2030. The adjusted Sentence Reform Act (SRA) range is 28 to 38 months. The judge and prosecutor made no recommendations. Mr. Miller has paroled three times on this conviction. His last parole was October 6, 2000. He has served approximately 52 months.

Although Mr. Miller last paroled on October 6, 2000, he was transferred to a detainer in Oregon for parole violations. He served 7 months on that violation and was released from custody on approximately April 27, 2001. His last parole periods have been disastrous, involving methamphetamine use, and during 1996 he received a conviction for Assaulting a Police Officer and attempting to steal his gun. The Board ordered Mr. Miller's incarceration for his most recent violations and was very concerned by his hostile, aggressive and inappropriate behavior toward his Community Corrections Officer (CCO). He was uncooperative, belligerent and used profanity. He also refused to give UA's unless he stripped off all of his clothes and produced them naked. His CCO attempted to work with him and did allow four UA's (which were clear) with Mr. Miller disrobing. However, Mr. Miller apparently became increasingly irate when disrobing and redressing and this caused concerns for officer safety in the small confines of the men's restroom. Mr. Miller eventually refused to produce a UA unless he was allowed to disrobe.

Mr. Miller was warned that the Board would tolerate no more behavior of this sort and that if he refused to accept parole he would be returned to custody. Mr. Miller promised all parties that this behavior would cease. His CCO is requested to contact the Board as soon as possible if there are further violations or inappropriate behavior.

Done at Olympia, Washington on the 20th day of June, 2001.


Julia Garratt, Member Date
Indeterminate Sentence Review Board

cc: Mark Miller/Parolee
Gwendolyn Grundei/Attorney
Ronda Nielsen/CCO
Office of the Attorney General

BEFORE THE INDETERMINATE SENTENCE REVIEW BOARD

OLYMPIA, WASHINGTON

In the Matter of)
Mark Miller) No. 265210
A PAROLEE) PAROLE REVOCATION HEARING:
FINDINGS AND CONCLUSIONS

This matter coming on for a Parole Revocation Hearing in accordance with the provisions of Chapter 98 of the Laws of 1969, on the 23rd day of January, 2002, before the undersigned Member of the Indeterminate Sentence Review Board, and said parolee appearing in person and being represented by Gwendolyn Grundei, his attorney, and present for the Department of Corrections, Division of Community Corrections being Ronda Nielsen, and the Member of the Indeterminate Sentence Review Board having heard all the evidence and testimony of witnesses and considering arguments of counsel and any memoranda submitted by the parties and being fully advised in the premises, makes the following:

FINDINGS:

- I. That said parolee was convicted of the following offense in the designated Superior Court: FIRST DEGREE ROBBERY/CLARK/79-1-00126-1 and was released on parole by an order of the Board of Prison Terms and Paroles/Indeterminate Sentence Review Board after having served the duration of confinement fixed by said Board.
- II. That said parolee was released from custody on the 6th day of October, 2000, subject to the rules and conditions of parole and under the supervision of a Community Corrections Officer; and
- III. That on the 18th day of December, 2001 an order was made suspending the parole of and ordering the arrest and detention of said parolee for allegedly violating the following conditions of parole:
 - I. Using illegal drugs, Cocaine on or about December 11, 2001 and December 13, 2001.That the above violations indicated are in connection with the Order of Parole issued by the said Board on the 26th day of September, 2000.
- IV. That said parolee at the hearing conducted on the above date before the undersigned pled guilty with explanation to violation one as charged. The Member presiding hereby finds that the parolee was and is in fact guilty of violation one as charged.

IV. Evidence relied upon:

Mr. Miller pled guilty with an explanation to the one violation. Testifying for the state was Community Corrections Officer (CCO) Ronda Nielsen. Also considered was a Notice of Violation dated November 28, 2001. For the defense Mr. Miller testified.

Based upon the foregoing findings of fact, the Indeterminate Sentence Review Board makes the following:

CONCLUSIONS:

- I. That said parolee has violated the conditions of parole as stated above.

EXHIBIT 16

II. That it would be in the best interest of the public and for the best welfare of said parolee that an Order of Reinstatement of Parole be issued and that said parolee be released from custody and placed back under the supervision of the Department of Corrections. Special conditions listed here:

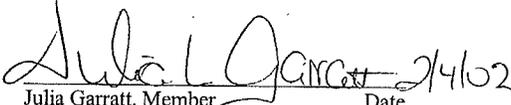
1. Complete 60 days of day reporting and thereafter as directed by supervising Community Corrections Officer.
2. Submit to drug or alcohol monitoring, through an agency approved by your Community Corrections Officer (CCO). As a condition of parole, you are required to sign a full release of information to your CCO and the Indeterminate Sentence Review Board (ISRB). This release of information must be effective until you are granted a Final Discharge and Restoration of Civil Rights or until this condition is removed by the Board from your conditions of parole.
3. Participate in other treatment as directed by supervising Community Corrections Officer.

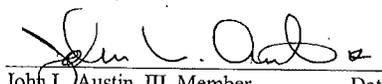
III. Reasons for decision:

Mr. Miller is under the Board's jurisdiction for Robbery in the First Degree. The time start was March 12, 1991 and the maximum expiration date is December 14, 2030. The Sentence Reform Act (SRA) range is 28 to 38 months. The judge and prosecutor made no recommendation. Mr. Miller has paroled three times on this offense, his last parole was October 6, 2000 when he was released to his Oregon detainer. He was released from custody on April 27, 2001. He has served approximately 52 months. He additionally has a conviction in Oregon for Robbery. Mr. Miller's past periods of parole have been disastrous, involving methamphetamine use, and during 1996 he received a conviction for assaulting a police officer and attempting to steal his gun.

The current On-site is the second since his release in April 2001. After his last hearing his Community Corrections Officer (CCO) testified his attitude improved greatly. Mr. Miller testified his most recent dirty UA was because he stopped by his friends home on his birthday, had a few drinks and then left the party when he realized his friends were free basing cocaine. Although it was not listed as a separate violation, consuming alcohol is also a violation of his parole conditions. The Board would also note that he had two positive UA's for methamphetamines in November. Mr. Miller pled unwitting consumption due to his taking Advil at his sister's home and later finding out that the Advil bottle was used for her boyfriend's illegal stash of methamphetamines. The bottle was retrieved by the CCO and determined to contain trace amounts of methamphetamines in addition to Advil. In light of Mr. Miller's history of drug abuse, both of these explanations are suspect. In Mr. Miller's favor, he is gainfully employed, reports as directed and has not been arrested for any new offenses. At this time it is a reasonable risk to reinstate to the community. However, he is warned that this is his last chance. Any future violations for illegal drug use will result in his arrest and probably his return to prison. Any future violations of his parole conditions should be reported to the Indeterminate Sentence Review Board (ISRB) as soon as possible.

Done at Olympia, Washington on the 28th day of January, 2002.


Julia Garratt, Member Date 2/4/02
Indeterminate Sentence Review Board


John L. Austin, III, Member Date 2/4/02
Indeterminate Sentence Review Board


Margaret Martinez, Member Date 2/3/02
Indeterminate Sentence Review Board

JLG:rlr

cc: Mark Miller/Parolee
Gwendolyn Grundei/Attorney
Ronda Nielsen/CCO

BEFORE THE INDETERMINATE SENTENCE REVIEW BOARD

OLYMPIA, WASHINGTON

In the Matter of)
)
Mark Lee Miller) No. 265210
)
) PAROLE REVOCATION HEARING:
) FINDINGS AND CONCLUSIONS
A PAROLEE)

This matter coming on for a Parole Revocation Hearing in accordance with the provisions of Chapter 98 of the Laws of 1969, on the 23rd day of April, 2002, before the undersigned Member of the Indeterminate Sentence Review Board, and said parolee appearing in person and being represented by Gwendolyn Grundei, his attorney, and present for the Department of Corrections, Division of Community Corrections being Ronda Nielsen, Assistant Attorney General, and the Member of the Indeterminate Sentence Review Board having heard all the evidence and testimony of witnesses and considering arguments of counsel and any memoranda submitted by the parties and being fully advised in the premises, makes the following:

FINDINGS:

I. That said parolee was convicted of the following offense in the designated Superior Court: First Degree Robbery/Clark/79-1-00126-1 and was released on parole by an order of the Board of Prison Terms and Paroles/Indeterminate Sentence Review Board after having served the duration of confinement fixed by said Board.

II. That said parolee was released from custody on the 6th day of October, 2000, subject to the rules and conditions of parole and under the supervision of a Community Corrections Officer; and

III. That on the 12th day of March, 2002 an order was made suspending the parole of and ordering the arrest and detention of said parolee for allegedly violating the following conditions of parole:

1. Using illegal drugs, methamphetamine on or about 3-11-02.
2. Consuming alcohol on or about 3-8-02 and 3-5-02.
3. Using illegal drugs, cocaine on or about 3-11-02.
4. Using illegal drugs, opiates on or about 3-5-02.
5. Having contact with Julie Scherf since 1-28-02 in Goldendale, WA.
6. Failing to obey all laws, to wit, assaulting his brother, Brett Miller and threatening to assault his parents, Roy and Cecille Miller on or about 1-28-02 in Goldendale, WA.

That the above violations indicated are in connection with the Order of Parole issued by the said Board on the 6th day of October, 2000, and Orders of Parole Addendum issued on June 29, 2002, July 9, 2002 and January 28, 2002.

IV. That said parolee at the hearing conducted on the above date before the undersigned pled guilty with explanation to violations one, two, three, four and five as charged, and not guilty to violation six as charged. The Member presiding hereby finds that the parolee was and is in fact guilty of violations one, two, three, four and five and not guilty of violation six as charged.

IV. Evidence relied upon:

Evidence relied upon were pleas of Mr. Miller, testimony of Mr. Miller and Community Corrections Officer (CCO) Nielsen, records and files and argument of counsel.

Based upon the foregoing findings of fact, the Indeterminate Sentence Review Board makes the following:

CONCLUSIONS:

I. That said parolee has violated the conditions of parole as stated above.

II. That it would be in the best interest of the public and for the best welfare of said parolee that an Order of Parole Revocation be issued and that said parolee be returned to the Washington Corrections Center at Shelton, Washington, or other institution as determined by the Department of Corrections for further determination of a new minimum term of confinement.

III. Reasons for decision:

Mr. Miller is under the Board's jurisdiction for Robbery First Degree in Clark County Cause #79-1-00126-1 with a time start of March 21, 1991 and a maximum expiration of December 14, 2030. The Sentence Reform Act (SRA) range is 28 to 38 months and the judge and prosecutor made no recommendations. Mr. Miller has paroled three times, most recently on October 6, 2000 when he was released to an Oregon Detainer and then released from custody on April 27, 2001. He has accumulated about 52 months of incarceration and his Oregon charge was also for robbery. Mr. Miller has been regularly involved with methamphetamines. In 1996, he was convicted of Assault Third Degree and Unlawful Possession of a Firearm First by assaulting a police officer and trying to steal his gun (Clark County Cause #96-1-00948-2, an SRA offense).

Mr. Miller has ongoing domestic problems, and was in possession of a 30.06 rifle in February, 1997.

Mr. Miller explains the use of drugs as reaction to stress from the pain of his gun-shot wound and domestic stress and he is certainly entitled to sympathy as well for the recent death of his father.

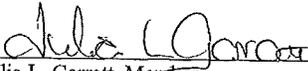
Sympathy aside, Mr. Miller continues to display a volatility that represents a danger to the community. A period to collect himself, recover fully from his injury, and contemplate the cost, to himself and his family, of continuous resort to drugs, appears to be the only presently responsible decision.

By virtue of the authority of RCW 9.95.125, the Indeterminate Sentence Review Board fixes a new minimum sentence at twenty-four (24) months. Schedule a .100 hearing 120 days prior to his parole eligibility review date (PERD). The Board specifically requests a current ISRB/530 report (no more than six months old) that contains information on infractions, programming, victim contact, family contact and support, crime related issues, and reports from any specialized counseling or classes, also, all 530 reports or infractions occurring since offender was last seen by the Board. The Board requests a complete instrument supported (i.e. MMPI-2, PAI, VRAG, LSI-R, etc.) psychological evaluation and/or Treatment Summary to include behavioral observations, personal/criminal history, risk for violence, escape, and case management recommendations; which is no more than two years old at the time of the hearing. The value of personality inventories and their scores is secondary to Risk Assessment Instruments and scores, especially with sex offenders. The Board also requests a complete copy of all mental health records which contain confidential medical information including medical history diagnosis, and medication needs located in both the central/medical files. If offender has ever participated in Chemical Dependency Treatment, the Board must have a signed waiver form and copies of all chemical dependency information located in either the central/medical/chemical dependency file. The classification counselor is required to attend the hearing and shall have file materials and details of inmate behavior at this hearing.

Done at Olympia, Washington on the 24th day of April, 2002.


John L. Austin, III, Member Date 4/15/02
Indeterminate Sentence Review Board

Miller, Mark
DOC #265210
Page 3 (Findings and Conclusions)

 4/30/02
Julia L. Garratt, Member Date
Indeterminate Sentence Review Board

 4/30/02
Margaret Martinez, Member Date
Indeterminate Sentence Review Board

JLA:rlr

cc: Mark Miller/Parolee
Gwendolyn Grundei/Attorney
Washington Corrections Center
Ronda Nielsen/Community Corrections Officer

BEFORE THE INDETERMINATE SENTENCE REVIEW BOARD
OLYMPIA, WASHINGTON

In the Matter of)
Mark Miller) No. 265210
)
) PAROLE REVOCATION HEARING:
) FINDINGS AND CONCLUSIONS
A PAROLEE)

This matter coming on for a Parole Revocation Hearing in accordance with the provisions of Chapter 98 of the Laws of 1969, on the 2nd day of October, 2007, before the undersigned Member of the Indeterminate Sentence Review Board, and said parolee appearing in person and being represented by Gwendolyn Grundei, his attorney, and present for the Department of Corrections, Division of Community Corrections being Ronda Nielsen represented by Pete Berney, Assistant Attorney General, and the Member of the Indeterminate Sentence Review Board having heard all the evidence and testimony of witnesses and considering arguments of counsel and any memoranda submitted by the parties and being fully advised in the premises, makes the following:

FINDINGS:

I. That said parolee was convicted of the following offense in the designated Superior Court: First Degree Robbery/Clark/79-1-00126-1 and was released on parole by an order of the Board of Prison Terms and Paroles/Indeterminate Sentence Review Board after having served the duration of confinement fixed by said Board.

II. That said parolee was released from custody on the 20th day of July, 2005, subject to the rules and conditions of parole and under the supervision of a Community Corrections Officer; and

III. That on the 20th day of March, 2006 an order was made suspending the parole of and ordering the arrest and detention of said parolee for allegedly violating the following conditions of parole:

1. Using illegal drugs, amphetamine on or about 2/23/06.
2. Using illegal drugs, amphetamine/methamphetamine on or about 2/28/06.

That the above violations indicated are in connection with the Order of Parole issued by the said Board on the 25th day of May, 2005.

IV. That said parolee at the hearing conducted on the above date before the undersigned pled not guilty to violations one and two as charged. The Member presiding hereby finds that the parolee was and is in fact guilty of violations one and two as charged.

IV. Evidence relied upon:

Mr. Miller pled not guilty to the two violations. Community Corrections Officer Rhonda Nielsen testified for the state. Mr. Miller was also called by the state. Admitted into evidence were 2 Lab reports from Sterling Lab's reflecting positive UA's from February 28, 2006 and February 23, 2006 for amphetamine and methamphetamine, and two reports prepared by the Department of Corrections (DOC) on Sterling Lab forms. For the defense Mr. Miller testified. Submitted by the defense in disposition was a criminal charging information listing Julie Ann Scherf as a defendant.

Based upon the foregoing findings of fact, the Indeterminate Sentence Review Board makes the following:

CONCLUSIONS:

I. That said parolee has violated the conditions of parole as stated above.

EXHIBIT 18

II. That it would be in the best interest of the public and for the best welfare of said parolee that an Order of Reinstatement of Parole be issued and that said parolee be released from custody and placed back under the supervision of the Department of Corrections. Special conditions listed here:

1. Do not change residence without prior notice to supervising Community Corrections Officer (CCO).
2. Do not change employment without prior notice to supervising CCO.
3. Obtain a substance abuse evaluation within 30 days of release and complete all recommended follow-up.

Mr. Miller was arrested on his Oregon warrant on February 28, 2006. He did not return to Washington State until August 16, 2007. He was unavailable for supervision for 1 year, 5 months and 18 days. Therefore, that time will be added to his original final eligible date. Mr. Miller's new final eligible date is January 8, 2010.

III. Reasons for decision:

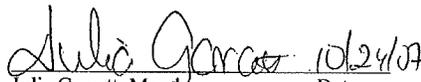
A deferred decision was taken at the on-site on October 2, 2007 and a waiver of the 10 day rule was signed by both Mr. Miller and his attorney. The deferred decision was resolved on October 16, 2007.

Mr. Miller is under the Board's jurisdiction for First Degree Robbery. The time start was March 12, 1991 with a maximum expiration of December 14, 2030. The Sentencing Reform Act (SRA) range is 28-38 mos. Mr. Miller has paroled 4 times on this offense. He was last released on July 20, 2005 to his Oregon detainer, and was released from Oregon's custody on August 16, 2005. He has served approximately 92 months on this offense. His conviction in Oregon was also for Robbery in the First Degree.

Mr. Miller produced two positive UA's for illegal drugs in February 2006. He was arrested by Oregon authorities for parole violations in February 2006 and has been continually confined since that date. Oregon is now done with Mr. Miller and he has no further supervision from that state.

Mr. Miller has been detained over 20 months. The Board is adding the time he was confined in Oregon to his period of supervision in Washington. This confinement time is a sufficient sanction for his parole violations. The Board was concerned about resources for Mr. Miller if he were to be released. The deferred decision was invoked so defense counsel could confirm a living address and possible employment for Mr. Miller. The Board received a letter from his counsel, Ms. Grundei dated October 15, 2007. The letter states his mother is providing a 23 foot camper trailer that she will allow him to use with no time limitation. The family is additionally willing to assist his rent payments for a camper site at a local RV park in Goldendale. Mr. Miller has previously been employed at TLC Modular Homes located in Goldendale. They have indicated a strong possibility of offering Mr. Miller employment in the near future. It is also the Board's understanding that the local field office in Goldendale may decline to monitor Mr. Miller due to his past behavior. If that is the case, Mr. Miller will have to be monitored out of the next closest field office. He is expected to follow all conditions of supervision and behave appropriately with his supervising Community Corrections Officer (CCO). Absolutely any relapses into illegal drug use should be addressed swiftly by his CCO and reported to the Board As soon as possible.

Done at Olympia, Washington on the 16th day of October, 2007.


Julia Garratt, Member Date
Indeterminate Sentence Review Board

JG:rr

cc: Mark Miller/Parolee
Gwendolyn Grundei/Attorney
Ronda Nielsen/CCO/Goldendale
Office of the Attorney General

BEFORE THE INDETERMINATE SENTENCE REVIEW BOARD

OLYMPIA, WASHINGTON

In the Matter of)
Mark Miller) No. 265210
A PAROLEE) PAROLE REVOCATION HEARING:
) FINDINGS AND CONCLUSIONS

This matter coming on for a Parole Revocation Hearing in accordance with the provisions of Chapter 98 of the Laws of 1969, on the 24th day of March, 2008, before the undersigned Member of the Indeterminate Sentence Review Board, and said parolee appearing in person and being represented by Joy Duggan, his attorney, and present for the Department of Corrections, Division of Community Corrections being Jodery Goble, and the Member of the Indeterminate Sentence Review Board having heard all the evidence and testimony of witnesses and considering arguments of counsel and any memoranda submitted by the parties and being fully advised in the premises, makes the following:

FINDINGS:

I. That said parolee was convicted of the following offense in the designated Superior Court: First Degree Robbery/Clark/79-1-00126-1 and was released on parole by an order of the Board of Prison Terms and Paroles/Indeterminate Sentence Review Board after having served the duration of confinement fixed by said Board.

II. That said parolee was released from custody on the 20th day of July, 2005, subject to the rules and conditions of parole and under the supervision of a Community Corrections Officer; and

III. That on the 25th day of February, 2008 an order was made suspending the parole of and ordering the arrest and detention of said parolee for allegedly violating the following conditions of parole:

1. Failing to submit to urinalysis (UA) by failing to report on 2/8/2008.
2. Failing to submit urinalysis (UA) by failing to report on 2/15/2008.
3. Failing to report as directed on 2/21/2008.
4. Using illegal drugs, Amphetamines on or about 12/21/2007.
5. Using illegal drugs, Amphetamines on or about 2/25/2008.

That the above violations indicated are in connection with the Order of Parole issued by the said Board on the 25th day of August, 2005.

IV. That said parolee at the hearing conducted on the above date before the undersigned pled guilty with explanation to violations one, two and five as charged. The Member presiding hereby finds that the parolee was and is in fact guilty of violations one, two and five as charged.

IV. Evidence relied upon:

EXHIBIT 19

Mr. Miller pled guilty with an explanation to violations one, two and five. The Board had previously found no probable cause to violation three and violation four was dismissed pre-hearing by agreement of all parties. Testifying for the state was Community Corrections Officer (CCO) Jodery Goble and CCO Ronda Nielsen. Also considered was a Notice of Violation Report dated March 5, 2008. Submitted in evidence by the state was a toxicology report dated March 4, 2008 by Sterling Labs. For the defense Mr. Miller testified. In disposition, his mother Cecil Miller testified. Also submitted pre-hearing was a diagnosis summary from Cowlitz Tribal Health dated December 13, 2007 and a psychological from Fred Coulter dated November 24, 2007.

Based upon the foregoing findings of fact, the Indeterminate Sentence Review Board makes the following:

CONCLUSIONS:

- I. That said parolee has violated the conditions of parole as stated above.
- II. That it would be in the best interest of the public and for the best welfare of said parolee that an Order of Reinstatement of Parole be issued and that said parolee be released from custody and issued a Conditional Discharge from Supervision. Mr. Miller will be required to write the to Board on a yearly basis to report his progress until he receives a Final Discharge and Restoration of Civil Rights. Any criminal convictions during this intervening time may trigger a revocation hearing.

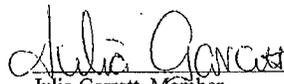
III. Reasons for decision:

A deferred decision was taken at the on-site on March 24 2008. The deferred decision was resolved on March 28, 2008.

Mr. Miller is under the Board's jurisdiction for Robbery 1. The time start was March 12, 1991 with maximum expiration of December 14, 2030. The Sentencing Reform Act (SRA) range is 28-38 months. Mr. Miller has paroled 4 times on this offense. He was last released on July 20, 2005 to his Oregon detainer, and was released from Oregon custody on August 16, 2005. He has served approx 92 mo on this offense. His conviction in Oregon was also for Robbery 1.

The last hearing by the Board was scheduled in October 2007. At that hearing it was noted that he produced two positive UA's for illegal drugs in February 2006 and was arrested and extradited to Oregon. He served approximately 20 months and was returned in custody to Washington. At his last hearing the Board confirmed he had stable living arrangements and employment. Now, jut a few months later the Board is hearing violations for a positive UA for amphetamines and two dates of missing his mandatory UA testing. Mr. Miller told the Board a complicated story of working as a confidential informant for local police to affect pending charges for the mother of his children and her 16 year old son. Nevertheless, the Board is once again facing Mr. Miller's inability to comply with supervision. The decision to reinstate him to a Conditional Discharge from Supervision is a difficult decision, as it may seem to be rewarding his non-compliant behavior. On the other hand, Mr. Miller has served an aggravated sentence on an offense he committed as a juvenile, he has not committed similar crimes in 20 years and his ongoing violations seem to center around his drug addiction. The Board believes he is un-supervisable at this time, but that public resources should no longer be expended to monitor his behavior. Any criminal convictions in the intervening months until he is final eligible may trigger another board revocation hearing.

Done at Olympia, Washington on the 28th day of March, 2008.

 3/28/08
Julia Garratt, Member Date
Indeterminate Sentence Review Board

 3-28-08
Dennis Thaut, Member Date
Indeterminate Sentence Review Board

JG:rr

cc: Mark Miller/Parolee
Joy Duggan/Attorney
Jodery Goble/CCO/Goldendale

Mr. Miller pled not guilty to the three listed violations. Testifying for the state was CCO Jodery Goble, and Dr. Bert Toivola from Sterling Reference Laboratories. Documents submitted by the state and admitted without objection was 1. A specimen ID sheet filled out by CCO Goble and submitted with Mr. Miller's urine sample, and 2. A lab result from Sterling Lab's dated April 7, 2008.

Testifying for the defense was Mr. Miller's mother Cecil Miller, CCO Rhonda Nielsen and Mark Miller. Documents submitted by Mr. Miller were 1. A copy of the probation check in verification for April 7, 2008 - admitted without objection, and 2. A sterling labs UA report dated April 15, 2008 reflecting a negative reading on listed illegal drugs. This latter document was admitted over the state's objection.

Based upon the foregoing findings of fact, the Indeterminate Sentence Review Board makes the following:

CONCLUSIONS:

I. That said parolee has violated the conditions of parole as stated above.

II. That it would be in the best interest of the public and for the best welfare of said parolee that an Order of Parole Revocation be issued and that said parolee be returned to the Washington Corrections Center at Shelton, Washington, or other institution as determined by the Department of Corrections for further determination of a new minimum term of confinement.

III. Reasons for decision:

A deferred decision was taken at the onsite on May 6, 2008. The deferred decision was resolved on May 7, 2008.

Mr. Miller is under the Board's jurisdiction for Robbery 1. The TS was March 12, 1991 with a maximum expiration of December 14, 2030. The Sentencing Reform Act (SRA) range is 28-38 months. Mr. Miller has paroled 4 times on this offense. He was last released from custody on July 20, 2005 to his Oregon detainer (for another robbery conviction) and was released from Oregon custody on August 16, 2005. He began supervision under the Goldendale office. In February 2006 he was arrested for 2 positive UA's for illegal drugs and was extradited to Oregon on their warrant. He served approximately 20 months and was returned to custody in Washington. He was seen at an on-site in Washington in October 2007 and was reinstated on parole. In March 2008 the Board conducted another on-site hearing to address violations of failing to report, failing to submit to UA testing and two separate incidents of using illegal drugs (amphetamines). At the conclusion of that hearing the Board determined he was unsupervisable and believed under the circumstances, a Conditional Discharge from Supervision (CDFS) was appropriate. However, until the CDFS paperwork is formally served and signed by the offender and his CCO, he remains under supervision with the same conditions as previously imposed. The Board authorized his release on Friday March 28, 2008. He reported the next Monday and produced a UA at the request of his CCO. A drug test strip indicated the presence of methamphetamines in Mr. Miller's sample. His CCO gave him directions to report in the morning on Monday April 7, 2008. Mr. Miller did report, but 9 hours after directed and too late in the day to obtain another UA. Mr. Miller was given written and verbal instructions to report the next day (April 8, 2008) and produce another UA. Mr. Miller did not report or call his CCO on that date.

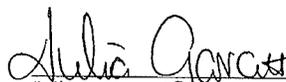
At the on-site hearing the Board heard telephonic testimony from Dr. Toivola from Sterling Labs. Dr. Toivola authenticated the UA sample that produced the positive result for methamphetamines and also noted that the result indicated use 2-3 days before the sample was obtained. The only conclusion the Board can reach indicates Mr. Miller was released on Friday and immediately obtained and used illegal drugs. Although not listed as a separate violation, Mr. Miller's mother stated after his release she gave him morphine and percocet, prescription narcotic pain medications that were prescribed to someone else. Mr. Miller confirmed this use for his dental pain.

Although the Board was prepared to grant Mr. Miller a CDFS, it is fairly stunning that he has so few controls that he would obtain and use illegal drugs, literally within hours of release. His actions of contacting his CCO too late in the day for a monitored UA, and then failing to report or produce a UA the next day as directed are troubling. Mr. Miller's past failures on parole have virtually all involved illegal drug usage. He additionally has a conviction in 1996 of Assault 3 and unlawful possession of a firearm that is described in file materials as his assaulting a police officer and trying to steal his gun. Mr. Miller has been out of custody a very short period of time since his release in the summer of 2005. Today's hearing is the third the Board has held in the past 6 months. Based on a review of all available information the Board believes he is an unacceptable risk to remain in the community at this time. The Board has recommended his participation in a therapeutic community to address his deep seated addictions.

By virtue of the authority of RCW 9.95.125, the Indeterminate Sentence Review Board fixes a new minimum sentence at thirty-six (36) months. Schedule .100 Hearing 120 days prior to PERD. Mr. Miller is strongly encouraged to enter and complete a therapeutic community program prior to his next hearing.

The Board specifically requests a current ISRB/530 report (no more than six months old) that contains information on infractions, programming, victim contact, family contact and support, crime related issues, and reports from any specialized counseling or classes. Also, all 530 reports or infractions occurring since offender was last seen by the Board. The Board requests a complete instrument supported (i.e. MMPI-2, PAI, VRAG, LSI-R, etc.) psychological evaluation and/or Treatment Summary to include: behavioral observations, personal/criminal history, risk for violence, escape, and case management recommendations, which is no more than two years old at the time of the hearing. The value of personality inventories and their scores is secondary to Risk Assessment instruments and scores, especially with sex offenders. The Board also requests a complete copy of all typed reports relating to mental health only located in both the central/medical file. If offender has ever participated in Chemical Dependency Treatment, the Board must have a signed waiver form and copies of all chemical dependency information located in either the central/medical/chemical dependency file. The classification counselor is required to attend the hearing and shall have file materials and details of inmate behavior at this hearing.

Done at Olympia, Washington on the 7th day of May, 2008.

 5/20/08
Julia Garratt, Member Date
Indeterminate Sentence Review Board

 5-21-08
Dennis Thaut, Member Date
Indeterminate Sentence Review Board

JG:rr

cc: Mark Miller//Parolee
Joy Duggan/Attorney
Washington Corrections Center
Jodery Goble/CCO/Goldendale
Ronda Nielsen/CCO/Goldendale
Amanda Migchelbrink/AAG
Dan Snyder - Civigencis

NO. 82556-4

SUPREME COURT OF THE STATE OF WASHINGTON

In re the Personal Restraint Petition of:

MARK L. MILLER,

Petitioner.

RESPONSE OF THE
INDETERMINATE
SENTENCE REVIEW
BOARD

COMES NOW the Respondent, INDETERMINATE SENTENCE REVIEW BOARD (ISRB or Board), by and through its attorneys, ROBERT M. MCKENNA, Attorney General, and GREGORY J. ROSEN, Assistant Attorney General, and submits the following response to Mr. Miller's personal restraint petition pursuant to RAP 16.9.

I. BASIS FOR CUSTODY

Mr. Miller is confined and under the jurisdiction of the ISRB pursuant to the lawful judgment and sentence of the Clark County Superior Court. The Court had entered an order deferring sentence in Mr. Miller's case in which the Court deferred the imposition of sentence for five years from the date of the orders entry, or November 9, 1979. Exhibit 1, Order Deferring Sentence Pursuant To RCW 9.95.200-.240, State v. Miller, Clark County Superior Court Cause No. 79-1-00126-1. Subsequently, however, the Clark County Superior Court entered an order of revocation of probation in Mr. Miller's case in which the Court revoked Mr. Miller's probation and imposed the judgment and sentence which

EXHIBIT 21

included a maximum term of 40 years on count one, the crime of robbery in the first degree. Exhibit 2, Order of Revocation of Probation and Judgment and Sentence, State v. Miller, Clark County Superior Court Cause No. 79-1-00126-1. Mr. Miller's judgment and sentence stated that his 40 year maximum term was to run consecutively to his judgment from Multanomah County, Oregon under Cause No. 84-3-30993. See Exhibit 2 at 2; see also Exhibit 3, Judgment Order, State v. Miller, Multanomah County Circuit Court Cause No. 84-3-30992. Mr. Miller's maximum term will expire on December 14, 2030. See Exhibit 4, OMNI Legal Face Sheet, Mark Lee Miller, DOC #265210, at Prison Max Expiration Date.

II. ARGUMENT

BECAUSE THE BOARD DID NOT COMPLY WITH WAC 381-70-300, THE BOARD WILL CONDUCT A NEW PAROLE REVOCATION HEARING IN MR. MILLER'S CASE.

In his fifth ground for relief, Mr. Miller contends he was denied due process and equal protection of the laws by the ISRB's arbitrary denial of subpoenas requested by his counsel in order to compel the attendance of witnesses and the production of evidence. See Personal Restraint Petition of Mark Miller at 31-35. After investigation, the Board concedes that it did not fully comply with WAC 381-70-300, which states as follows:

WAC 381-70-300 Issuance to parties. Upon application of counsel for any party to a parole revocation case, there shall be issued to such parties subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding.

The board may issue subpoenas to a party not represented by counsel upon request and upon showing of general relevance and reasonable scope of testimony or evidence sought.

WAC 381-70-300.

Mr. Miller's Exhibit 24 sets out the list of witnesses that was requested by his counsel, Joy Duggan for Mr. Miller's parole revocation hearing. Mr. Miller's Exhibit 25 sets out the Board's response to Ms. Duggan's request in which the Board denied Ms. Duggan's request for a subpoena duces tecum, and approved the attendance and testimony of only two of Ms. Duggan's requested witnesses. See Id. Although the Board's hearing officer made clear in Exhibit 25 that the Board would accept written comments from any or all of the other proposed witnesses in Ms. Duggan's submission, the Board's response in that regard did not fully comply with WAC 381-70-300 because it appears to have applied the second part of WAC 381-70-300, which includes a general relevance test to subpoena requests by unrepresented persons, rather than the first section of that WAC provision, which pertains to persons represented by counsel and which requires the Board to provide subpoenas for witnesses or for the production evidence ("shall be issued"). See Id.

Because the Board did not comply with WAC 381-70-300 regarding Mr. Miller's fifth claim, the Board will conduct a new parole revocation hearing in his case to address the same three allegations that were previously before the Board in his prior May 6, 2008 parole revocation hearing. In In re Higgins, 152 Wn.2d 155, 162-163, 95 P.3d 330 (2004), this Court noted with approval the DOC's decision to expunge a record in response to a petitioner's personal restraint petition and to hold a rehearing as an adequate remedy under the circumstances. See Id. at 163. This Court also held in Higgins that a pending personal restraint petition did not operate to divest the DOC of jurisdiction, or, the authority to conduct a rehearing of the inmate's infraction. Id. In Cashaw, this Court held when the Board imposes a minimum term in violation of its own rules, "the proper relief would be a remand to allow the Board to conduct another hearing, this time using the proper procedures." See Cashaw, 123 Wn.2d at 150.

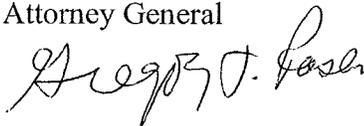
Therefore, given this Court's holdings in Higgins and Cashaw, the ISRB will conduct a new parole revocation hearing in Mr. Miller's case, although his petition remains pending at this time before this Court. The ISRB will schedule Mr. Miller for a new parole revocation hearing based on the same three allegations that were previously before the Board in his prior parole revocation hearing that was conducted on May 6, 2008.

III. CONCLUSION

For the above stated reasons, the Respondent ISRB concedes that it did not fully comply with WAC 381-70-300 and will conduct a new parole revocation hearing in Mr. Miller's case addressing the identical three allegations that were before the ISRB in Mr. Miller's prior parole revocation hearing from May 6, 2008.

RESPECTFULLY SUBMITTED this 27 day of February, 2009.

ROBERT M. MCKENNA
Attorney General



GREGORY J. ROSEN, WSBA #15870
Assistant Attorney General
Corrections Division
PO Box 40116
Olympia WA 98504-0116
(360) 586-1445

BEFORE THE INDETERMINATE SENTENCE REVIEW BOARD

OLYMPIA, WASHINGTON

In the Matter of Mark MILLER	No. 265210 PAROLE REVOCATION HEARING: FINDINGS AND CONCLUSIONS
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This matter came before Betsy Hollingsworth (Presiding Member), who is a member of the Indeterminate Sentence Review Board (ISRB or the Board), on the 23rd day of October, 2009 for a Parole Revocation Violation Hearing in accordance with the provisions of Chapter 98 of the Laws of 1969. Mr. Miller appeared in person with his attorney, Randall Krog. The Department was represented by Assistant Attorney General Sarah Olson. Also present was Community Corrections Officer (CCO) Jodery Goble, Cecile Miller, Karl Walkeneyer, Zack Wessel and Erica Brien. Having commenced this hearing on October 23, 2009, the hearing was thereafter continued to the date of November 24, 2009 and reconvened in the Clark County Jail. The following persons were personally present on November 24th: Mr. Miller, Mr. Krog, Cecile Miller and AAG Sarah Olson. Mr. Goble was present on the 24th via telephone conference call.

PROCEDURAL ISSUES AND LEGAL ISSUES

Prior to the initial hearing date, the Board held Pre-Hearing Telephone Conference Calls with the attorneys in the case. During the first call, the parties were directed to exchange and provide to the Board the names, contact information and summary of expected testimony of all witnesses. Dates were established for this exchange and for the filing of objections to any witnesses.

Upon receipt of Mr. Miller's witness list, the Board sent subpoenas to all persons on the list for whom an address was given. Written objections to the calling of certain witnesses by Mr. Miller were timely filed. Based on the offer of proof by Mr. Krug, the Board ruled on the relevance of Mr. Miller's witnesses.

On the initial hearing date, it was determined that individuals from Sterling Labs, whom Mr. Miller wanted to call as witnesses, were not available. Other defense witnesses were also unavailable, and Mr. Krog had not been able to talk with them to determine whether they had information which he wished to present to the Board on Mr. Miller's behalf. Testimony was taken from Mr. Goble, and the hearing was continued in order to procure the testimony of the two Sterling Labs and to allow Mr. Krog to contact other potential witnesses.

When the hearing was re-convened, further testimony was taken telephonically from Mr. Goble and Dr. Bret Toivola. After Dr. Toivola's testimony, Mr. Miller did not feel it necessary to call the other subpoenaed employee of Sterling Labs. Testimony was then taken from Mr. Miller's mother and from Mr. Miller. Recesses were taken to allow Mr. Krog to contact other potential witnesses to determine whether they had information that he wished to present to the Board. None were called.

Preliminary motions and objections were taken on both hearing dates. Motions to Dismiss were denied, and objections to conducting the hearing in Clark County were noted and overruled.

EVIDENCE RELIED UPON

The Presiding Member heard the testimony of the following witnesses: CCO Jodery Goble (in person and telephonically), Dr. Bret Toivola (telephonically), Cecile Miller and Mark Miller.

The Presiding Member also admitted the following exhibits into evidence:

- State's Exhibit 1 – Probation Check-In Verification
- State's Exhibit 2 – Sterling Lab Specimen ID Sheet
- State's Exhibit 3 – Sterling Lab Final Report of 4/7/08
- Defense Exhibit 4 – Copy of Email from Robin Riley to Thomas Layne dated 9/17/07
- Defense Exhibit 5 – Copies of DOC chronos for Mr. Miller dated 1/31/02 – 7/8/02; 2/16/06-3/9/06; and 9/24/07 – 4/16/08.
- Defense Exhibit 6 – Sterling Lab Final Report of 4/15/08

BASED ON THE EVIDENCE AND ARGUMENTS PRESENTED, the Presiding Member makes the following:

FINDINGS

- A. Mr. Miller was convicted of Robbery in the First Degree in Clark County Superior Court Cause No. 79-1-00126-1. He was released on parole by an order of the Indeterminate

Sentence Review Board after having served the duration of confinement fixed by the Board.

- B. Mr. Miller was released from custody on July 20, 2005, subject to the rules and conditions of community supervision and under the supervision of a Community Corrections Officer.
- C. On April 8, 2008, Violations Specified and Opportunity to Waive Hearing were served on Mr. Miller for allegedly violating the following conditions of parole:
 - 1. Failing to report as directed on April 7, 2008.
 - 2. Failing to submit urinalysis (UA) by failing to report on April 8, 2008.
 - 3. Using illegal drugs, Amphetamine/Methamphetamine on or about March 31, 2008.
- D. The above violations are in connection with the Order of Parole issued by the Board on April 25, 2005.
- E. At the hearing on the above date Mr. Miller entered a plea of Not Guilty to violations 1, 2 and 3 as charged.
- F. The Presiding Member finds Mr. Miller guilty of violations 1, 2 and 3 charged.

BASED ON THE FOREGOING FINDINGS, the Board makes the following:

CONCLUSIONS

- A. Mark Miller has violated the conditions of parole as stated above.
- B. It would be in the best interest of the public and for the best welfare of Mr. Miller that Mr. Miller's parole be revoked.

REASONS FOR DECISION

Mr. Miller had another parole revocation hearing on March 24, 2008 and was found guilty of illegal drug usage and failure to report as directed. He was reinstated on Parole with a determination that he should receive a Conditional Discharge from supervision. Shortly after being released from jail, Mr. Miller reported to his CCO's office with the expectation that he would be receiving his Conditional Discharge. The Discharge had not yet been signed by the Board, and Mr. Miller was told that he was to continue on supervision until such time as the Discharge papers were received.

Mr. Miller's CCO, Mr. Goble, took a urine sample from Mr. Miller at that time. He followed the required protocol, except that he did not inspect Mr. Miller's fingernails or require him to wash his hands. This step is intended to assure that should the urine flow come into contact with the hands that it is not contaminated with an adulterant that could affect the test results. Mr. Goble testified that he observed Mr. Miller providing the sample and that his urine did not come into contact with his hand. Dr. Toivola testified that the sample is tested for adulterants and none were found. He also testified that none of the medications that Mr. Miller was taking at the time could have caused the result of the presence of amphetamines and methamphetamines. Likewise, the presence of both methamphetamines and amphetamines demonstrates that methamphetamines were ingested. The amount of drugs found in the specimen was also consistent with usage between the time Mr. Miller was released from jail and the date his sample was taken. This testimony was sufficient to establish by a preponderance that Mr. Miller committed violation number 3.

Mr. Miller was told to report again on April 7, 2008 in the morning for the purpose of providing another urine sample. He did not arrive at the Corrections office until after 4:50 p.m. Because of new budgetary rules requiring CCOs to leave the office by 5:00 p.m., there was insufficient time for CCO Goble to obtain and properly package a urine sample from Mr. Miller at that time. Mr. Miller was told to return the next morning, and he did not appear on April 8, 2008.

Mr. Miller testified that he had just obtained a construction job which made it impossible to report as directed. He arrived at the office on April 7 in the late afternoon after he got off work. He indicated that he tried to explain his difficulty in coming in during the morning; however, Mr. Goble nonetheless required him to come in the morning. He also suggested that he arrived in enough time on April 7 in order to take a sample. His reasons for failing to report as directed are of no consequence. He was aware of the reporting requirement and did not follow it. He is, therefore, guilty of the first two violations, which are technical in nature.

Violations 1 and 2, while proven by a preponderance, would not be sufficient to revoke Mr. Miller's parole. His explanation is plausible, and under the circumstances, there

would be a natural tension between the need to report within specific time frames and the ability to do so while employed at a site that is some distance from the Corrections office.

His illegal usage of drugs, however, is troubling because it follows just days from being released from jail on a similar violation. Mr. Miller had just been reinstated for the same conduct, yet immediately repeated the illegal conduct. The sanction for this flagrant behavior must be revocation. I, therefore, affirm the previous ruling of the Board.

I also concur in the Board's previous determination that Mr. Miller should receive a Conditional Discharge upon release from prison. This was also the recommendation of the CCO and AAG. The previous Findings and Conclusions make the case for Conditional Discharge as follows:

The decision to reinstate him to a Conditional Discharge from Supervision is a difficult decision, as it may seem to be rewarding his non-compliant behavior. On the other hand, Mr. Miller has served an aggravated sentence on an offense he committed as a juvenile. He has not committed similar crimes in 20 years and his ongoing violations seem to center around his drug addiction. The Board believes he is un-supervisable at this time, and that public resources should no longer be expended to monitor his behavior. Any criminal convictions in the intervening months until he is eligible for a final discharge may trigger another board revocation hearing.

Done at Olympia, Washington on the 17 day of December, 2009.


Betsy Hollingsworth, Member
Indeterminate Sentence Review Board

BH:is

cc: Mark Miller/Parolee
Jodery Goble/CCO
Sara Olson/Office of the Attorney General
Ellen Hanagen-Cruz, Victim Liaison
Randall Krog, Attorney for Mr. Miller



STATE OF WASHINGTON

INDETERMINATE SENTENCE REVIEW BOARD

4317 Sixth Ave., S.E. * P.O. Box 40907 * Olympia, Washington 98504-0907 * (360) 493-9266
(TDD Relay 1-800-833-6388)

DECISION AND REASONS

NAME:	MILLER, Mark
NUMBER:	265210
INSTITUTION:	McNeil Island Corrections Center (MICC)
TYPE OF MEETING:	.100 Hearing
DATE:	December 9, 2009
PANEL MEMBERS:	BH and TS
FINAL DECISION DATE:	December 18, 2009

This matter came before Betsy Hollingsworth and Thomas Sahlberg, who are members of the Indeterminate Sentence Review Board (ISRB or the Board), on the above date for a release hearing in accordance with the provisions of RCW 9.95.100. Mr. Miller appeared in person and was represented by attorney George Marlton. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Wooten and Mr. Miller. Others present at the hearing were: Diane Sweet.

BOARD DECISION:

This was a Deferred Decision. Based on the requirements of RCW 9.95.009(3) and RCW 9.95.100 and the totality of evidence and information considered by the Board, the Board finds that Mr. Miller is parolable with a Conditional Discharge. Mr. Miller will be required to write to the Board on a yearly basis to report his progress until he receives a Final Discharge and Restoration of Civil Rights. Any criminal convictions during this intervening time may trigger a revocation hearing.

PRE - D&R (3/09)

NEXT ACTION:

After compliance with the 35 day notification requirement, an order of release should be issued for Mr. Miller with a Conditional Discharge. The Board cuts any remaining time from his current Parole Eligibility Release Date, allowing Mr. Miller to be released as soon as possible.

JURISDICTION:

Mark Miller is under the jurisdiction of the Board on a conviction in Clark County Cause Number #79-1-00126-1 for First Degree Robbery. Mr. Miller was originally given a Deferred Sentence and placed on 5 years probation. In 1984 he robbed a gas station in Portland and received a conviction for Robbery 1st Degree. His deferred sentence in Washington was revoked on April 1, 1985, and he was sentenced to the maximum term to run consecutive to a new offense from Oregon. He was sentenced to prison in Oregon for 7 years before beginning his sentence in Washington in March of 1991. The time start is March 12, 1991. The minimum term was set at 33 months originally (36 months at PV) from an SRA range of 28 to 38 months. His maximum term is 40 years.

NATURE OF INDEX OFFENSE(S):

At age 17, Mr. Miller robbed a “mini-mart” as well as attempted to rob a café at gunpoint. When he was arrested by Sheriff’s Deputies a short time later, the gun was located inside his truck and was loaded.

PRIOR CRIMINAL CONDUCT:

On February 29, 1984 Mr. Miller was convicted of Unlawful Possession of a Firearm and Robbery 1st Degree in Oregon. Mr. Miller robbed and assaulted a gas station attendant. As indicated above, he completed confinement time on this offense in Oregon prior to being transferred to Washington to begin his confinement time on the index offense.

In July 1996 Mr. Miller was convicted of Attempted Theft of a Firearm and Assault 3rd Degree in Clark County Cause #96-1-00948-2. This involved an assault on a police officer and an attempt to take his weapon. Mr. Miller was on parole at the time, and his parole was revoked as a result of this conviction.

He had juvenile convictions for: Simple Assault in Clark County on 9/30/1978; Theft 2nd Degree in Clark County on 10/1/1977; Burglary 2nd Degree in Oregon on 6/28/1976; Burglary 2nd Degree in Oregon on 11/16/1975; and Theft 3rd Degree in Clark County on 12/21/1973.

HISTORY/COMMENTS:

Mr. Miller has been paroled on this offense on four occasions and has had multiple violation hearings in between. In each instance the violation behavior either involved drug use or some type of aggressive behavior. In a couple instances, firearms have also been involved. During the last several years, Mr. Miller's violations have revolved around drug usage and non-compliance with reporting requirement.

At a March 24, 2008 revocation hearing, Mr. Miller pled guilty to three violations: failing to submit a urine sample based on failing to report (two violations) and illegal drug usage. He was found guilty of these violations but was reinstated to Parole and released from custody with a provision that he should be granted a Conditional Discharge.

After being released from jail but prior to receiving his final discharge, Mr. Miller again tested positive for illegal drugs and was also violated for failing to report to his CCO as required. A parole revocation hearing was held on May 6, 2008. His parole was revoked. A new minimum term was set at 36 months, with a recommendation that he attend a Therapeutic Community (TC).

Mr. Miller challenged his revocation, and the Board agreed to conduct a new hearing on his violations. Because of difficulties in procuring an attorney for Mr. Miller and difficulties in transporting Mr. Miller back and forth between McNeil Island Corrections Center and various county jails for attorney interviews, his re-hearing was not completed until November 24, 2009. At that hearing, he was found guilty of the listed violations and sanctioned to revocation, with a minimum term of 36 months and credit for time served.

The frequent transfers between prison and jail made it difficult for Mr. Miller to engage in any meaningful programming or work during this incarceration. He did not participate in a TC and did not seem particularly interested in doing so.

EVIDENCE CONSIDERED:

In preparation for Mr. Miller's hearing and its decision in this case, the Board completed a review of Mr. Miller's Department of Corrections (DOC) and ISRB files. The Board considered all information contained in those files, including but not limited to: the most recent DOC facility plan; information regarding institutional behavior and programming; any letters of support and/or concerns sent to the Board; the Pre-Sentence Investigation report; and the various Findings of Fact and Conclusions of Law in this case. The Board also considered the testimony of the witnesses listed above.

REASONS:

Mr. Miller has done little during this incarceration; however, his transfers back and forth from prison to jail explain this. He has demonstrated that he can obtain employment quickly once released to the community. He also has considerable community and family support in the Goldendale area. He has housing available to him there as well. He has served approximately twenty months for his violations and no purpose would be served to require him to stay in prison until his current Parole Eligibility Release Date (PERD). Under these circumstances, we agree with the statement made in the Findings and Conclusions

from Mr. Miller's March, 2008 Revocation Hearing.

The decision to reinstate him to a Conditional Discharge from Supervision is a difficult decision, as it may seem to be rewarding his non-compliant behavior. On the other hand, Mr. Miller has served an aggravated sentence on an offense he committed as a juvenile. He has not committed similar crimes in 20 years and his ongoing violations seem to center around his drug addiction. The Board believes he is un-supervisable at this time, and that public resources should no longer be expended to monitor his behavior. Any criminal convictions in the intervening months until he is eligible for a final discharge may trigger another board revocation hearing.

Mr. Miller has two minor children who are presently in foster care. He testified at his hearing that upon release, he will be working toward getting his children returned to him. That goal may provide more motivation for Mr. Miller to stay away from drugs than anything the Department of Corrections can do.

BH:ch

December 17, 2009

CC: Institution
Mark Miller
File
Attorney for Mr. Miller



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

BOARD-NOTICE OF VIOLATION

REPORT TO: Indeterminate Sentence Review Board

DATE: 11/30/2010
DOC NUMBER: 265210

OFFENDER NAME: MILLER, Mark Lee

AKA: Cochise, Karate Kid

DOB: [REDACTED]

CRIME: Robbery 1st Degree

Clark COUNTY CAUSE #: 79-1-00126-1

SENTENCE: 40 years

DATE OF PAROLE: 02/03/2010

CHOOSE ONE: Klickitat County Jail

TERMINATION DATE: 12/13/2030

MAILING ADDRESS:

Unknown

STATUS: Suspended

CLASSIFICATION: High Violent

PREVIOUS ACTION:

- 01/12/2006 – VR submitted.
- 01/19/2006 – Violation was dismissed and reinstated on Parole.
- 03/09/2006 – VR submitted.
- 10/16/2007 – Order of Reinstatement of Parole/Community Custody.
- 03/05/2008 – VR submitted.
- 03/25/2008 – Order of Reinstatement of Parole/Community Custody.
- 04/22/2008 – VR submitted.
- 05/07/2008 – Order of Parole/Community Custody Revocation and Return to State Custody.
- 12/17/2009 – Parole Revocation Hearing: Findings and Conclusions.
- 02/03/2010 – Conditional Discharge From Supervision (CDFS).

VIOLATION(S) SPECIFIED: The above-named offender has violated conditions of supervision by:

Violation 1: Failing to obey all laws by assaulting Mr. Adam Joe Bronson with a knife, on or about 07/21/2010.

Violation 2: Failing to obey all laws by threatening to kill Mr. Rickie Dennis Boyer with knife, on or about 07/21/2010.

SUPPORTING EVIDENCE:

Violation 1 & 2: This information was taken from the Goldendale Police Department (GPD) Reports related to GPD Incident 10-G1795. On 07/21/2010, at approximately 0556 hours, the GPD was advised of a subject in the emergency room at the Klickitat Valley Hospital located in Goldendale, Washington. The subject was identified as Mr. Adam Bronson. Mr. Bronson had been stabbed in the lower section of his back on the right side. An investigation was conducted by the GPD. The investigation revealed there was an altercation between Mr. Adam Bronson, Mr. Rickie Boyer, and Mr. Mark Miller on 07/21/2010. The location of the altercation was at Ms. Sharla Green's residence, which is located at [REDACTED] Goldendale, Washington. The report indicated that Mr. Miller held a knife to Mr. Boyer's throat and threatened to kill Mr. Boyer. The report also indicated that Mr. Miller stabbed Mr. Bronson in the back during the altercation. The report mentioned several witnesses that were in the residence during the altercation. On 07/21/2010, Mr. Miller was arrested for Assault in the 1st Degree and placed in custody in the Klickitat County Jail.

On 11/29/2010, Mr. Miller's felony case was dismissed without prejudice in the Klickitat County Superior Court. Mr. Miller was charged with the crimes of Assault in 1st Degree (2 counts) and Harassment under Cause # 10-1-00117-6. The information in the Order of Dismissal Without Prejudice indicated that Mr. Boyer refused to meet with anyone regarding this case. Also, the rest of the witnesses interviewed have given conflicting stories. The Order mentioned no two versions of the events completely coincide with each other. Mr. Miller also had claimed he was defending himself during the altercation. The Order indicated the information from two witnesses interviewed (Paul McCullough and Sharla Green) supported the information provided to the State of a possible self defense issue. However, one of the victims, Mr. Adam Bronson vehemently denied any self defense claims from Mr. Miller.

ADJUSTMENT:

Mr. Miller, as evidence by the Previous Action Section of this report, has had several violations while on parole. Mr. Miller received his CDFS on 02/03/2010. Mr. Miller was in the community, with no DOC supervision, when he was arrested for Assault in the 1st Degree on 07/21/2010.

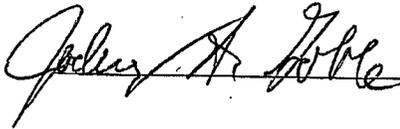
RECOMMENDATION:

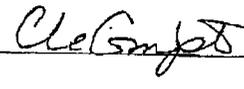
I recommend that Mr. Miller receive a board warning for the violations and be returned to active parole supervision.

I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:

Approved By:

 11/30/2010
DATE

 11-30-10
DATE

Jodery A. Goble
COMMUNITY CORRECTIONS OFFICER 2
Goldendale Field Office
228 S. Columbus, Suite 103
Goldendale, Washington 98620
Telephone (509) 773 - 5852

Catherine LeCompte
Community Corrections Supervisor

jag / CCO / Jodery A. Goble

Distribution: ORIGINAL - Board . COPY - Attorney General, Defense Attorney, File

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.

STATE OF WASHINGTON

INDETERMINATE SENTENCE REVIEW BOARD

ORDER OF PAROLE/COMMUNITY CUSTODY SUSPENSION AND

Parolee

PENDING FURTHER ORDER

CCB

TO ALL WHOM THESE PRESENTS SHALL COME,

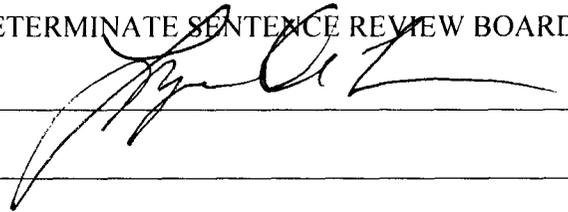
WHEREAS, Mark L. MILLER #265210, having been convicted of a felony and sentenced to a term of confinement and committed to the Department of Corrections by the Superior Court of the State of Washington for Clark County, on the 1st day of April, 1985, which sentence has not expired, and said person having thereafter been granted parole/community custody on the 3rd day of February, 2010, and,

WHEREAS, the Indeterminate Sentence Review Board, exercising the discretion vested in it by law, deems it to be in the public interest and for the best welfare of the parolee/community custodee that said person's parole/community custody be suspended pending a thorough investigation of the offender's conduct.

WARRANT

NOW, THEREFORE, the Indeterminate Sentence Review Board, by virtue of the authority vested in it by law, RCW 9.95.120, does hereby suspend the parole/community custody of Mark L. MILLER #265210, and authorizes and directs any peace or community corrections officer of the State of Washington, or any other state, to apprehend, take and hold said person in custody, until further order of the Board.

DONE at Olympia, Washington, this 30th day of July, 2010.

INDETERMINATE SENTENCE REVIEW BOARD


COPY SERVED THIS _____ day of _____, 20____.

Served by _____

Received _____

Position _____

Date Received _____

Probable Cause Review Sheet

Pre CCB

Offender LAST, First Name: MILLER, Mark L.		DOC#: 265210	Max Expiration Date: 12-13-2030
County of Arrest: Klickitat		Inmate Location: Klickitat Co Jail	Hearing Location: Goldendale
Arrest Date: 07/21/2010		Suspend Warrant: 7/30/2010	Violation Served: 8/2/2010
Call in:		Packet: 8/3/2010	Absconder: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
PC Review Due Date:	Schedule On-Site By:	Other Issues: Continue Pending Local Prosecution	Hearing Length:

CCO Name: Ronda Nielsen	Phone # (509) 773-5852	Email:	Field Office: Goldendale
Defense Attorney: Gwendolyn L Grundel	Phone # (509) 773-4262	Email:	Location: Goldendale

CRT Notes:

Hearing Date:	Time:	Location: Goldendale	Presiding Member:
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CCO Recommended:	<input type="checkbox"/> revocation <input checked="" type="checkbox"/> reinstatement <input checked="" type="checkbox"/> with additional conditions: Board Warning & active supervision. <input type="checkbox"/> other:
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CCO Reasons:

Hearing Investigator: Rich LaRosa	Date: 12/8/2010
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Hearings Investigator Comments:	<input type="checkbox"/> schedule violation hearing <input type="checkbox"/> appoint defense counsel <input type="checkbox"/> revocation <input checked="" type="checkbox"/> reinstate <input checked="" type="checkbox"/> without <input type="checkbox"/> with additional conditions Additional conditions <input type="checkbox"/> conditionally release inmate pending out-of-custody hearing <input type="checkbox"/> schedule <i>Akridge</i> hearing <input type="checkbox"/> postpone violation hearing pending local prosecution <input checked="" type="checkbox"/> other: Return to CDFS status
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PC email sent within 48 hrs? Yes No

Investigator Summary of CCO Recommendations and Analysis:
 Court dismissed all charges without prejudice on 11-29-10. Witnesses were uncooperative with authorities and/or gave conflicting statements. Could not determine if in fact this was or was not a case of self defense, which counsel for Miller presented. As Miller has not been convicted of any parole violations there is no reason to sanction him by returning him to active supervision rather than returning him to CDFS status. Other than this incident he has been arrest-free since the CDFS was granted 02-10. He will be eligible for his Final 02-13. There is no reason to believe witnesses will be any more cooperative with ISRB in this matter.

Are forms complete and correct Yes No

Board Member: 	<input checked="" type="checkbox"/> Agree with Hearings Investigator <input type="checkbox"/> Disagree	Date: 12-9-10
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Member Reasons:



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

BOARD-SPECIAL

REPORT TO: Indeterminate Sentence Review Board	DATE: 12/20/2011
OFFENDER NAME: MILLER, Mark Lee	DOC NUMBER: 265210
AKA:	DOB: [REDACTED]
CRIME: Robbery 1st	Clark COUNTY CAUSE #: 79-1-00126-1
SENTENCE: 40 Years	DATE OF PAROLE: 2/3/2010
Last Known Address: 514 S. Washington Street P.O. Box 345	TERMINATION DATE: 12/13/2030
MAILING ADDRESS: Goldendale WA 98620	STATUS: Inactive
	CLASSIFICATION: High Violent

The purpose of this report is to notify the Board of Mr. Miller's alleged criminal activities in the community since he was granted a Conditional Discharge from Supervision and to request that his Conditional Discharge be revoked and he be placed back on Active Parole.

In preparation for this report, a review of DISCIS records was completed on 12/20/11. It is important to note that between the years of 1995 - 2010, Mr. Miller was arrested 6 times for various crimes in the community to include DWLS, Malicious Mischief, Assault 3rd, DV Assault and Criminal Assault. He also had several parole violations for which he was returned to prison for sanctions due to community safety concerns during these years. However, in the 22 months since his release from prison after being granted a Conditional Discharge from Supervision he has been arrested 7 times for various crimes in the community four of which have yet to be adjudicated.

Despite DOC's recommendation to place him on active Parole following his violation sanction, the Board ultimately decided to grant him his Conditional Discharge from Supervision. He was subsequently released from prison on 2/3/2010 with a Conditional Discharge from Supervision. As stated previously, since Mr. Miller's release from prison he has been arrested 7 times for new law violations in the community. In July 2010, he was arrested for Assault 1st Degree and Harassment, these charges were dismissed without prejudice in November 2010. On 1/27/11, he was arrested for a Protection Order Violation, this charge was ultimately dismissed in April 2011. On 5/24/11, he was arrested for Disorderly Conduct, this charge was dismissed without prejudice in October 2011. In reviewing the District Court record for this Disorderly Conduct charge, the type of dismissal was in dispute, wherein Mr. Miller argued for a dismissal w/prejudice, the Prosecuting Attorney argued and was granted the Dismissal Without Prejudice. On 7/16/11, Mr. Miller was arrested for DWLS 3rd Degree, this case has yet to be adjudicated. On 8/6/11, he was arrested for Criminal Trespass 1st Degree and Disorderly Conduct, this case has yet to be adjudicated. On 9/6/11, Mr. Miller was arrested for Burglary 2nd Degree and Theft 3rd Degree, these charges have yet to be adjudicated. Finally, on 12/8/11, Mr. Miller was arrested for Unlawfully Harboring a Minor, this case involved his daughter, who had run away from a juvenile group home in Spokane and made her way to Goldendale. When law enforcement attempted to apprehend Ms. Cheyenne Miller, Mr. Miller allegedly refused law enforcement access

into the residence.

After Mr. Miller's arrest on 12/8/11, the Goldendale Police Department contacted Goldendale DOC and requested that Mr. Miller's continual criminal activity be addressed by the ISRB. It is clear that by Mr. Miller's actions that he has little regard for the laws in our community. Given the clear indication that Mr. Miller's criminal activities can be averted by active parole, I am recommending that his Conditional Discharge from supervision be revoked and he be placed back on active Parole.

I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:



12/20/11
Date



12/20/11
Date

Ronda L Nielsen
COMMUNITY CORRECTIONS OFFICER
Goldendale Field Office
228 S Columbus, Suite 103
Goldendale, Washington 98620
Telephone (509) 773 - 3708

Catherine LeCompte
Community Corrections Supervisor

RLN/RLN/12/20/11

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.

Distribution: ORIGINAL - Board COPY - Attorney General, Defense Attorney, File

INDETERMINATE SENTENCE REVIEW BOARD
ADMINISTRATIVE DECISION SHEET

Offender Name: Miller, Mark L.	DOC#: 265210	<input type="checkbox"/> CCB or x Pre-84
Hearing Officer: Rich LaRosa	CRT: Irene	DATE: 12-22-11
PERTINENT INFORMATION AND RELEVANT DOCUMENTS CONSIDERED: File material; Special report from CCO		
DESCRIPTION OF ISSUE(S): Miller was granted a CDFS 12-10 as he was basically unsuperviseable. In the past year he has been arrested 7 times – 3 of the matters were dismissed. The other 4 matters, including a Burglary, are still pending. He continues to be a local nuisance, & law enforcement has asked DOC to ask the Board to do something. I do not feel any of these matters would or could be impacted by supervision, not do any of these warrant a return to prison, particularly when all of the arrests that have gone to court have been dismissed. That is not a good track record for local authorities. It appears that in at least one court proceeding Miller represented himself & the matter was still dismissed. Some of the pending matters date to August.		
RECOMMENDATIONS: Continue on Present Status		
COMMENTS/ANALYSIS:		
DECISION: Other - SEE REASONS		
REASONS: Rescind CDFS effective immediately. The next action to be considered will likely be to schedule an on-site violation hearing. When a Violation Report is submitted by Mr. Miller's CCO, it must include evidence to be presented by witnesses (including law enforcement) of alleged criminal activity regardless of the outcome of local prosecution. Other alleged violations will be considered as well.		
AGREE: INITIAL/DATE	DISAGREE: INITIAL/DATE	
TNS 12/22/11 LD 12-22-11		

INDETERMINATE SENTENCE REVIEW BOARD
ADMINISTRATIVE DECISION SHEET

Offender Name: Miller, Mark L.	DOC#: 265210	<input type="checkbox"/> CCB or x Pre-84
Hearing Officer: Rich LaRosa	CRT: Irene	DATE: 04-12-12

PERTINENT INFORMATION AND RELEVANT DOCUMENTS CONSIDERED: File material; e-mail from DOC/CCD	
DESCRIPTION OF ISSUE(S): In 12-11 Miller's CDFS was rescinded & he was ordered back to active supervision per the CCO's recommendation. In 01-12 he was suspended for failing to report to his CCO. He was arrested in Lynwood, WA approximately a week later for local misdemeanor charges. He is due to be released on those approximately 04-23 or 24. There appear to be additional local charges in Goldendale that may be brought forward – a Burglary 2 & other misdemeanor issues. He has written letters to the Board while he has been in custody & they are well done. He has now been in custody for more than 3 months. The issues in Klickitat County are yet to be resolved at the local level. That area is not a good place for him to live, & he has indicated a desire to move to Lynwood. My feeling is that the local issues are being resolved & I would recommend that we reinstate him to active supervision at this time as the CCO's originally requested. At this point I do not see these behaviors as requiring a Board hearing as I do not feel any of this rises to the level of potential revocation.	
RECOMMENDATIONS: Reinstate Offender	
COMMENTS/ANALYSIS:	
DECISION: Concur in rec.	
REASONS: <i>concur. He needs to resolve his legal/court issue.</i>	
AGREE: INITIAL/DATE	DISAGREE: INITIAL/DATE
<i>[Signature]</i> 4-12-12	



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

BOARD-NOTICE OF VIOLATION

REPORT TO: Indeterminate Sentence Review Board

OFFENDER NAME: MILLER, Mark Lee
AKA: Cochise, Karate Kid
CRIME: Robbery 1st Degree
SENTENCE: 40 years

Last Known Address: 527 W Main St.
Goldendale, WA 98620

MAILING ADDRESS:
PO Box 345
Goldendale, WA 98620

DATE: 07/05/12
DOC NUMBER: 265210

DOB: [REDACTED]
Clark COUNTY CAUSE #: 79-1-00126-1
DATE OF PAROLE: 02/03/2010

TERMINATION DATE: 12/14/2030

STATUS: Active
CLASSIFICATION: High Violent

PREVIOUS ACTION:

01/12/2006 - VR submitted.

01/19/2006 - Violation was dismissed and reinstated on Parole.

03/09/2006 - VR submitted.

10/16/2007 - Order of Reinstatement of Parole/Community Custody.

03/05/2008 - VR submitted.

03/25/2008 - Order of Reinstatement of Parole/Community Custody.

04/22/2008 - VR submitted.

05/07/2008 - Order of Parole/Community Custody Revocation and Return to State Custody.

12/17/2009 - Parole Revocation Hearing: Findings and Conclusions.

02/03/2010 - Conditional Discharge From Supervision (CDFS).

07/30/2010 - Order of Parole Suspension.

11/30/2010 - VR submitted.

12/09/2010 - CDFS reinstated.

12/20/2011 - Board-Special submitted.

12/29/2011 - CDFS rescinded.
01/06/2012 - Order of Parole Suspension / Warrant Issued.
01/14/2012 - Mr. Miller was arrested on the warrant issued on 01/06/2012.
01/23/2012 - Violation Report submitted.
04/12/2012 - Order of Reinstatement of Parole.
06/27/2012 - Board Order for Arrest and Detention Served.

VIOLATION(S) SPECIFIED: The above-named offender has violated conditions of supervision by:

Violation 1:

Using illegal drugs, Methamphetamine/Amphetamine on or about 06/18/12.

SUPPORTING EVIDENCE:

Violation 1:

On 02/03/10, Mr. Miller was granted parole by the ISRB. At that time he was given a Conditional Discharge From Supervision (CDFS). However, on 12/29/11 the ISRB revoked his CDFS and returned him to active parole supervision. An Order of Parole Conditions Addendum was signed ordering him to not use, possess, or control any mind or mood altering substances, drugs, narcotics, controlled substances or drug paraphernalia without a valid prescription from a licensed physician. He signed this Order of Parole Conditions Addendum on 04/18/12.

On 06/18/12 he reported to WA DOC in Goldendale as directed. A urine sample was collected from Mr. Miller by Klickitat County District Court Probation Officer, Larry Barker, at the request of CCO Ronda Nielsen. An in office test indicated that it was positive for Methamphetamine. Mr. Miller denied using any illegal drugs, thus the sample was packaged and mailed to Sterling Reference Laboratories (SRL) for testing. On 06/27/12, WA DOC in Goldendale received a report from SRL indicating that the urine sample collected from Mr. Miller on 06/18/12, tested positive for Methamphetamine at 700 ng/mL and Amphetamine at 1771 ng/mL. On 06/27/12 a Board Order for Arrest and Detention was prepared for Mr. Miller's arrest and given to the Goldendale Police Department (GPD) for service. On 06/27/12 I received a phone call from GPD Officer Jay Hunsaker indicating that he had contacted Mr. Miller and served him with the Order for Arrest and Detention for the alleged parole violation and he was booked into the Klickitat County Jail.

ADJUSTMENT:

Mr. Miller's adjustment while on parole has been poor. Mr. Miller continues to use illegal drugs. A check with the WA District Court Records (DISCIS) on 7/5/12 indicated that Mr. Miller still has two pending charges for Criminal Trespass 1st Degree out of East Klickitat County District

Court. It also indicated that a warrant has been issued for his arrest out of Lynnwood Municipal Court for failing to appear for court on 06/19/12. The DISCIS report indicated that the bench warrant was issued on 06/21/12. Furthermore the DISCIS report indicated that on 04/11/12 Mr. Miller was found guilty by jury of Making False Statements to a Public Servant under case #2V0079517. At that time Mr. Miller was ordered to serve 364 days in jail with 254 suspended and 90 days credit for time served. A Violation Hearing had been scheduled for 6/19/12.

RECOMMENDATION:

I recommend Mr. Miller's parole be reinstated with an additional condition to obtain a drug/alcohol evaluation and follow through with all recommended treatment.

I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:

Approved By:

 7/5/12
DATE

 7-5-12
DATE

Ronda L. Nielsen
COMMUNITY CORRECTIONS OFFICER 3
Goldendale Field Office
228 S. Columbus, Suite 103
Goldendale, Washington 98620
Telephone (509) 773-5608

Catherine LeCompte
Community Corrections Supervisor

07/05/12 BJD/RLN

Distribution: ORIGINAL - Board COPY - Attorney General, Defense Attorney, File

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.

Probable Cause Review Sheet

Pre CCB

Offender LAST, First Name: MILLER, Mark L.		DOC#: 265210	Max Expiration Date: 12-14-2030	
County of Arrest: Klickitat		Inmate Location: Klickitat	Hearing Location: Klickitat	
Arrest Date: 06/27/2012		Suspend Warrant: 6-27-2012	Violation Served:	
Call in: 6-28-2012		Packet:	Absconder: <input type="checkbox"/> Yes <input type="checkbox"/> No	
PC Review Due Date: 7-11-2012	Schedule On-Site By: 7-23-2012	Other Issues:		Hearing Length:
CCO Name: Ronda Nielsen	Phone # (509) 773-5608	Email:	Field Office: Goldendale	
Defense Attorney:	Phone # ()	Email:	Location:	
CRT Notes:				
Hearing Date:	Time:	Location: Klickitat	Presiding Member:	

CCO Recommended:	<input type="checkbox"/> revocation <input checked="" type="checkbox"/> reinstatement X with additional conditions: Obtain drug/alcohol eval & follow thru with all recommended conditions. <input type="checkbox"/> other:
------------------	---

CCO Reasons:
None given

Hearing Investigator: Rich	Date: 7-12-12
----------------------------	---------------

Hearings Investigator Comments:	<input type="checkbox"/> schedule violation hearing <input type="checkbox"/> appoint defense counsel <input type="checkbox"/> revocation <input checked="" type="checkbox"/> reinstate <input type="checkbox"/> without x with additional conditions Additional conditions As above <input type="checkbox"/> conditionally release inmate pending out-of-custody hearing <input type="checkbox"/> schedule <i>Akridge</i> hearing <input type="checkbox"/> postpone violation hearing pending local prosecution <input type="checkbox"/> other:
---------------------------------	--

PC email sent within 48 hrs? Yes No not required on Pre's

Investigator Summary of CCO Recommendations and Analysis:

Miller was returned to active supervision from CDFS 12-11. This is his first violation since that time & the CCO's reco appears to be measured & appropriate for a first violation. The VR indicates his outstanding misdemeanors are slowly being settled. On 7-12-12 we received via fax information from an attorney indicating Miller has recently taken temporary custody of his 17 year old daughter & he is described as the only one who has been able to control her. Included in the packet is a home study done by DSHS in May & June 2012. If he is allowed to continue custody this may be a very positive move in his life. The attorney advised today that another relative of Miller's is caring for the girl while he is detained on the Board matter.

Are forms complete and correct Yes No

Board Member:	<input checked="" type="checkbox"/> Agree with Hearings Investigator <input type="checkbox"/> Disagree	Date: 7-13-12
---------------	---	---------------



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

BOARD-NOTICE OF VIOLATION

REPORT TO: Indeterminate Sentence Review Board
OFFENDER NAME: MILLER, Mark Lee
AKA: Cochise, Karate Kid
CRIME: Robbery 1st Degree
SENTENCE: 40 years
Last Known Address: 527 W Main St.
Goldendale, WA 98620
MAILING ADDRESS:
PO Box 345
Goldendale, WA 98620

DATE: 07/25/12
DOC NUMBER: 265210
DOB: [REDACTED]
Clark COUNTY CAUSE #: 79-1-00126-1
DATE OF PAROLE: 02/03/2010
TERMINATION DATE: 12/14/2030
STATUS: Active
CLASSIFICATION: High Violent

PREVIOUS ACTION:

- 01/12/2006 – VR submitted.
- 01/19/2006 – Violation was dismissed and reinstated on Parole.
- 03/09/2006 – VR submitted.
- 10/16/2007 – Order of Reinstatement of Parole/Community Custody.
- 03/05/2008 – VR submitted.
- 03/25/2008 – Order of Reinstatement of Parole/Community Custody.
- 04/22/2008 – VR submitted.
- 05/07/2008 – Order of Parole/Community Custody Revocation and Return to State Custody.
- 12/17/2009 – Parole Revocation Hearing: Findings and Conclusions.
- 02/03/2010 – Conditional Discharge From Supervision (CDFS).
- 07/30/2010 - Order of Parole Suspension.
- 11/30/2010 - VR submitted.
- 12/09/2010 - CDFS reinstated.
- 12/20/2011 - Board-Special submitted.

12/29/2011 - CDFS rescinded.
01/06/2012 - Order of Parole Suspension / Warrant Issued.
01/14/2012 - Mr. Miller was arrested on the warrant issued on 01/06/2012.
01/23/2012 - Violation Report submitted.
04/12/2012 - Order of Reinstatement of Parole.
06/27/2012 - Board Order for Arrest and Detention Served
07/13/2012 - Order of Reinstatement of Parole signed.
07/20/2012 - Board Order for Arrest and Detention served.

VIOLATION(S) SPECIFIED: The above-named offender has violated conditions of supervision by:

Violation 1:

Possessing alcohol on 07/20/2012 in Goldendale, WA.

Violation 2:

Failing to report to DOC as directed on 07/20/2012 in Goldendale, WA.

SUPPORTING EVIDENCE:

Violation 1 & 2 :

Supporting evidence for violations one and two will be combined for purposes of clarity.

On 02/03/10, Mr. Miller was granted parole by the ISRB. At that time he was given a Conditional Discharge From Supervision (CDFS). However, on 12/29/11 the ISRB revoked his CDFS and returned him to active parole supervision with directions to report as directed to DOC. An Order of Parole Conditions Addendum was signed ordering him to not use, possess, or control any alcohol. He signed this Order of Parole Conditions Addendum on 04/18/12.

On 07/20/12, CCO Myrl Weaver returned to the DOC office in Goldendale after going to the local market, indicating that he had seen Mr. Miller in the checkout line at Sentry Market with a 12 pack of Keystone Light and another bottle of alcohol in his possession. After informing my supervisor of his alcohol conditions we called Goldendale Police Department and requested back up as CCO Weaver and I went to the Sentry Market to contact Mr. Miller. However Mr. Miller was no longer at the store. Goldendale Police Department indicated they would continue to look for Mr. Miller and they were asked to detain him if he was found to be in possession of alcohol. Upon return to the DOC field office at approximately 10:00 am we were informed by our Supervisor Cathy LeCompte that Mr. Miller had called and was asking if we had sent the police after him. CCS LeCompte stated she told him that DOC needed to talk to him, and he was

directed to return to the Goldendale field office. He indicated he would be in the office in a few minutes. Mr. Miller reported to the DOC field office in Goldendale at approximately 4:10 pm on 7/20/12. At that time he was placed under arrest for possession of alcohol. When I informed him that he was seen purchasing alcohol in Sentry Market that morning he stated he was buying it for someone else. I informed him he was not allowed to possess alcohol even if purchasing for someone else. I also asked him why he failed to report as agreed upon this morning after speaking with to my supervisor Cathy LeCompte, he stated he went home to get his legal papers and didn't get them all rounded up until that moment. He was then transported to the Klickitat County Jail by GPD Officer Mike Smith and I served him with the Board Order of Arrest and Detention at the Klickitat County Jail. At that time I conducted a BPT on him which indicated that he was negative for alcohol use.

ADJUSTMENT:

Mr. Miller's adjustment while on parole continues to be extremely poor. He was just recently released from the Klickitat County Jail on 07/16/12 and was already violating his parole by possessing alcohol on 07/20/12. He continues to disregard directions given to him by DOC. As he was only in the community for 4 days before his arrest, he has yet to obtain the Drug/Alcohol evaluation which was ordered by the ISRB on the Order of Parole Conditions addendum dated 07/13/12.

RECOMMENDATION:

I recommend Mr. Miller's parole be reinstated with an additional condition to obtain a drug/alcohol evaluation within 15 days of release from confinement as previously directed and follow all recommended treatment. Furthermore I recommend he be ordered to report to DOC in Goldendale on a weekly basis as directed for a period of 8 weeks.

I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:

Approved By:



7/26/12
DATE



7-26-12
DATE

Ronda L. Nielsen
COMMUNITY CORRECTIONS OFFICER 3
Goldendale Field Office
228 S. Columbus, Suite 103
Goldendale, Washington 98620
Telephone (509) 773 - 5608

Catherine LeCompte
Community Corrections Supervisor

07/25/12 BJD/RLN

STATE OF WASHINGTON

Parolee

INDETERMINATE SENTENCE REVIEW BOARD
Olympia, Washington

CCB

ORDER OF REINSTATEMENT OF PAROLE/COMMUNITY CUSTODY

Robbery 1st Degree
Crime

79-1-00126-1
Cause

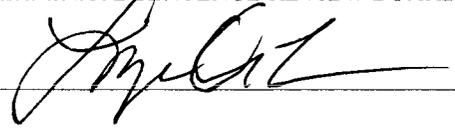
Clark
County

Mark Lee MILLER, former Washington Department of
Corrections No. 265210, having been paroled/released to community custody on the 3rd day of
February, 2010, and having thereafter, to-wit, on the 20th day of
July, 2012, the Order of Parole/Community Custody Suspension having been duly
entered; and it now appears that it would be for the best interest of this offender and society, that
his/her parole/community custody from Washington State be reinstated;

The INDETERMINATE SENTENCE REVIEW BOARD, in the exercise of its discretion of authority
vested in it by law, RCW 9.95.120, and 9.95.440 does hereby order that the parole/community custody status of
Mark Lee MILLER is hereby reinstated as of the 20th day of
July, 2012.

DONE at Olympia, Washington, this 26th day of July, 2012.

INDETERMINATE SENTENCE REVIEW BOARD





STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
 PO BOX 40907 • Olympia, Washington 98504-0907

IN THE MATTER OF:

Name: MILLER, Mark Lee
 DOC#: 265210
 Sent: 3/12/1991
 County: Clark Cause #: 79-1-00126-1
 Maximum Term: 40 years
 Max Expiration Date: 12-14-2030

**ORDER OF PAROLE
 CONDITIONS**
PRE Offenders
ADDENDUM #1
RCW 9.95.120
RCW 72.04A.070

You are under the jurisdiction of the ISRB and on parole for the length of your statutory maximum term, or until the ISRB issues your Final Discharge.

1. Obtain a drug/alcohol evaluation within 15 days of release from confinement, and follow all recommended treatment.
2. Report to DOC in Goldendale on a weekly basis as directed for a period of 8 weeks.

INDETERMINATE SENTENCE REVIEW BOARD

7-26-2012

Date of Decision:

Member's signature:

I have read, or have had read to me, the foregoing conditions of my parole and have been given a copy; I fully understand and I agree, in consideration of granting parole, to observe and abide by such conditions. I FURTHER UNDERSTAND THAT I AM ALSO ON SUPERVISION FOR THE FOLLOWING CONVICTION(S): Enter Conviction Enter Cause #

Date Served on Offender:

Offender's signature:

Mark Lee MILLER

Offender's name:

Witness's signature:



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

BOARD-NOTICE OF VIOLATION

REPORT TO: Indeterminate Sentence Review Board

DATE: 11/09/12
DOC NUMBER: 265210

OFFENDER NAME: MILLER, Mark Lee

AKA: Cochise, Karate Kid

DOB: [REDACTED]

CRIME: Robbery 1st Degree

Clark COUNTY CAUSE #: 79-1-00126-1

SENTENCE: 40 years

DATE OF PAROLE: 02/03/2010

Last Known Address: Klickitat County Jail
Goldendale, WA 98620

TERMINATION DATE: 12/14/2030

MAILING ADDRESS:

PO Box 345
Goldendale, WA 98620

STATUS: Active

CLASSIFICATION: High Violent

PREVIOUS ACTION:

- 01/12/2006 – VR submitted.
- 01/19/2006 – Violation was dismissed and reinstated on Parole.
- 03/09/2006 – VR submitted.
- 10/16/2007 – Order of Reinstatement of Parole/Community Custody.
- 03/05/2008 – VR submitted.
- 03/25/2008 – Order of Reinstatement of Parole/Community Custody.
- 04/22/2008 – VR submitted.
- 05/07/2008 – Order of Parole/Community Custody Revocation and Return to State Custody.
- 12/17/2009 – Parole Revocation Hearing: Findings and Conclusions.
- 02/03/2010 – Conditional Discharge From Supervision (CDFS).
- 07/30/2010 - Order of Parole Suspension.
- 11/30/2010 - VR submitted.
- 12/09/2010 - CDFS reinstated.
- 12/20/2011 - Board-Special submitted.

12/29/2011 - CDFS rescinded.
01/06/2012 - Order of Parole Suspension / Warrant Issued.
01/14/2012 - Mr. Miller was arrested on the warrant issued on 01/06/2012.
01/23/2012 - Violation Report submitted.
04/12/2012 - Order of Reinstatement of Parole.
06/27/2012 - Board Order for Arrest and Detention Served.
07/05/2012 - Violation report submitted.
07/13/2012 - Order of Reinstatement of Parole signed.
07/20/2012 - Board Order for Arrest and Detention served.
07/25/2012 - Violation report submitted.
07/26/2012 - Order of Reinstatement of Parole signed.
08/08/2012 - Board Order for Arrest and Detention served.
08/20/2012 - Order of Reinstatement of Parole signed.
09/06/2012 - Secretary's Warrant issued.
10/26/2012 - Arrested and served with Board Order for Arrest and Detention.

VIOLATION(S) SPECIFIED: The above-named offender has violated conditions of supervision by:

Violation 1:

Failing to report to DOC as directed since 08/29/12 in Goldendale, WA.

Violation 2:

Failing to report a change of residence on or about 09/10/12.

Violation 3:

Failing to obtain a drug/alcohol evaluation as directed on 07/26/12.

SUPPORTING EVIDENCE:

Violation 1 :

On 07/26/12 the ISRB signed an Order of Parole Conditions instructing Mr. Miller to report to DOC in Goldendale on a weekly basis as directed for a period of 8 weeks. On 07/27/12 Mr. Miller signed this Order of Parole Conditions acknowledging his understanding and agreement to comply. Due to failing to report as directed on 08/08/12 Mr. Miller was served a Board Order of Arrest and Detention in the Klickitat County Jail. On 08/20/12 the Board signed an Order of Reinstatement of Parole for Mr. Miller and he was released from the Klickitat County Jail on 08/21/12. He was instructed to report to DOC on 08/28/12. He failed to report as directed thus I called his emergency contact person, his sister Angel. She indicated she didn't know where he

was at nor how to get a hold of him. However she would stop by his house that night, I asked her to tell him to report to DOC on 08/29/12 if she saw him. She promised to give him the message. On 08/29/12 Mr. Miller did report to the DOC office as directed. When I asked why he failed to report on 08/28/12 he stated he was looking for another place to live that was cheaper than the place in Goldendale plus he wanted to get out of Goldendale and was going to Klickitat to look at a place there however his ride broke down and he never made it to Klickitat and was stuck at the bottom of the grade at a small park for a couple of nights. He stated he did not have a cell phone to call DOC. At that time I gave him a business card instructing him to report to DOC in Goldendale on 09/04/12. He agreed to do so. Mr. Miller failed to report to DOC as directed on 09/04/12. Thus on 09/05/12 I prepared a Board Order of Arrest and Detention and e-mailed it to the Klickitat County Sheriff's Office dispatch for service on Mr. Miller. On 09/06/12 I was informed by Goldendale Police Department that they could not locate Mr. Miller at his last known address thus I issued a Wanted Persons Entry Request issuing a Secretary's Warrant for Mr. Miller's arrest.

Violation 2:

On 12/29/11 an Order of Parole Conditions was signed by the ISRB indicating "all conditions except A listed on the Order of Parole dated 12/31/09 remain in full force and effect." As such he was ordered to abide by any special conditions imposed by the ISRB or any written instructions issued by a CCO. On 04/18/12 he signed a DOC Consent for Drug/Alcohol Testing form indicating that he was to report any changes in his address or telephone number to his CCO immediately.

Due to Mr. Miller's failing to report as directed and unknown whereabouts, on 09/10/12 CCS LeCompte, CCO Conrad and I attempted to contact Mr. Miller at his last listed residence. We noticed that two males were in front of the property. One was a Goldendale City Works Employee and another male who appeared to be having a severe water leak at the residence. The other male saw us pull up and went into the residence. When we knocked on the door no one came to the door. The male was not Mr. Miller and didn't look familiar to DOC. DOC also noticed a lot of materials that had not been at this residence in the past. It appeared to DOC that Mr. Miller was no longer living at that residence.

Violation 3:

On 07/26/12 an Order of Parole Conditions was signed by the ISRB ordering Mr. Miller to obtain a drug/alcohol evaluation within 15 days of release from confinement and follow all recommended treatment. He was released from confinement on 07/27/12. On 08/08/12 he was arrested for failing to report to DOC. On 08/20/12 his parole was reinstated and he was again released from confinement and reminded that he was still to obtain a drug/alcohol evaluation as previously directed on 07/26/12. To date he yet to abide by this condition of his parole.

ADJUSTMENT:

Mr. Miller's adjustment while on parole continues to be extremely poor. He continues to fail to report as directed and has obviously changed his residence without notifying DOC and he has yet to obtain the drug/alcohol evaluation which was ordered by ISRB on the Order of Parole Conditions addendum dated 07/13/12 and 07/26/12.

It should be noted that on 10/26/12 Mr. Miller was spotted by Goldendale Police Department Officer Wyzykowski behind the IGA Market in Goldendale. When Officer Wyzykowski attempted to apprehend Mr. Miller on the outstanding DOC warrant Mr. Miller allegedly jumped out of the vehicle and started running South bound away from the officer. The officer indicated that he gave chase and yelled for Mr. Miller to stop and he did not comply and continued to run. According to Officer Wyzykowski's report he was finally able to apprehend Mr. Miller and Mr. Miller was cited for Resisting Arrest and given a court appearance of 11/08/12. Mr. Miller was then taken into custody on the outstanding DOC warrant. Furthermore, on 11/07/12 I received a telephone call from Officer Wyzykowski informing me that he would be charging Mr. Miller with Possession of Stolen Property 2nd Degree as it appeared at the time he was arrested on 10/26/12 he was in possession of jewelry that has been reported stolen to the Skamania County Sheriff's Office. Officer Wyzykowski stated that he would be providing DOC with an addendum to his previously received police report.

Mr. Miller continues to disregard directions given to him by DOC and now it appears that he is being charged with a new felony for Possession of Stolen Property 2nd Degree. Thus the following recommendation appears appropriate.

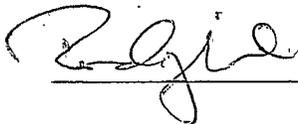
RECOMMENDATION:

I recommend that the ISRB schedule a hearing. At that hearing I recommend that Mr. Miller's parole be revoked and he be returned to state custody for a period to be determined by the ISRB.

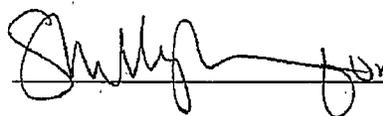
I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:

Approved By:



11/9/12
DATE



11-9-12
DATE

Ronda L. Nielsen
COMMUNITY CORRECTIONS OFFICER 3
Goldendale Field Office
228 S. Columbus, Suite 103
Goldendale, Washington 98620
Telephone (509) 773 - 5608

Catherine LeCompte
Community Corrections Supervisor

08/17/12 BJD/RLN

DOC 09-114 (Rev. 01/05/12) E-Form

Page 4 of 5
DOC 320.100, DOC 320.155
BOARD - NOTICE OF VIOLATION

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
PO BOX 40907 • Olympia Washington 98504-0907

IN THE MATTER OF:

Name: MILLER, Mark Lee
DOC#: 265210
Sent: 3/12/1991
County: Clark Cause #: 79-1-00126-1
Maximum Term: 40 years
Max Expiration Date: 12-14-2030

**ORDER OF PAROLE
CONDITIONS**

PRE Offenders

ADDENDUM #1

RCW 9.95.120

RCW 72.04A.070

You are under the jurisdiction of the ISRB and on parole for the length of your statutory maximum term, or until the ISRB issues your Final Discharge.

1. Do not leave Klickitat County without prior permission from your CCO.

INDETERMINATE SENTENCE REVIEW BOARD

8-20-2012

Date of Decision:

Member's signature:

I have read, or have had read to me, the foregoing conditions of my parole and have been given a copy; I fully understand and I agree, in consideration of granting parole, to observe and abide by such conditions. I FURTHER UNDERSTAND THAT I AM ALSO ON SUPERVISION FOR THE FOLLOWING CONVICTION(S): Enter Conviction Enter Cause #

Date Served on Offender:

Offender's signature:

Mark Lee MILLER

Offender's name:

Witness's signature:



STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD
PO BOX 40000 • Olympia, Washington 98504 • (360) 493 9000 FAX • (360) 493 9050

FINDINGS AND CONCLUSIONS

NAME:	MILLER, Mark	
DOC#:	265210	
MEETING TYPE:	Violation Hearing	<input checked="" type="checkbox"/> Pre-84
DATE:	January 8, 2013	<input type="checkbox"/> CCB
LOCATION:	Klickitat County Jail	
BOARD MEMBER:	Tom Sahlberg	
FINAL DECISION DATE:	January 17, 2013	

This matter came before the above named Presiding Board Member of the Indeterminate Sentence Review Board (ISRB or the Board) on the above date for a parole violation hearing. Mr. Miller appeared in person and was represented by attorney Chris Lanz. Present for the Department of Corrections was Community Corrections Officer Ronda Nielsen. The Board Member, having heard all evidence and testimony of witnesses and considering arguments of counsel and documents submitted by all parties, makes the following:

FINDINGS:

- I. Mr. Miller was convicted of Robbery in the First Degree under Clark #79-1-00126-1
- II. Mr. Miller was released from custody on February 3, 2010, subject to the rules and conditions of parole custody and under the supervision of a Community Correction Officer (CCO).
- III. On September 5, 2012, parole was suspended for allegedly committing the following violations of supervision:
 1. Failing to report to DOC in Goldendale as directed since 8/29/2012.
 2. Failing to report a change of residence on or about 9/10/2012.
 3. Failing to obtain a drug/alcohol evaluation as directed on 7/26/2012.
 4. Using illegal drugs, Methamphetamine on or about 12/27/12.
 5. Using a controlled substance, Opiates without valid prescription on or about 12/27/12.

* Violations 4 and 5 were added on January 2, 2013.
- IV. The above violations are in connection with the Order of Release issued by the Board on December 31, 2009.
- V. At the hearing on January 8, 2013 Mr. Miller entered a plea of Guilty to violations 1 and 3; and Not Guilty to violations 2, 4, and 5 as charged. The Presiding Member findings Mr. Miller Guilty of violations 1, 3, 4 and 5, and Not Guilty of violation 2 as charged. Violations 4 and 5 were combined and considered as one violation by agreement.

CONCLUSIONS:

- I. Mr. Miller has violated the conditions of parole as stated above.
- II. It would be in the best interest of the public and for the best welfare of Mr. Miller that an Order of Parole Revocation be issued and Mr. Miller be returned to the Washington Corrections Center at Shelton, Washington, or other institution as determined by the Department of Corrections. The Indeterminate Sentence Review Board (ISRB) will administratively set a new minimum term within 30 days of this decision.

EVIDENCE RELIED UPON:

On January 8, 2013, the Presiding Member heard the testimony of CCOs Ronda Nielsen and Nathaniel Conrad (telephonic), Cecile Miller, Julie Scherf, and Mr. Miller.

The Board Order for Arrest and Detention, Rights and Privileges relating to Parole Revocation Procedures, Violations Specified, Board Notice of Violation and Request for Appointment of Counsel served on October 30, 2012 AND the Board Order for Arrest and Detention, Rights and Privileges Relating to Parole Revocation Procedures, Violations Specified, Board Notice of Violation and Request for Appointment of Counsel served on December 27, 2012 were found to have been properly served.

REASONS FOR DECISION:

Mr. Miller's parole was suspended on September 5, 2012 as an absconder. He was subsequently arrested on October 26, 2012. On December 5, 2012, an Order of Conditional Release from Custody pending the Onsite Parole Revocation hearing was issued and the parole violation hearing was scheduled for January 8, 2013, to be held out of custody in the Goldendale Field Office. On December 27, 2012, the ISRB was notified that Mr. Miller had been arrested and was back in custody with additional violations. The location of the parole violation hearing was changed to the Klickitat County Jail, but the date and time for the hearing was maintained.

CCO Nielsen read each violation and Mr. Miller pled Not Guilty to alleged violations 2, 4 and 5. He pled Guilty to alleged violation 1 and 3 with explanation. Mr. Miller explained that he was in custody during some of the period of time he did not report to his CCO as ordered. He also alleged that another offender had threatened him, that he became stranded and without a phone, and he was "working up the courage" to turn himself in, knowing that he had an outstanding warrant for his arrest. Regarding not having completed a drug/alcohol evaluation as ordered by the Board, he explained that he refused to have the evaluation done locally as his CCOs "fingers run deeply" in the community. He claimed to have gone to Vancouver where tribal resources were available, but that they required more information from DOC to conduct the evaluation and then he got arrested and lost their contact information.

Regarding violation 2, CCO Nielsen testified that Mr. Miller had told her in an August 29, 2012 conversation that he was looking for a new residence. When he did not report she and two other CCOs attempted to contact him at his listed address on September 10, 2012. They observed City Water employees making repairs to a water leak and observed a male enter the residence as they arrived. The male was not Mr. Miller. When they knocked on the door no one answered. Materials that were not present in the past were observed at the residence and it appeared that Mr. Miller no longer lived there.

Mr. Miller testified that he had been at his residence on September 10, 2012 and that he lived there until his arrest in December. He did not answer the door because he knew that he had an outstanding warrant for his arrest and did not want to go to jail.

Regarding violations 4 and 5, Mr. Miller's attorney objected to the violations being considered. He argued that the sole evidence was hearsay and would not be admissible in Superior Court citing WAC 381.70.140. The Presiding Member ruled that the violations would be heard and that any finding would not be made based on uncorroborated hearsay.

CCO Nielsen testified that Mr. Miller reported to the DOC office on December 27, 2012 and a urine sample was collected. CCO Conrad was present in the men's bathroom and he witnessed Mr. Miller urinate into the sample cup. Both CCOs and Mr. Miller then went to the UA room and observed that the sample indicated positive for the presence of Methamphetamine and Opiates. Mr. Miller requested that the sample cup be sent to a laboratory for confirmation. CCO Nielsen spoke with her supervisor and it was determined that the necessary criteria for additional testing as required by new DOC policy had not been met. When asked, Mr. Miller denied using any illegal drugs, then said that it was possible the test was positive because he saw some white powdery substance in the bottom of his purse and that he stuck his finger into it to see what it was. He indicated that it tasted bitter and that it could be Opiates but that it did not taste like Methamphetamine. Mr. Miller was arrested and has been in custody since this occurred.

CCO Nathaniel Conrad was contacted telephonically and sworn in. He testified that the UA sample cup was sealed when he accompanied Mr. Miller in the bathroom. Mr. Miller took off his jacket and laid it aside. CCO Conrad then unsealed the cup and Mr. Miller urinated into it. CCO Conrad took possession of the cup and it was in his control as they walked to the UA room. He observed the sample results to test positive for Methamphetamine and Opiates and negative for 4 other substances. After it was decided that the sample cup would not be sent to the lab, it was discarded.

Mr. Miller's attorney asked both CCOs if they asked Mr. Miller if he was on prescription medications. Neither CCO recalled asking Mr. Miller about prescriptions at that time. CCO Nielsen asked Mr. Miller if he remembered signing a consent form requiring him to advise the CCO if he was on any prescription or other medications and Mr. Miller admitted that he did remember signing forms but was uncertain of the exact wording of the forms. Mr. Miller stated that UA tests administered in 2006 had been positive but that the results were thrown out after further testing. This is why he asked the sample be tested further. He testified that he is certain that the white powder he tasted was not Methamphetamine and insisted that he had taken no illegal drugs.

The Presiding Member did not find that there was sufficient proof that Mr. Miller had changed his residency and found him Not Guilty of Violation 2. The Presiding Member found Mr. Miller Guilty of the remaining violations and combined 4 and 5 into one violation. The testimony of CCOs Nielsen and Conrad were first-hand observations and directly related to the alleged violation and are not hearsay. In addition, Mr. Miller's testimony regarding tasting the white powder corroborates the likelihood that he ingested a substance which later tested positive in his urine.

In the dispositional phase, Cecile Miller (Mr. Miller's Mother) testified that her son's recent behavior was "very good, better than ever" and that he had been helpful repairing items at her home. She allowed him to stay in her home which she had not done in the past. She asked for her son to be reinstated and released from supervision, saying; "...punishment no longer works on him" and that he would "flourish" if he was given the opportunity to start over in another community. Regarding the instant violations, she said that her son "has only hurt himself" and that the community was not in danger from his actions.

Julie Scherf (Mr. Miller's ex-wife and Mother of children they have in common) testified that they had spent a lot of time together during the past 6 months and that he was a good worker who sometimes "took on too much trying to help others". In the past he had been "mean and aggressive" but now "he has conducted himself well". She believed that "supervision has held him back" from employment opportunities and asked that he be reinstated without active supervision.

Attorney Christopher Lanz said that he has represented Mr. Miller since 1998. He argued that in an "equitable and fair" comparable SRA sentence his client would have been dealt with much differently and that Mr. Miller's 34 years under the jurisdiction under the Board were excessive. He also characterized past and recent violations as more technical in nature and not a risk to public safety. He and recommended that Mr. Miller be reinstated and that a Conditional Discharge from Supervision (CDFS) be granted as it had in the past. If Mr. Miller is convicted of a felony, the Board could again revoke his parole.

This brought up discussion of the current charge of Possession of Stolen Property 2nd Degree out of Lynnwood, WA for which Mr. Lanz is representing Mr. Miller. The status of this charge has not yet been determined and there is a conference date set for January 22, 2013, with a trial date set for February 6, 2013. Mr. Lanz agreed to keep the Board informed of the outcome of these proceedings.

Mr. Miller asked the Board to return him to the community and to grant a Conditional Discharge From Supervision (CDFS). He said that he had been under the jurisdiction of the ISRB for a robbery conviction since he was 17 years old and was a "good part of the community". He described himself as a 51 year old man with "a fantastic reputation and work record" who has lost jobs due to being supervised by DOC, and arrested for violations he did not commit. He said that he prevailed on all appeals that he has brought against his CCO and DOC and characterized the past and current violations as more technical than criminal.

CCO Nielsen testified that Mr. Miller had been granted a CDFS, but that shortly thereafter he was arrested numerous times. This caused DOC to request a "Board Special" asking the ISRB for guidance as he was not demonstrating rehabilitation in the community. After the Board rescinded the CDFS Mr. Miller continued to violate conditions of parole and now has a felony charge pending trial. In addition, he was found Guilty in Linwood of Giving a False Statement, a misdemeanor. She described actions against Mr. Miller since 2006 which includes the submission of at least 8 Violation Reports, Mr. Miller's parole revocation in 2008, his CDFS being rescinded in 2011 and his recent violations while on active supervision. Mr. Miller would not report when ordered creating concern for his whereabouts and activity. CCO Nielsen said that "I do not know what he is capable of" especially if/when is using drugs and she disputed that his violations and arrests were merely technical in nature. She observed that Mr. Miller has not shown that he can live in the community without breaking the law and violating conditions of parole and is therefore not rehabilitated and should be returned to prison where he can participate in CD treatment which he has been unwilling to do.

Mr. Miller said that he "does not have a problem with alcohol or drugs" and that he does not need treatment. He admitted that he needed to take care of "legal issues" and then has a possible job in Arizona. He begged for the Board to allow him to see "the light at the end of the tunnel" again.

The Board has tried repeatedly to work with Mr. Miller, recognizing the length of time he has served in prison and under supervision in the community. However, when paroled and especially while not under active supervision he has continually demonstrated an ongoing disregard for appropriate behavior and rule following. His attitude and actions clearly do not meet the statutory standard of being totally rehabilitated and as a result the Board has the responsibility to return him to prison.

Offender MILLER, Mark

DOC #: 265210

Page 6 of 6

Mr. Miller is encouraged to invest his time in prison towards positive programming, activities and employment opportunities and to complete CD treatment. The Board will also consider the outcome of his pending felony charge.

TS:is

CC: Mark Miller/Offender
Chris Lanz/Attorney
Rhonda Nielsen/CCO/Goldendale
File



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

**BOARD-SUPPLEMENTAL
NOTICE OF VIOLATION**

REPORT TO: Indeterminate Sentence Review Board

DATE: 12/31/12
DOC NUMBER: 265210

OFFENDER NAME: MILLER, Mark Lee

AKA: Cochise, Karate Kid

CRIME: Robbery 1st Degree

SENTENCE: 40 years

Current Location:
Klickitat County Jail
Goldendale, WA 98620

DOB: [REDACTED]

Clark COUNTY CAUSE #: 79-1-00126-1

DATE OF PAROLE: 02/03/2010

CHOOSE ONE:

Last Known Residence:

[REDACTED]
Goldendale, WA 98620

TERMINATION DATE: 12/13/2030

MAILING ADDRESS:

STATUS: Active
CLASSIFICATION: High Violent

This report supplements the Notice of Violation Report dated 11/09/12, a copy of which is attached.

ADDITIONAL ACTION:

12/05/12 – Order of Conditional Release from Custody Pending On-site Parole Revocation hearing signed.

12/27/12 – Served with Board Order of Arrest and Detention.

ADDITIONAL VIOLATION(S) SPECIFIED: The above-named offender has violated conditions of supervision by:

EXHIBIT 38

Violation 4:

Using illegal drugs, Methamphetamine on or about 12/27/12.

Violation 5:

Using a controlled substance, Opiates without valid prescription on or about 12/27/12.

SUPPORTING EVIDENCE:

Supporting evidence for allegations 4 and 5 will be combined for purposes of brevity.

Violations 4 and 5:

On 04/18/12, Mr. Miller signed an Order of Parole Conditions acknowledging his responsibility not to use, possess, or control any mind or mood altering substance, drugs, narcotics, controlled substances, or drug paraphernalia without a valid prescription from a licensed physician. He was further ordered to submit to periodic and random drug and/or alcohol monitoring as directed.

On 12/27/12 Mr. Miller reported to the DOC in Goldendale. A urine sample was collected from Mr. Miller, witnessed by CCO Nathaniel Conrad. When CCO Conrad brought Mr. Miller back into the UA room for testing, I observed the instant test was testing positive for Methamphetamine and Opiates. I asked him why the cup was testing positive and he denied using any illegal drugs. He requested the cup be sent into the laboratory for confirmation however I informed him that per new DOC policy the cup could not be sent in to the laboratory for confirmation unless it met certain criteria. I called my supervisor CCS Cathy LeCompte and indicated to her that I believed that the cup was accurate and that Mr. Miller had been using illegal drugs, we discussed the criteria for sending cup to lab for confirmation and agreed it did not meet the criteria per DOC policy, thus the cup was not mailed into the laboratory. I again confronted Mr. Miller with the results from the instant test and he stated he had been thinking that it might be due to finding one of his purses yesterday in his belongings that had been stored in his mother's residence. He stated he saw some white powdery substance in the bottom of the purse and stuck his finger into it to taste it to see what it was. He indicated it tasted bitter and thought it could be the Opiates but did not taste like Methamphetamine. Due to the positive UA result Mr. Miller was taken into custody and transported to the Klickitat County Jail for these violations. While at the jail I served Mr. Miller with the Board Order of Arrest and Detention which he signed on 12/27/12.

SUBSEQUENT DEVELOPMENTS:

On 12/05/12 the Board issued an Order of Conditional Release from Custody Pending an On-site Parole Revocation hearing and Mr. Miller was released from the Klickitat County Jail with the following special conditions, "any violations of conditions of this order or any violations of conditions of parole would result in immediately being returned to custody under the authority of the above specified Order of Parole." He was also directed to report to his CCO as directed. Mr.

Miller was placed on daily reporting with DOC until his parole revocation hearing which is scheduled for 01/08/13. He had been reporting daily as directed.

A check with the Klickitat County Superior Court records indicate that on 11/08/12 he was formally charged with Possession of Stolen Property 2nd Degree under Klickitat County Cause #12-1-00159-8. He was granted a personal recognizance release. A check with district court records also indicated that Mr. Miller was formally charged with Resisting Arrest in East Klickitat County District Court on 11/08/12 and he is still pending charges of Criminal Trespass 1st Degree from an incident in April 2012. According to Klickitat County District Court records and Klickitat Co. Superior Court records Mr. Miller has attended all of his court ordered appearances. However it now appears he has been using illegal drugs in violation of his parole conditions.

RECOMMENDATION:

At the hearing scheduled for 01/08/13, I recommend Mr. Miller's parole be revoked and he be returned to state custody for a period to be determined by the ISRB.

I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:

Approved By:



1/2/13
DATE



1-2-13
DATE

Ronda L. Nielsen
Community Corrections Officer 3
228 S. Columbus, Suite 103
Goldendale, Washington 98620
Telephone (509) 773 - 5608

Cathy LeCompte
Community Corrections Supervisor

BID/RLN/12-31-12

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STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD
 PO BOX 40907 • Olympia Washington 98504 • (360) 493-9266 FAX (360) 493-9287

CONDITIONAL DISCHARGE FROM SUPERVISION

TO ALL WHOM THESE PRESENTS MAY COME:

WHEREAS, Mark Lee MILLER, No. 265210 was on the
1st day of April, 1985, committed to a Washington
 Correctional Facility from Clark County, for the crime(s) of
First Degree Robbery

Under Cause Number(s) 79-1-00126-1

and,

WHEREAS, said person was on the 3rd day of February, 2010
 released on parole, and

WHEREAS, it now appears that no useful purpose would be served by continuing the said person under active parole supervision;

NOW THEREFORE, the Indeterminate Sentence Review Board of the State of Washington does hereby grant said individual a discharge from supervision subject to the following conditions:

1. That the parolee shall make an annual written report to the Indeterminate Sentence Review Board as to his or her present residence, occupation, and earnings for the year.
2. That the parolee shall obey the law at all times.
3. That the parolee shall continue under the legal custody and control of the Indeterminate Sentence Review Board until the expiration of the maximum sentence already fixed or until discharged by the Indeterminate Sentence Review Board.
4. That the parolee understands the Conditional Discharge From Supervision does not restore the right to vote or hold public office.
5. That the parolee understands that he or she is not given permission to own or posse firearms.
 NOTE: This can only be restored through the Washington Attorney General's Office.
6. That the parolee understands this Conditional Discharge From Supervision is not valid until signed by the parolee and returned to the Board.

DATED at Olympia, Washington this 9th day of December, 2010

INDETERMINATE SENTENCE REVIEW BOARD



Parolee's Signature

EXHIBIT 39

Inmate: MILLER, Mark Lee (265210)

Gender: Male	DOB: [REDACTED]	Age: 51	Category: Regular Inmate	Body Status: Active Inmate
RLC: HV	Wrap-Around: No	Comm. Concern: No	Custody Level: Minimum 3 - Long Term Minimum	Location: MCC-TRU — D / D1182
ERD: 10/25/2013	CC/CCO: Sager, Steven M			

Details

Date & Time Created: 12/07/2012 05:13 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/07/2012
 DOC No.: 265210
 Offender Name: MILLER Mark Lee
 Author Name: Nielsen Ronda
 Events: Field Offender (FP)

Text

RCVD ORDER OF CONDITIONAL RELEASE FROM CONFINEMENT FROM THE ISRB FOR MR. MILLER, DIRECTING HIM TO BE RELEASED FROM CUSTODY TODAY, 12/7/12, PENDING OUT OF CUSTODY PAROLE REVOCATION HRG SCHEDULED FOR 1/8/13. I WENT TO THE KLICK.CO.JAIL AND SERVED MR. MILLER W/ORDER. COPY OF ORDER WAS PROVIDED TO THE KLICK.CO.JAIL STAFF INSTRUCTING THEM TO RLS MR. MILLER FROM CUSTODY. THEY WERE CHECKING FOR ANY OTHER OUTSTANDING HOLDS/WARRANTS FOR MR. MILLER PRIOR TO HIS RELEASE. I GAVE MR. MILLER MY BUSINESS CARD AND DIRECTED HIM TO REPORT TO DOC IN GOLDENDALE ON 12/10/12 BETWEEN 9AM-NOON.

Date & Time Created: 12/07/2012 10:36 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/07/2012
 DOC No.: 265210
 Offender Name: MILLER Mark Lee
 Author Name: Duggan Brenda
 Events: Telephone Collateral (TC)

Rcvd phone call from IRSB rep Rich LaRosa stating that P was being released from Klickitat County Jail from the parole board hold. A out of custody hearing will be held on 01/08/12 at the DOC Goldendale Field Office. I passed this information on to CCO Nieslen who then left me reporting instructions for P to report to the Goldendale Field office on 12/10/12 at 3pm if he reports into the office today.

Date & Time Created: 11/28/2012 11:37 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/27/2012
 DOC No.: 265210
 Offender Name: MILLER Mark Lee
 Author Name: Nielsen Ronda
 Events: Comment (CM)

AFTER DISCUSSING ISRB'S DECISION TO POSTPONE HRG UNTIL AFTER PENDING FELONY CHARGES BEING ADJUDICATED, W/RICH LAROSA, I RCVD COPY OF ORDER SETTING CONDITIONS OF PRETRIAL RELEASE ON MR. MILLER'S PENDING PSP 2ND FELONY CHARGE UNDER KLICK.CO. 12-1-00159-8. MR. MILLER WAS GRANTED A PERSONAL RECOGNIZANCE RELEASE ON 11/8/12 AND JURY TRIAL WAS SET FOR 2/6/13. I INFORMED MR. LAROSA OF MR. MILLER'S CURRENT STATUS W/KLICK.CO.SUPERIOR COURT FOR THE ISRB'S CONSIDERATION. I ALSO PROVIDED MR. LAROSA W/MR. MILLER'S COURT APPOINTED ATTORNEY'S NAME & PH#, (CHRIS LANZ 509-493-2921) MR. LANZ MAY BE ABLE TO REPRESENT MR. MILLER AT HIS ISRB HRG, IF/WHEN ONE IS SCHEDULED.

Date & Time Created: 11/14/2012 04:20 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/14/2012
 DOC No.: 265210
 Offender Name: MILLER Mark Lee
 Author Name: Seifert Irene
 Events: ISRB Hearing (BH)

EXHIBIT 40

ISRB has postponed scheduling the violation hearing pending local prosecution. Please advise ISRB ASAP once local charges are resolved.

Date & Time Created: 11/05/2012 11:39 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/05/2012
 DOC No.: 265210

RCVD COPY OF POLICE REPORT FROM GPD FOR ARREST OF MR. MILLER ON 10/26/12 FOR RESISTING ARREST. HE WAS TAZERED TWICE BY LE DUE REPORTEDLY TO NOT FOLLOWING COMMANDS TO STOP, COMING TOWARD THE OFFICER, PLACING HIS HANDS IN HIS POCKETS. CANINE

Offender Name: MILLER Mark Lee
Author Name: Nielsen Ronda
Events: Law Enforcement Contact (CT)

OFFICER ALSO ASSISTING IN DETAINING MR. MILLER BY BITING HIS RIGHT FOREARM, UNTIL COMMAND WAS GIVEN BY GPD OFFICER TO RELEASE. MR. MILLER HAS COURT DATE SET FOR 11/8/12.

Date & Time Created: 10/30/2012 10:53 AM
Offender Location At Occurrence: Not Unique
Date & Time Of Occurrence: 10/30/2012
DOC No.: 265210
Offender Name: MILLER Mark Lee
Author Name: Nielsen Ronda
Events: Field Offender (FP)

MET W/MR. MILLER IN THE KLICK.CO.JAIL. SERVED HIM W/RIGHTS & PRIVILEGES RELATING TO PAROLE REVOCATION PROCEDURES, VIOLATION SPECIFIED, REQUEST FOR APPOINTMENT OF COUNSEL. HE SIGNED ALL FORMS ACKNOWLEDGING THAT HE HAD BEEN SERVED. MADE COPIES FOR HIM AND GAVE TO JAIL STAFF TO GIVE TO HIM. I ALSO SERVED HIM W/INFORMATION SUBMITTED ON BEHALF OF ALLEGED PAROLE VIOLATOR FORM.

INDETERMINATE SENTENCE REVIEW BOARD
ADMINISTRATIVE DECISION SHEET

Offender Name: Miller, Mark L.	DOC#: 265210	<input type="checkbox"/> CCB or <input checked="" type="checkbox"/> Pre-84
Hearing Officer: Rich LaRosa	CRT: Irene	DATE: 12-04-12
PERTINENT INFORMATION AND RELEVANT DOCUMENTS CONSIDERED: Letter from Miller; file material		
DESCRIPTION OF ISSUE(S): Miller is presently being held on a suspension warrant & new felony charges of PSP 2 with trial set for February. He has been PR'd on the PSP 2 so is being held only on the suspension warrant with allegations of failing to report since August, changing residence & failing to get a drug & alcohol eval. He is eligible to get a Final in February. We are trying to get an on-site set up the first week of January. Miller states in his letter he is fearful of losing his housing.		
RECOMMENDATIONS: Other as Described in Comments		
COMMENTS/ANALYSIS: AS he has been PR'd on the new charges, reco we grant a Conditional Release with a condition that he not leave the county without prior permission from the CCO, that he report to the CCO as directed & that he appear for his on-site. He does have counsel already appointed for the on-site.		
DECISION: Other - SEE REASONS		
REASONS: Per H.O. recommendation – grant Conditional Release. Issue Addendum requiring prior permission from CCO for ANY travel outside of the County AND that he report to his CCO as directed AND appear for his on-site that will be scheduled soon.		
AGREE: INITIAL/DATE	DISAGREE: INITIAL/DATE	
TNS 12/5/12		

INDETERMINATE SENTENCE REVIEW BOARD

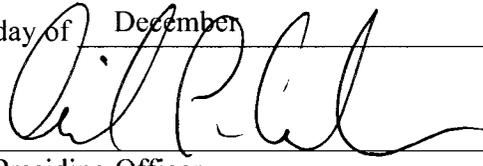
In the Matter of)
 Mark L. MILLER)
 DOC #265210)
 A Parolee/Community Custodee)

ORDER OF CONDITIONAL RELEASE
 FROM CUSTODY PENDING ON-SITE PAROLE/
 COMMUNITY CUSTODY REVOCATION HEARING

Mark MILLER _____, having been paroled/released to community custody on the 3rd day of February, 2010, and having thereafter, to-wit, on the 5th day of September, 2012, the ORDER OF PAROLE/COMMUNITY CUSTODY SUSPENSION having been duly entered, IT NOW APPEARS that it would be for the best interest of this parolee/community custodee and society that said parolee/community custodee be CONDITIONALLY RELEASED FROM CUSTODY PENDING the Parole/Community Custody Revocation Hearing. NOW, THEREFORE, under the authority of the Indeterminate Sentence Review Board, and with the concurrence of Tom Sahlberg _____, Member, IT IS HEREBY ORDERED that Mark MILLER _____, be conditionally released from custody as of the 7th day of December, 2012, under the conditions of your parole/community custody and the following special conditions:

- (1) Said parolee/community custodee will appear at the time and place designated by the Board for the Parole/Community Custody Revocation Hearing
- (2) Upon any violation of the conditions of this order, or any violation of the conditions of the parole/community custody order, said parolee/community custodee will immediately, without further hearing or order, be revoked, and said parolee/community custodee will be immediately returned to custody under authority of the above-specified ORDER OF PAROLE/COMMUNITY CUSTODY SUSPENSION.
- (3) Do not leave Klickitat County without prior permission from your CCO.
- (4) Report to your CCO as directed.

DONE at Olympia, Washington this 5th day of December, 2012.



 Presiding Officer
 Indeterminate Sentence Review Board

cc: Community Corrections Officer
 County/City Jail
 Assistant Attorney General
 File

EXHIBIT 42

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

In re the Personal Restraint Petition of:

MARK L. MILLER,

Petitioner.

DECLARATION OF
ROBIN RILEY

I, ROBIN RILEY, make the following declaration:

1. I am an Administrative Assistant 5 (AA5) for the Department of Corrections (DOC) at the Indeterminate Sentence Review Board (ISRB) office in Lacey, Washington. I have knowledge of the facts stated herein and am competent to testify.

2. The ISRB maintains an offender board file for each offender under the ISRB's jurisdiction. This file contains information on an offender's sentence structure and documents relevant to his history with the ISRB. As an AA5, I am a custodian of records kept by the ISRB in the ordinary course of business.

3. Upon request of the Attorney General's Office, I provided correct copies of several documents from the board file of offender Mark Miller, DOC No. 265210, to be used as exhibits. These include the following:

- Order Deferring Sentence, *State v. Miller*, Clark County Superior Court Cause No. 79-1-00126-1

EXHIBIT 43

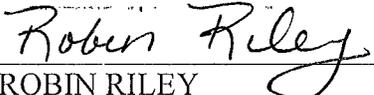
- Order of Revocation of Probation and Judgment and Sentence, *State v. Miller*, Clark County Superior Court Cause No. 79-1-00126-1
- Judgment Order, *State v. Miller*, Multnomah County Circuit Court Cause No. C 84-03-30992
- Presentence or Intake Summary Report for Clark County Superior Court Cause No. 79-1-00126-1
- Sentence Fixed by Board, dated December 10, 1991
- Decisions and Reasons, dated December 10-13, 1991
- Decisions and Reasons, dated August 17, 1993
- Decisions and Reasons, dated November 10, 1993
- Parole Revocation Hearing: Findings and Conclusions, dated February 27, 1996
- Parole Revocation Hearing: Findings and Conclusions, dated February 25, 1997
- Parole Revocation Hearing: Findings and Conclusions, dated November 12, 1998
- Parole Revocation Hearing: Findings and Conclusions, dated November 9, 1999
- Decisions and Reasons, dated September 18, 2000
- Parole Revocation Hearing: Findings and Conclusions, dated June 20, 2001
- Parole Revocation Hearing: Findings and Conclusions, dated January 28, 2002

- Parole Revocation Hearing: Findings and Conclusions, dated April 24, 2002
- Parole Revocation Hearing: Findings and Conclusions, dated October 16, 2007
- Parole Revocation Hearing: Findings and Conclusions, dated March 28, 2008
- Parole Revocation Hearing: Findings and Conclusions, dated May 7, 2008
- Parole Revocation Hearing: Findings and Conclusions, dated December 17, 2009
- Decisions and Reasons, dated December 18, 2009
- Board—Notice of Violation, dated November 30, 2010
- Order of Parole/Community Custody Suspension, dated July 30, 2010
- Probable Cause Review Sheet, dated December 9, 2010
- Board—Special, dated December 20, 2011
- Administrative Decision Sheet, dated December 22, 2011
- Administrative Decision Sheet, dated April 12, 2012
- Board—Notice of Violation, dated July 5, 2012
- Probable Cause Review Sheet, dated July 13, 2012
- Board—Notice of Violation, dated July 25, 2012
- Order of Reinstatement of Parole/Community Custody, dated July 26, 2012
- Order of Parole Conditions, dated July 26, 2012

- Board—Notice of Violation, dated November 9, 2012
- Order of Parole Conditions, dated August 20, 2012
- Findings and Conclusions, dated January 17, 2013
- Board—Supplemental Notice of Violation, dated December 31, 2012
- Conditional Discharge from Supervision, dated December 9, 2010
- Administrative Decision Sheet, dated December 4, 2012
- Order of Conditional Release, dated December 5, 2012

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

EXECUTED this 10th day of July 2013, at Lacey, Washington.


ROBIN RILEY

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

In re the Personal Restraint Petition of:

MARK L. MILLER,

Petitioner.

DECLARATION OF
RONDA LARSON

I, RONDA LARSON, make the following declaration:

1. I am an assistant attorney general (AAG) for the Washington Attorney General's Office (AGO) at the Corrections Division in Olympia, Washington. I have knowledge of the facts stated herein and am competent to testify.

2. I am familiar with the Offender Management Network Information (OMNI) software used by the Department of Corrections (DOC) and am authorized by the DOC to retrieve information from OMNI. Among other things, OMNI tracks information regarding an offender's location and custody.

3. I printed out correct copies of the OMNI Legal Face Sheet and chronos for Mark Miller, DOC No. 265210, to be used as exhibits.

4. The AGO maintains a case file for each lawsuit to which it is a party. This file contains documents received by this office and filed

by this office in the case. As an AAG, I am a custodian of records kept by AGO in the ordinary course of business.

6. I made a correct copy of the Response of the Indeterminate Sentence Review Board from the AGO case file of *In re Miller*, Washington Supreme Court Case No. 82556-4, to be used as an exhibit.

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

EXECUTED this 10th day of July 2013, at Olympia,
Washington.


RONDA LARSON

WASHINGTON STATE ATTORNEY GENERAL

July 11, 2013 - 2:57 PM

Transmittal Letter

Document Uploaded: prp2-446910-Response.pdf

Case Name: In re the Personal Restraint Petition of Mark L. Miller

Court of Appeals Case Number: 44691-0

Is this a Personal Restraint Petition? Yes No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

Brief: ____

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____

Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

Sender Name: Karen E Thompson - Email: karent2@atg.wa.gov