

**FILED**

JUL 09 2014

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

No. 311627

WASHINGTON STATE COURT OF APPEALS  
DIVISION III

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KENNETH STEPHENS, Appellant

v.

STATE OF WASHINGTON, Appellee

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APPELLANT'S BRIEF

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## TABLE OF CONTENTS

|   | <u>PAGE</u> |
|---|-------------|
| I. ASSIGNMENTS OF ERROR   | 1           |
| Assignment of Error No. 2:  | 1           |
| Assignment of Error No. 1:  | 1           |
| II ISSUES PERTAINING TO THE ASSIGNMENTS OF ERROR:   | 2           |
| Issue No. 1:  | 2           |
| Issue No. 2:  | 2           |
| III <u>STATEMENT OF THE CASE</u>  | 3           |
| IV <u>ARGUMENT</u>  | 17          |
| A. The Trial Court should have Granted Kenneth Stephens’<br>Motion for Directed Verdict on the Issue of the<br>Department of Correction’s Error in the Calculation of<br>Good Time and Court Ordered Credits. |             |
| V. <u>CONCLUSION</u>  | 24          |

## TABLE OF AUTHORITIES

### Table of Cases

### Page No.

|  |                |
|--|----------------|
| <u>Cowsert v. Crowley Maritime Corp.</u> ,<br>101 Wn.2d 402, 405, 680 P. 2d 46 (1984)  | 18             |
| <u>Hojem v. Kelly</u> , 93 Wash.2d 143,<br>145, 606 P.2d 275 (1980).)  | 1              |
| <u>In re the Personal Restraint Petition of Costello</u> ,<br>137 Wn. App 828, 834, 129 P.3d 827 (2006)  | 18, 19, 20, 21 |
| <u>Pederson's Fryer Farms, Inc. v. Transamerica</u> ,<br>83 Wn.App. 432, 437, 922 P.2d 126 (1997).   | 18             |
| <u>Ramey v. Knorr</u> , 130 Wn.App. 672, 676,<br>124 P.3d 314, (Wash.App. Div. 1 2005).)   | 1,18           |
| <u>Sommer v. Department of Social and Health Services</u> ,<br>104 Wn.App. 160, 172, 15 P.3d 664, <u>review denied</u> ,<br>144 Wn. 2d 1007, 29 P.3d 719 (2001); | 1              |

## I. ASSIGNMENTS OF ERROR

### Assignment of Error No. 1:

The trial court erred in denying Appellant's Stephens Motion for a Directed Verdict on the issue of the error in the calculation of his release date. (The standard of review on this issue is de novo. Ramey v. Knorr, 130 Wn.App. 672, 676, 124 P.3d 314, (Wash.App. Div. 1 2005).)

### Assignment of Error No. 2:

The jury verdict, in favor of the State of Washington was not supported by substantial evidence. (The standard of review on this issue is de novo. Sommer v. Department of Social and Health Services, 104 Wn.App. 160, 172, 15 P.3d 664, review denied, 144 Wn. 2d 1007, 29 P.3d 719 (2001); Hojem v. Kelly, 93 Wash.2d 143, 145, 606 P.2d 275 (1980).)

**II. ISSUES PERTAINING TO THE ASSIGNMENTS  
OF ERROR:**

**Issue No. 1:** Should the trial court have granted Stephens' motion for a directed verdict on the issue of liability of the State of Washington for making an error in the calculation of Kenneth Stephens release date, where Ms. Stigall, the Department of Corrections' Records Department, admitted that she put the **wrong case first**, resulting in her taking away Ken Stephens good time credits for the "Shopko case," 06-1-0264-7?

**Issue No. 2.**

Should the court reverse and remand for trial, because the jury verdict was not supported by substantial evidence, where there was no dispute that Ms. Stigall calculated the credits on the Shopko case incorrectly, because the Ken Stephens release dates on both cases would have been before he was transported to Shelton for processing?

### III. STATEMENT OF THE CASE

Steven testified that he was an honor Society in high school and had a scholarship for baseball. (RP 60-77) He also indicated that he had made the mistake of quitting after his first trimester of college. The first trimester he was sick with bronchopneumonia, and then he was trying to get caught up with baseball practice. He said that his small-town boy in a big city and just got sick of it left.

He married his high school sweetheart in 1979 and was married to her for 10 years. He testified that he started smoking marijuana and that turned out to be a gateway drug for him. He was hang around with a doctor's son and they experimented with all drugs. Eventually, unfortunately, can Stephens became addicted to cocaine. (RP 61 through 62) He was making lots of money in Alaska as crab fishermen. (RP 62). Although no one did drugs when they were out to sea, he would be using cocaine during the breaks from fishing. At one point, he was making

about 80,000 years a crab fishermen. (RP 60) He would work for six months and then come home for a month and a half.

The cocaine addiction started causing problems with the marriage. They had two children at home. His boy was in kindergarten and his daughter was in third grade. RP 64 - 65. Eventually Ken Stephens put himself in treatment at Sundown Ranch in Yakima in an effort to save his marriage. He admitted that his addiction was selfish for regardless of the kind of money he was making. (RP 65- 67)

Stephens and his wife separated in 1989 after having been together for 15 years. They were divorced in 1989. He remained sober for five months after that. (RP 69) Stephens relapsed after started hanging out the same doctor's son. After he divorced, he fished another five years. (RP 69 )

He had a new girlfriend who left him after he went back fishing. (RP 71) He stated that he gave up life for a while. (RP 71) The drug became his new girlfriend. (RP 71) He admitted

that for an average cocaine user the addicted person spends about 300 and 500 per day for his habit.(RP 73) Stephens testified that he starting started shoplifting to supplement his income. (RP73) At some point, the stealing became an addiction as well. (RP 73)

He became addicted to shoplifting in about his mid-30s. (RP 75). Keep 77. He went through treatment again in October 1 week of number of November 2012. (RP 77) He completed his treatment as far as probation was concerned and got a certificate. (RP 77) at the time of trial, he indicated he was clean and sober except that he smoked a little bit of pot. (RP 78). He indicated he hadn't had cocaine for two and a half years as of the first day of trial.

Exhibit No. 1 at the trial was the judgment with cause No. 06-1-02624-7 referred to during the trial as the "Shopko case." last sentence re-ShopKo. Exhibit # 2 admitted at the trial was a judgment and sentence from cause no. 06-1-02170-9

referred to during the trial as the “coin-box” case.(See Appendices A and B, Ex#1 and 2)

During the trial, Kenneth Stephens discussed the felony judgment and sentence which occurred on February 6, 2007. On page 2 of that judgment Stephens was sentenced to 17 months on count one. A note on the side of that sentence indicated as follows: "DOC will check to see if When the Chelan hold was made to see if he gets a few more days credit."

During the case, the state of Washington referred to this case as the Shopko case. 06-1-02624-7.

Exactly one year later, Stephens was sentenced on another case with the case number 06-1-02170-9. See appendix B. In this sentence, Stephens was sentenced to 22 months on count 1 on the “coin box case.” (See Appendix B)

The Defendants exhibits numbers 30 and 31, which were also admitted at trial, were the same as exhibits 1 and 2 admitted at trial, except for that had the J & S with the Stigall's notations on them. This included Stigall marking one sentence "A" and one sentence "B." (See Appendices D and E) Ms. Stigall wrote "A" on the "coin box" case, and "B" on the Shopko case. (See Appendices D and E, Ex. # 30 and 31)

Ms. Stigall, the Department of Corrections Records Officer, discussed the ability of the Department of Corrections to review credits to determine whether they are "consecutive" or "concurrent" per the Costello decision in 2005. (RP 234-235) She explained that the Department of Corrections has the authority to correct a jail certification. for a manifest error (RP 235)

Ms. Stigall looked at the two judgments and sentences and indicated that she recognized her handwriting on these documents. (See Appendices A and B) Ms. Stigall admitted

that she decides which cause is going to run first and she marks the Jail credits. (RP 239)

She referred to the second-degree possession of stolen property case dated 2/11/08. On that case, Ms. Stigall indicated that the jail time given was 387 days jail time and 193 days good time. On that judgment, the judgment said the credit was to be given from 11/16/06 plus three days. (RP 243). She had marked she had handwritten the A capital letter A on that judgment to reflect that that is the first sentence that would be served. (RP 254) Ms. Stigall had written the capital letter B on what had been referred to as the ShopKo case, indicating that sentence was the second sentence to be served (RP 254).

During cross examination, it was pointed out that the first case Stephens was sentenced on was that he was going to spend time on was actually the ShopKo case; and the second case he was to serve time on with the “coin box case.”(RP 254)

It was clear from the testimony that Ms. Stigall had become confused because Stephens was sentenced on February 6, 2007, and exactly one year later on February 6, 2008, and then sentenced on the “coin box” case exactly one year later on February 6, 2008. The one with “A” on it was it earlier cause number, but Ms. Stigall admitted that the first case Stephens *was sentenced* on was the 06-1-0264-7 case, referred to during the trial as the Shopko 2007 case. The second case, which Ms. Stigall had marked as “A” was 06- 1- 02170–9., the “coin box” case. (RP 254-5). *Ms Stigall admitted that she took away Stephens good time and time served credits from the 06 -1-02624–7 case, which was a “Shopko” case.* Mr. Stephens was sentenced on that case first.

Ms. Stigall also admitted that DOC policy states that even if it says consecutive, DOC is supposed to apply those credits according to the judges' decision. (RP 258) (See Appendix F) Ms. Stigall also admitted that on the Shopko case,

06-1-0264-7, Stephens was sentenced and received 17 months and 15 days credit (RP\_254-5) She further admitted that Stephens was entitled to one third off for good time (RP 262).

Stephens counsel asked Ms. Stigall to figure out the credit for the 17 month sentence. In the courtroom, Ms. Stigall calculated out that the credit to be given for a third off was approximately 348 days (RP 263). She then admitted that 348 days is less than a year, as a year is 365 days (RP 263). Ms. Stigall further admitted that exactly one year later Stephens was sentenced on the “coin box” case. (RP 263).

Stephens’ Counsel asked Ms. Stigall “Is the first case consecutive, ma’am, to the second one? Is it consecutive?” Ms. Stigall answered, “I think they’re consecutive to each other.” Stephens counsel then asked “what does the word “consecutive” mean?” Ms. Stigall answered “they are back to back. On pages 265-6 the colloquy indicated that Ms. Stigall

was confused about the meaning of “consecutive sentences” (RP 264).

On for the cross examination, Stigall was forced to admit that Stephens was convicted on the cause that she had marked as “B” first. (RP. 266) Miss Stigall indicated that ERD means early release date. (RP 268) She further reluctantly admitted that Stephens did not do anything to ruin his third off on the first case, the ShopKo case. (RP 269 -270) Stigall asserted that she had discretion pursuant to Costello to deny Stephens double credits and to adjust it at that point.(RP 274).

The trial judge asked Ms. Stigall several questions. After the questions, the court instructed the jury that case numbers are based on the year the charges are filed or the date of arrest. (RP 278). Although Stigall indicated that she did not know why Stephens was kept in the Yakima County Jail if he had already served his time on the first case he was sentenced on, she later

admitted that it could be that the Yakima County had a hold on him because he had to resolve the other case. (RP 279)

Stephens, when he testified on rebuttal, indicated that Yakima did have a hold out on him until he resolved the second case. The judge had indicated in the second case that he was sending Stephens to Shelton and there was a warrant of commitment because the sentence was over 12 months. (RP 283).

On February 6, 2007 Kenneth L. Stephens was sentenced on cause number 06-1-02624-7 to 17 months for second degree theft. (See Appendix A) Exactly one year later, on February 6, 2008, Stephens was sentenced on cause number 06-1-02170-9 to 22 months for second degree possession of stolen property. (See Appendix B) Both sentences indicated that they were to run consecutively. See Appendix A and B, supra, SS 4.A.2.

On the February 6, 2007, during the sentencing on 06-1-02624-7, the judge gave Stephens credit for 15 days with a note for DOC to check if he would get a few more days credit. See Appendix A, supra.

Initially, the Yakima County Department of Corrections issued a certification for credit for time served/earned release time showing that Stephens would get 387 days credit for time served and 193 “earned release time” (good time).( Appendix C, Ex #3) Wendy Stigall reviewed the jail certifications and determined that Yakima had given credit for jail time served on two consecutive sentences contrary to the Costello decision. (See Appendix D, Ex # 30) Wendy Stigall directed a member of her staff to point out this error to the Yakima County Jail Administration and asked for a corrected jail certification to eliminate the double credits received on the consecutive sentences. (See Appendix E, Ex. #6). Wendy Stigall testified that she relied on the Department of Corrections’ policy 350.100. (Appendix F, Exhibit #6)

Yakima County jail complied and amended the certification. The “corrected” jail certification for cause number 06-1-02624-7 resulted in the elimination of 372 jail days and 193 days good time. (RP 92, 109-143)

On 2/13/2008 Stephens received the first jail certification, he wrote his first kite explaining the error, and asking the Department of Corrections’ records department to correct the error. (Appendix F, Exhibit #8, first page) Stephens continued writing kite after kite regarding this problem. (Appendix G, Ex. 8, first page) (RP\_92, 109-143)

Stephens also scheduled a central file review. (See Appendix H, Ex. #22). Stephens received no relief from the Department of Corrections, so he wrote Judge Gavin directly. (See Appendix I, Ex. #9)\_ A hearing was ultimately held on July 21, 2008 in front of Judge Gavin. (See Appendix I , Ex # 21)

On July 21, 2008 Judge Gavin granted Stephens’ motion and restored Stephens” pretrial confinement credits on case

number 06-1-02624-7. (See Appendix J) The court amended the judgment and sentence in cause number 06-1-02624-7 to give him “credit for time served in the Yakima County jail” giving Stephens 387 credit for days served. (Appendix J, Ex. #21). Thus, his early release date was changed from 1/8/09 to 1/22/08. He was returned to the Washington State Penitentiary to be released on 7/25/08 as that was the first available transport date. The Department of Corrections issued an order of release. **(See Appendix K, Ex. # 26)**

From the date he was sentenced on 06-1-02624-7 on February 6, 2007 until a year later on February 6, 2008 (the date of sentencing on 06-1-02170-9) Stephens was serving his sentence on 06-1-02624-7.

At the conclusion of the evidence, both sides made motions for a directed verdict. Judge Bridges denied both motions. (303-305) Judge Bridges was conflicted, however, indicating "something within me tells me logically that this case

involves an issue of law, at least with respect to liability, but I cannot put my finger on the law that gives me the answer to your respective arguments, Counsel, so I'm going to deny both the plaintiffs as well as – or the defendants' as well as the plaintiffs' motion for verdict.... He also indicated that "it's pretty clear to me that the first sentence was not consecutive with the second sentence. I mean, I think – I just don't think it could be. And so I'm going to let this case go to the jury and the jury is going to have to answer whether not the department was unjustified and taking actions they did here."

The jury signed the special jury form indicating tha"no" to the first question which asked, " Did the Department of Corrections unjustifiably confine Kenneth Stephens, under the circumstances, beyond the period of time that it was legally entitled to confine him? (Appendix L,)

## IV ARGUMENT

### **A. The Trial Court should have Granted Kenneth Stephens' Motion for Directed Verdict on the Issue of the Department of Correction's Error in the Calculation of Good Time and Court Ordered Credits.**

A directed verdict may be granted only if "there is no legally sufficient evidentiary basis for a reasonable jury to find or have found for that party with respect to that issue." A motion for a directed verdict admits the truth of the evidence of the non-moving party and all inferences that reasonably can be drawn therefrom. The evidence must be considered in the light most favorable to the nonmoving party. The trial court may grant a directed verdict only when it can be held that as a matter of law, there is no evidence, nor reasonable inferences from the evidence, to sustain the verdict. This court reviews a motion for a directed verdict de novo.

Ramey v. Knorr, 130 Wn.App. 672, 675, 124 P.3d 314, (Wash.App. Div. 1 2005).

A directed verdict is appropriate, if when viewing the material evidence most favorable to the nonmoving party, the court can say as a matter of law, that there is no substantial evidence or reasonable inferences to sustain a verdict for the nonmoving party. Pederson's Fryer Farms, Inc. v. Transamerica, 83 Wn.App. 432, 437, 922 P.2d 126 (1997). Substantial evidence is that which convince an unprejudiced, thinking mind of the truth of the declared premise. Cowsert v. Crowley Maritime Corp., 101 Wn.2d 402, 405, 680 P. 2d 46 (1984) (internal citations omitted). The inquiry on appeal is whether the evidence presented was sufficient to sustain the jury's verdict. Pederson's, 83 Wn. App. at 437.

Appellant Kenneth Stephens agrees that In re the Personal Restraint Petition of Costello, 137 Wn. App 828, 834, 129 P.3d 827 (2006), the Department of Corrections has the authority to disregard a jail's calculation of credit for time

served or good time if the certification contains a manifest error of law. The State argues, therefore, that it did not wrongfully imprison Mr. Stephens because up until the court's order on July 21, 2008 amending the sentence in the 06-1-02624-7 case, it followed the Costello decision and denied Mr. Stephens' double credit for time served on consecutive cases.

The State's analysis overlooks the fact that in this case Mr. Stephens started serving his time on the 06-1-02624-7 case the day he was sentenced on February 6, 2007. So the State did wrongfully imprison him past his applicable release date, even without considering the court's amendment to his 06-1-02624-7 sentence to allow him 387 days credit for time served, because the State also took away his "good time" credits on case number 06-1-02624-7.

Costello also stands for the proposition that an inmate has a constitutionally protected, though limited, liberty interest in good time credits. Costello, 131 Wn. App. at 832. "Thus a DOC action which wrongfully denies an inmate credit for time

served or good time earned would result in unlawful restraint of the inmate.” Costello, 131 Wn. App. at 832. So even if the court had not amended the 06-1-02624-7 judgment and sentence to allow 387 days credit, the State still would have erred in disallowing good time credits on the 06-1-02624-7 case. He started serving his time on that case the date of his sentencing on February 6, 2007. By the time he was sentenced on the 06-1-02170-9 case he had already served a year on the 06-1-02624-7 case. RCW 9.94A.728 (1)(c), he should have been given “one-third of the total sentence” or approximately 5.7 months off.

In Costello, the 2002 sentence was to be served consecutively to the 2001 sentence. Costello, 131 Wn. App. at 830. Costello had been sentenced to 87 months on the 00-1-02846-7 case on September 14, 2001, so he hadn’t served any time yet on the 2002 case. The jail had mistakenly granted credit for time served and good time credit on the 2002 case for the time period June 4, 2001 to April 16, 2002. DOC corrected

this error and applied the June 4, 2001 through April 16, 2002 only to the 2001 convictions. Costello, 131 Wn. App. at 832. Costello filed a personal restraint petition alleging that he was to receive credit from June 4, 2001 to April 16, 2002 on the 2002 sentence.

In Costello, when DOC took away Costello's good time and earned release time, Costello had just been sentenced on April 5, 2002 for that case (No. 01-1-04825-9). Costello, 131 Wn. App. at 831. Thus, he had not "earned" any good time yet. Costello had not yet completed his time on the 2001 case, so he wasn't serving time on the 2002 case yet. Footnote 2 in Costello indicated that because Costello was not entitled to credit for time served for the period June 4, 2001 to April 16, 2002, on the No. 01-1-04825-9 case, he was not entitled to good time credit "for the same time period to the same cause." (Emphasis added) Costello, 131 Wn. At 834, n. .2.

The court in Costello did not address any good time credit that would be available to Costello once he started

serving his time on the 2002 sentence. Because the time on his 2001 sentence started first, and he was sentenced on that case on September 14, 2001, his 2002 time would not have started until he finished serving his 87 months on the 2001 sentence.

By contrast, this case, from the date of sentence on the 06-1-02624-7 case Mr. Stephens was servicing his sentence on this case number. So Mr. Stephens should be entitled to his “good time” or earned release from February 6, 2007 (date of sentencing on 06-1-02624-7) to February 6, 2008 (date of sentencing on 06-1-02170-9). So even though the court did not amend the 06-1-02624-7 sentence until July 21, 2008, DOC was still wrongfully withholding him because it did not release him on the date he would have been entitled to be released based on his “good time” alone. DOC failed to give him the approximately 5.7\* months “good time” credit that he should have earned on his 06-1-02624-7 case on which he started serving time before he was sentenced on the 06-1-02170-9 case.

It was clear from Ms. Stigall's testimony that she marked the wrong case "A" and the wrong case "B", resulting from the fact that she believed that Stephens was sentenced on cause No. 06-1-02624-7 was "consecutive" to cause No. 06-1-02170-9, when precisely the opposite was true. In actuality, the 06-1-02170-9 case would have been consecutive to the 06-1-02624-7 case.

Because Kenneth Stephens had already served all of his time on the 06-1-02624-7 case *before* he was sentenced on the 06-1-02170-9 case, so he was done on that case. And because the Judge Gavin on the 06-1-02170-9 gave Stephens specific credit from 11-16-06, plus 3 days, Stephens was already finished with that sentence also. Stephens should have been released as soon as Shelton processed him and calculated his release date.

The Court gave the Jury instructions as follows:

Consecutive sentences means the following:

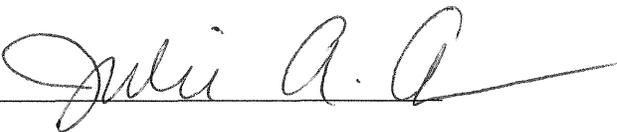
When one sentence of confinement is to follow another in point of time, the second sentence is deemed to be consecutive. Washington law provides that when sentences are ordered to be run consecutive with other sentences, as opposed to concurrent with other sentences, that the offender is not entitled to credit for jail time served for both sentences.

Jury Instruction #10. (See Appendix M)

## V. CONCLUSION

Because the State failed to give Mr. Stephens “good time” and time served credits on the 06-1-02624-7 case, the State wrongfully withheld him in prison from February 6, 2008 to July 25, 2008. Therefore, the Court should have granted Stephens Motion for a Directed Verdict on liability, and the jury verdict was not supported by substantial evidence.

DATED this 7<sup>th</sup> day of July, 2014.

By 

Julie A. Anderson, WSBA #15214

Attorney for Plaintiff Kenneth Leroy Stephens



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WASHINGTON

SUPERIOR COURT OF WASHINGTON FOR YAKIMA COUNTY

State of Washington

Plaintiff,

NO. 06-1-02624-7

vs.

FELONY JUDGMENT AND SENTENCE  
(FJS)

KENNETH LEROY STEPHENS

aka Robert Lee Stephens

Defendant.

Prison

SID NO.: WA11517314

Motor Vehicle Involved: No

D.L.#: STEPHKL402NA; DOC: 705432;

DOB: 8/1/1960; SEX: Male; RACE: White

Clerk's Action Required: 4.D.6 (Payroll Deduction); 5.2 (NLVR); 5.5 (NTIPF)

I. HEARING

1.1 **Hearing:** A sentencing hearing was held February 6, 2007. Present were the defendant, KIMBERLY GRIJALVA, attorney for the defendant, and THERESE M. MURPHY, Deputy Prosecuting Attorney.

1.2 **Allocution:** The defendant was given the right of allocution and asked if any legal cause existed why judgment should not be entered. There being no reason why judgment should not be pronounced, the Court makes the following findings and judgment.

II. FINDINGS

Based on testimony heard, statements by the defendant and/or victims, argument of counsel, any pre-sentence report, and case record to date, the court finds:

2.1 **Current Offense(s):** On May 30, 2005, the defendant was found guilty by a plea of:

Count 1 **Crime: SECOND DEGREE THEFT**  
**RCW 9A.56.040(1)(a) and 9A.56.020(1)(a)**  
Date of Crime: October 28, 2006  
Law Enforcement Incident No.: Yakima PD #06-20104

2.2 **Special Findings:** The Court makes no special findings.

2.3 **Criminal History:** Prior criminal history used in calculating the offender score (RCW 9.94A.525):

| Crime                  | Date of Sentence | Sentencing Court (County & State) | Date of Crime | Adult or Juvenile | Type of Crime |
|------------------------|------------------|-----------------------------------|---------------|-------------------|---------------|
| Second Degree Theft    | 03/27/2006       | Yakima Co, WA                     | 05/30/2004    | Adult             | NV            |
| Second Degree Burglary | 03/22/2006       | Yakima Co, WA                     | 08/04/2005    | Adult             | NV            |
| First Degree Theft     | 05/28/2004       | Yakima Co, WA                     | 04/07/2004    | Adult             | NV            |
| Second Degree Theft    | 12/03/2003       | Yakima Co, WA                     | 10/20/2003    | Adult             | NV            |
| Second Degree Theft    | 12/04/2002       | Yakima Co, WA                     | 09/11/2002    | Adult             | NV            |
| Second Degree Theft    | 06/10/1997       | Yakima Co, WA                     | 01/02/1997    | Adult             | NV            |
| Second Degree Theft    | 02/10/1995       | Yakima Co, WA                     | 11/27/1994    | Adult             | NV            |
| VUCSA                  | 03/22/1993       | Yakima Co, WA                     | 02/24/1993    | Adult             | Drug          |

**2.4 Other Current Convictions** under other cause number(s) used to determine offender score:

| Crime | Cause Number | Court (County and State) |
|-------|--------------|--------------------------|
| None  |              |                          |

**2.5 Sentencing Data:** The following is the defendant's standard range for each crime pursuant to RCW 9.94A.510:

| Count | Offender Score | Seriousness Level | Standard Range | Enhancements* | Enhanced Range | Maximum Term |
|-------|----------------|-------------------|----------------|---------------|----------------|--------------|
| 1     | 8              | I                 | 17-22 Months   |               |                | 5 Years      |

**2.6 Exceptional Sentence:** Substantial and compelling reasons do not exist which justify an exceptional sentence.

**2.7 Financial Ability:** The Court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The Court finds that the defendant has the present ability or likely future ability to pay the financial obligations imposed herein. RCW 9.94A.753.

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

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**III. JUDGMENT**

**3.1 Guilty:** IT IS ADJUDGED that the defendant is guilty of the counts and charges listed in paragraph 2.1.

**IV. SENTENCE AND ORDER**

IT IS ORDERED that the defendant serve the sentence and abide by the conditions set forth below.

**A. CONFINEMENT**

**4.A.1 Confinement:** The defendant is sentenced to the following term of confinement:

~~17~~ <sup>15</sup> Months on Count 1

*DOC will check to see if when the Chelan hold 15 was made. To see if he gets a few more days credit.*

**Credit for Time Served in the Yakima County Jail:** The defendant shall be given credit for 15 days served on this charge only. The defendant shall be given credit for good behavior as administered and computed by the Yakima County Department of Corrections.

**Credit for Time in Other Jail:** The defendant shall receive \_\_\_\_\_ days credit for time served on this case  in jail or prison \_\_\_\_\_;  in transport from \_\_\_\_\_;  in other \_\_\_\_\_

**4.A.2 Concurrent or Consecutive:**

**Consecutive With Other Sentences:** Unless otherwise specified here, this sentence shall be consecutive with prior sentences. RCW 9.94A.589(2).

**4.A.3 Means of Confinement:** The defendant shall serve this sentence as follows:

**Total Confinement:** The defendant shall serve the balance of confinement in a prison operated by the Washington State Department of Corrections because the term of confinement is over one year.

**4.A.4 Time of Confinement:** If not already in custody, the defendant shall report to the above facility  immediately  on or before \_\_\_\_\_ by \_\_\_\_\_ a.m./p.m. to begin serving this sentence.

**B. SUPERVISION BY THE DEPARTMENT OF CORRECTIONS**

**4.B.1 No Community Custody:** The defendant, by virtue of the offense committed, is not subject to community custody.

**C. SENTENCE CONDITIONS**

**4.C.1 DNA Testing:** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. If you are out of custody at the time of sentencing, you will immediately report to the front desk of the Yakima County Jail for the taking of a DNA sample. RCW 43.43.754.

**4.C.2 No Conditions:** Because there is no supervision ordered, the defendant must only complete any incarceration ordered and pay all financial obligations.

**D. FINANCIAL OBLIGATIONS**

**4.D.1 Financial:** The defendant shall pay financial obligations and abide by the conditions as set forth below. The defendant shall be under the jurisdiction and supervision of this Court for purposes of payment of financial obligations ordered until they are paid. The defendant shall report to the Yakima County Clerk, Yakima County Courthouse, Room 323, 128 North Second Street, Yakima, WA, within 24 hours of this order or release from incarceration, whichever is later. The defendant must notify the Yakima County Clerk's Office of changes in address or employment. During the period of repayment, the county clerk may require the offender to report to the clerk for the purpose of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the county clerk in order to prepare the collection schedule. RCW 9.94A.760(7)(b).

**4.D.2 Jurisdiction:** All legal financial obligations for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The clerk of the court is authorized to collect unpaid financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her financial obligations. RCW 9.94A.753(4) and RCW 9.94A.760(4).

**4.D.3 Restitution, Costs, Assessments, and Fine:** Defendant shall pay the following to the Yakima County Superior Court Clerk, Room 323, Yakima County Courthouse, Yakima, WA 98901:

|     |    |                     |   |
|-----|----|---------------------|---|
| RTN | \$ | -0-                 | Restitution distributed to: _____, subject to modification              |
| PCV | \$ | 500.00              | Crime Penalty Assessment – felony or gross misdemeanor (RCW 7.68.035)   |
| FRC | \$ | <del>200.00</del>   | Criminal filing fee   |
| PUB | \$ | 600.00              | Court appointed attorney recoupment (RCW 9.94A.760)                     |
| DNA | \$ | 100.00              | DNA collection fee (any felony committed after 7/1/02) (RCW 43.43.7541) |
| REV | \$ | <del>100.00</del>   | Domestic Violence Assessment Fee (RCW 10.99.080)                        |
|     | \$ | <del>1,500.00</del> | TOTAL   |

*Handwritten:* 2000

**4.D.4 Costs of Incarceration:** In addition to the above costs, the court finds that the defendant has the means to pay for the costs of incarceration, in prison at a rate of \$50.00 per day of incarceration or in the Yakima County Jail at the actual rate of incarceration but not to exceed \$100.00 per day of incarceration (the rate in 2006 is \$63.48 and the rate in 2007 is \$65.43 per day), and orders the defendant to pay such costs at the statutory rate as assessed by the Clerk. Such costs are payable only after restitution costs, assessments and fines listed above are paid. RCW 9.94A.760(2). *Not to exceed 250*

**4.D.5 Costs of Medical Care:** In addition to the above costs, the court finds that the defendant has the means to pay for any costs of medical care incurred by Yakima County on behalf of the defendant, and orders the defendant to pay such medical costs as assessed by the Clerk. Such costs are payable only after restitution costs, assessments and fines listed above are paid. RCW 70.48.130.

**4.D.6  Forfeiture of Funds:** The financial obligations ordered above, in part or in full, shall be paid from defendant's funds held by \_\_\_\_\_, who is ordered to pay such funds to the Clerk of the above Court. Any balance shall be paid by the defendant.

**4.D.7 Payments:** Unless provided above, the Yakima County Clerk shall, after investigation, set a minimum monthly payment for the defendant to pay towards the financial obligations. The Clerk may modify the monthly payment amount. Payments shall first apply to any restitution. Costs and assessments shall be paid in 180 days after restitution is paid in full/release. All other fees shall be paid in 270 days after restitution is paid in full/release. The defendant shall pay financial obligations to the Clerk of the Court, Room 323, Yakima County Courthouse, Yakima, Washington.

**4.D.8 Payroll Deduction:** Without further notice, the Yakima County Clerk may issue a Notice of Payroll Deduction at any time until all financial obligations are paid. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

**4.D.9 Interest, Judgment, and Collection:** The financial obligations listed herein shall bear interest from the date hereof until paid in full at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total financial obligations. RCW 10.73.160. The financial obligations listed above may be enforced in the same manner as a civil judgment. The defendant shall pay the costs of services to collect unpaid legal financial obligations.

**4.D.10 Petition For Remission:** The defendant, if not in willful default on financial obligations due hereunder, may at any time petition the court for remission of all or part of the financial obligations due, except restitution or interest on restitution, or to modify the method of payment under RCW 10.01.160 through RCW 10.01.180 and RCW 10.73. Non-restitution interest may be waived only after the defendant has either (a) paid the principal amount in full or (b) made 24 consecutive monthly payments as set by the Clerk, and further payment of interest will cause a significant hardship. RCW 10.82.090.

## V. NOTICES

The defendant, by signing below, acknowledges each of the statements in this section.

**5.1 Collateral Attack:** The defendant may not file a petition or motion for collateral attack on a judgment and sentence in a criminal case more than one year after the judgment becomes final if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction. For purposes of this section, "collateral attack" means any form of post-conviction relief other than a direct appeal. "Collateral attack" includes, but is not limited to, a personal restraint petition, a habeas corpus petition, a motion to vacate judgment, a motion to withdraw a guilty plea, a motion for a new trial, and a motion to arrest judgment under RCW 10.73.090 and RCW 10.73.100.

5.2 **Loss of Voting Rights:** The defendant understands and acknowledges that:

1. The defendant's right to vote is lost because of this felony conviction.
2. If the defendant is registered to vote, his or her registration will be canceled.
3. The defendant's right to vote may be restored by:
  - a. A certificate of discharge issued by the Yakima County Superior Court, as provided in RCW 9.94A.637; or
  - b. A court order issued by the Yakima County Superior Court restoring the defendant's right to vote, as provided in RCW 9.92.066; or
  - c. A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or
  - d. A certificate of restoration issued by the governor, as provided in RCW 9.96.020.
4. Voting before the right to vote is restored is a class C felony under RCW 29A.84.660.

5.3 **Sentence Condition Violation:** Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement for any violation related to a felony charge RCW 9.94A.634. Any violation of this Judgment and Sentence is punishable by up to the total number of confinement days suspended for any violation related to a non-felony charge.

5.4 **Successful Completion:** Upon successful completion of the requirements of the sentence, the defendant shall be eligible for a certificate of discharge. RCW 9.94A.637.

5.5 **Firearms:** The defendant understands that he or she must immediately surrender any concealed pistol license and may not own, use, or possess any firearm unless the right to do so is restored by a court of record. (The clerk of the court shall forward a copy of the defendant's driver's license, identicaid, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

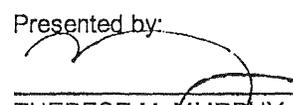
5.6 **Restitution Hearing:** If this box is checked  and initialed here \_\_\_\_\_ then the defendant gives up or waives the right to be present at any restitution hearing.

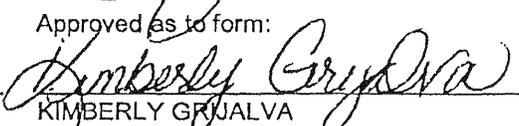
VI. SIGNATURES

DATED: February 6, 2007

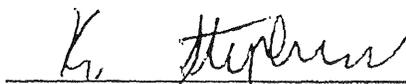
  
\_\_\_\_\_  
JUDGE

Presented by:

  
\_\_\_\_\_  
THERESE M. MURPHY  
Deputy Prosecuting Attorney  
Washington State Bar No. 31442

Approved as to form:  
  
\_\_\_\_\_  
KIMBERLY GRUALVA  
Attorney for Defendant  
Washington State Bar No. 29771

Acknowledging the notices in Section V and receiving a copy:

  
\_\_\_\_\_  
DEFENDANT

VII. WARRANT OF CONFINEMENT

THE STATE OF WASHINGTON

TO: The Yakima County Sheriff  
TO: The Yakima County Department of Corrections  
TO: The Washington State Department of Corrections

The defendant has been convicted in the Superior Court of the State of Washington of the crime of:

**SECOND DEGREE THEFT**

and the court has ordered that the defendant be punished as set out in the attached Judgment and Sentence.

YOU ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.

DATED: February 6, 2007

By the Direction of the Honorable

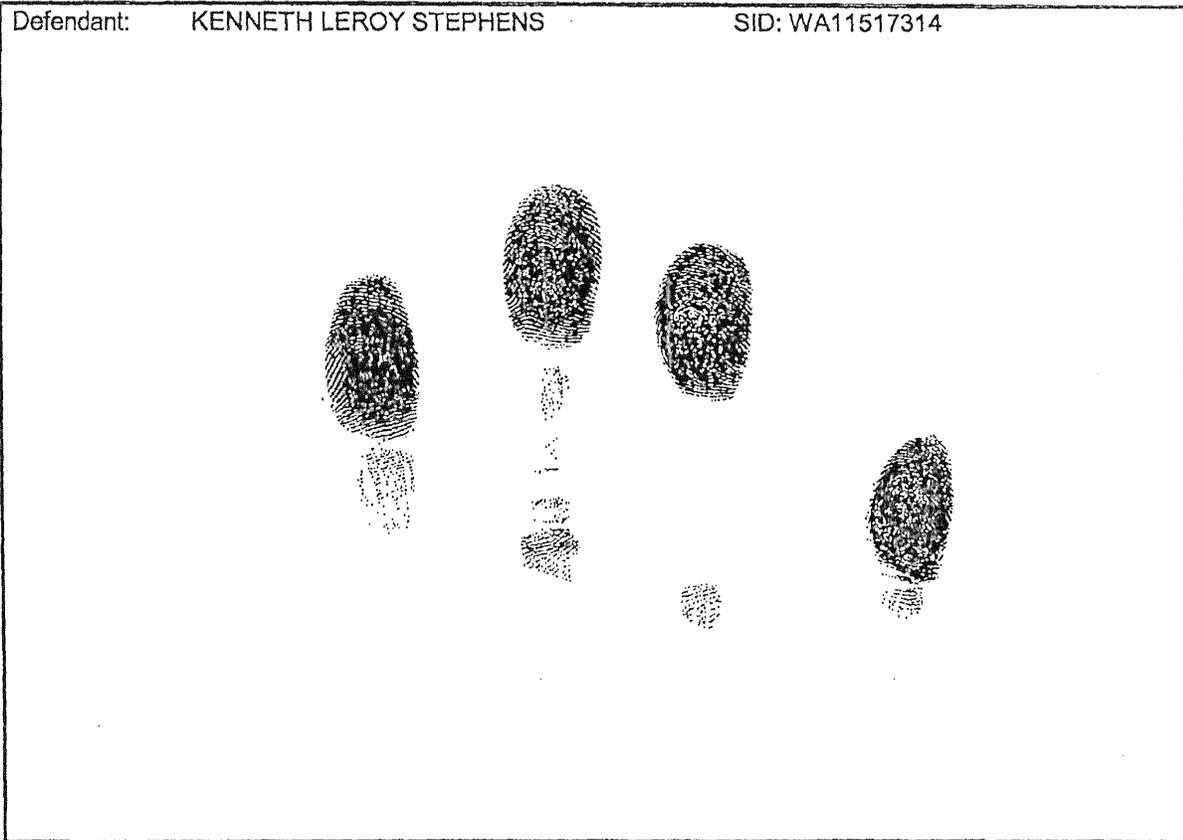
F. James Gavin  
JUDGE

KIM M. EATON, Clerk

By: Kim M. Eaton  
Deputy Clerk

Defendant: KENNETH LEROY STEPHENS

SID: WA11517314



FINGERPRINT CERTIFICATE OF ATTESTATION

STATE OF WASHINGTON )  
 )  
 County of Yakima ) ss.

I, Kim M. Eaton, Yakima County Clerk and ex-officio Clerk of the Superior Court, hereby attest that the fingerprints appearing on this certificate are the fingerprints of the above-named defendant, and were affixed in open court on February 6, 2007.

DATED: February 6, 2007

KIM M. EATON, Clerk

By: *Lynn Laurent*  
 Deputy Clerk

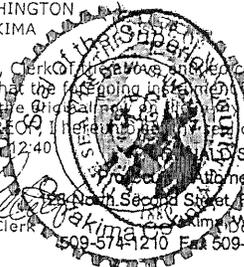
Address of Defendant:

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

STATE OF WASHINGTON  
 COUNTY OF YAKIMA

I, Kim M. Eaton, Clerk of the Superior Court, do hereby certify that the foregoing information is a true and correct copy of the original as kept in my office. IN WITNESS WHEREOF, I hereunto set my hand and seal of said court this 06-21-2012 at 12:40 PM.

*Kim M. Eaton*  
 Kim M. Eaton, Clerk  
 509-574-1210 Ext 509-574-1211



## Appendix B

FILED

2008 FEB -6 PM 12: 03

KIM M. EATON  
EX OFFICIO CLERK  
SUPERIOR COURT OF WASHINGTON FOR YAKIMA COUNTY  
YAKIMA, WASHINGTON

State of Washington

Plaintiff,

NO. 06-1-02170-9

vs.

FELONY JUDGMENT AND SENTENCE  
(FJS)

KENNETH LEROY STEPHENS

Defendant.

- Prison
- Clerk's Action Required: 4.D.6 (Payroll Deduction); 5.2 (NLVR); 5.5 (NTIPF)
- Clerk's Action Required: Dismissal of Counts 2, 3 and 4 (ORDSM)

SID NO.: WA11517314  
Motor Vehicle Involved: No  
D.L.#: STEPHKL402NA; DOC: 705432;  
DOB: 8/1/1960; SEX: Male; RACE: White

I. HEARING

1.1 **Hearing:** A sentencing hearing was held February 6, 2008. Present were the defendant, TIMOTHY D. COTTERELL, attorney for the defendant, and ~~TROY J. CLEMENTS~~, Deputy Prosecuting Attorney. *Michael Laws*

1.2 **Allocution:** The defendant was given the right of allocution and asked if any legal cause existed why judgment should not be entered. There being no reason why judgment should not be pronounced, the Court makes the following findings and judgment.

1.3 **Dismissal:** The State moves for dismissal of Counts 2, 3 and 4 of this action for the reason that the defendant has entered a plea of guilty or is being sentenced on Count 1 and prosecution of the indicated counts is not necessary or desired.

II. FINDINGS

Based on testimony heard, statements by the defendant and/or victims, argument of counsel, any pre-sentence report, and case record to date, the court finds:

2.1 **Current Offense(s):** On February 6, 2008, the defendant was found guilty by a plea of:

Count 1 **Crime: SECOND DEGREE POSSESSION OF STOLEN PROPERTY**  
RCW 9A.56.160(a) and 9A.56.140(1)  
Date of Crime: September 3, 2008  
Law Enforcement Incident No.: Yakima PD #06-16312

2.2 **Special Findings:** The Court makes no special findings.

2.3 **Criminal History:** Prior criminal history used in calculating the offender score (RCW 9.94A.525):

2.4

| Crime               | Date of Sentence | Sentencing Court (County & State) | Date of Crime | Adult or Juvenile | Type of Crime |
|---------------------|------------------|-----------------------------------|---------------|-------------------|---------------|
| VUCSA               | 03/22/1993       | Chelan, WA                        | 02/24/1993    | Adult             | Drug          |
| Second Degree Theft | 02/10/1995       | Chelan, WA                        | 11/27/1994    | Adult             | NV            |
| Second Degree Theft | 06/10/1997       | King, WA                          | 01/02/1997    | Adult             | NV            |
| Second Degree Theft | 10/09/2002       | Chelan, WA                        | 09/11/2002    | Adult             | NV            |

*Original*

|                        |            |            |            |       |    |
|------------------------|------------|------------|------------|-------|----|
| Second Degree Theft    | 12/03/2003 | Yakima, WA | 10/20/2003 | Adult | NV |
| First Degree Theft     | 05/28/2004 | Yakima, WA | 04/07/2004 | Adult | NV |
| Second Degree Burglary | 03/22/2006 | Yakima, WA | 08/04/2005 | Adult | NV |
| Second Degree Theft    | 03/27/2006 | Yakima, WA | 05/30/2005 | Adult | NV |

2.4 *2007* Other Current Convictions under other cause number(s) used to determine offender score:

| Crime | Cause Number | Court (County and State) |
|-------|--------------|--------------------------|
| None  |              |                          |

2.5 Sentencing Data: The following is the defendant's standard range for each crime pursuant to RCW 9.94A.510

| Count | Offender Score | Seriousness Level | Standard Range                                 | Enhancements* | Enhanced Range | Maximum Term |
|-------|----------------|-------------------|--|---------------|----------------|--------------|
| 1     | <i>9</i>       | 1                 | <del>17-22 months</del><br><i>22-29 months</i> |               |                | 5 years      |

2.6 Exceptional Sentence: Substantial and compelling reasons do not exist which justify an exceptional sentence.

2.7 Financial Ability: The Court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The Court finds that the defendant has the present ability or likely future ability to pay the financial obligations imposed herein. RCW 9.94A.753.

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

III. JUDGMENT

3.1 GUILTY: IT IS ADJUDGED that the defendant is guilty of the counts and charges listed in paragraph 2.1.

3.2 Dismissal of Counts: For the reasons given above, Counts 2, 3 and 4 are dismissed with prejudice.

IV. SENTENCE AND ORDER

IT IS ORDERED that the defendant serve the sentence and abide by the conditions set forth below.

A. CONFINEMENT

4.A.1 Confinement: The defendant is sentenced to the following term of confinement:

22 Months on Count 1 *credit to be given from 11-16-06 plus 3 days*

Credit for Time Served In the Yakima County Jail: The defendant shall be given credit for \_\_\_\_\_ days served on this charge only. The defendant shall be given credit for good behavior as administered and computed by the Yakima County Department of Corrections.

Credit for Time In Other Jail: The defendant shall receive \_\_\_\_\_ days credit for time served on this case  In jail or prison \_\_\_\_\_;  In transport from \_\_\_\_\_;  In other \_\_\_\_\_

4.A.2 Concurrent or Consecutive:

Consecutive With Other Sentences: Unless otherwise specified here, this sentence shall be consecutive with prior sentences. RCW 9.94A.589(2).

**4.A.3 Means of Confinement:** The defendant shall serve this sentence as follows:

**Total Confinement:** The defendant shall serve the balance of confinement in a prison operated by the Washington State Department of Corrections because the term of confinement is over one year.

**4.A.4 Time of Confinement:** If not already in custody, the defendant shall report to the above facility  immediately  on or before \_\_\_\_\_ by \_\_\_\_\_ a.m./p.m. to begin serving this sentence.

**B. SUPERVISION BY THE DEPARTMENT OF CORRECTIONS**

**4.B.1 No Community Custody:** The defendant, by virtue of the offense committed, is not subject to community custody.

**C. SENTENCE CONDITIONS**

**4.C.1 DNA Testing:** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. If you are out of custody at the time of sentencing, you will immediately report to the front desk of the Yakima County Jail for the taking of a DNA sample. RCW 43.43.754.

**4.C.2 No Conditions:** Because there is no supervision ordered, the defendant must only complete any incarceration ordered and pay all financial obligations.

**D. FINANCIAL OBLIGATIONS**

**4.D.1 Financial:** The defendant shall pay financial obligations and abide by the conditions as set forth below. The defendant shall be under the jurisdiction and supervision of this Court for purposes of payment of financial obligations ordered until they are paid. The defendant shall report to the Yakima County Clerk, Yakima County Courthouse, Room 323, 128 North Second Street, Yakima, WA, within 24 hours of this order or release from incarceration, whichever is later. The defendant must notify the Yakima County Clerk's Office of changes in address or employment. During the period of repayment, the county clerk may require the offender to report to the clerk for the purpose of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the county clerk in order to prepare the collection schedule. RCW 9.94A.760(7)(b).

**4.D.2 Jurisdiction:** All legal financial obligations for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The clerk of the court is authorized to collect unpaid financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her financial obligations. RCW 9.94A.753(4) and RCW 9.94A.760(4).

**4.D.3 Restitution, Costs, Assessments, and Fine:** Defendant shall pay the following to the Yakima County Superior Court Clerk, Room 323, Yakima County Courthouse, Yakima, WA 98901:

|     |             |   |
|-----|-------------|---|
| RTN | \$ 1,500.00 | Restitution distributed to: Tel West Communication, subject to modification<br><input type="checkbox"/> Joint and several liability with codefendants |
| PCV | \$ 500.00   | Crime Penalty Assessment - felony or gross misdemeanor (RCW 7.68.035)   |
| FRC | \$ 200.00   | Criminal filing fee   |
| PUB | \$ 600.00   | Court appointed attorney recoupment (RCW 9.94A.760)   |
| DNA | \$ 100.00   | DNA collection fee (any felony committed after 7/1/02) (RCW 43.43.7541)   |
| WRF | \$ 100.00   | Warrant fee   |
|     | \$ 3,000.00 | TOTAL   |

**4.D.4 Costs of Incarceration:** In addition to the above costs, the court finds that the defendant has the means to pay for the costs of incarceration, in prison at a rate of \$50.00 per day of incarceration or in the Yakima County Jail at the actual rate of incarceration but not to exceed \$100.00 per day of incarceration (the rate in 2008 is \$71.25 per day), and orders the defendant to pay such costs at the statutory rate as assessed by the Clerk. Such costs are payable only after restitution costs, assessments and fines listed above are paid. RCW 9.94A.760(2).

**4.D.5 Costs of Medical Care:** In addition to the above costs, the court finds that the defendant has the means to pay for any costs of medical care incurred by Yakima County on behalf of the defendant, and orders the defendant to pay such medical costs as assessed by the Clerk. Such costs are payable only after restitution costs, assessments and fines listed above are paid. RCW 70.48.130.

**4.D.6  Forfeiture of Funds:** The financial obligations ordered above, in part or in full, shall be paid from defendant's funds held by \_\_\_\_\_ who is ordered to pay such funds to the Clerk of the above Court. Any balance shall be paid by the defendant.

**4.D.7 Payments:** Unless provided above, the Yakima County Clerk shall, after investigation, set a minimum monthly payment for the defendant to pay towards the financial obligations. The Clerk may modify the monthly payment amount. Payments shall first apply to any restitution. Costs and assessments shall be paid in 180 days after restitution is paid in full/release. All other fees shall be paid in 270 days after restitution is paid in full/release. The defendant shall pay financial obligations to the Clerk of the Court, Room 323, Yakima County Courthouse, Yakima, Washington.

**4.D.8 Payroll Deduction:** Without further notice, the Yakima County Clerk may issue a Notice of Payroll Deduction at any time until all financial obligations are paid. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

**4.D.9 Interest, Judgment, and Collection:** The financial obligations listed herein shall bear interest from the date hereof until paid in full at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total financial obligations. RCW 10.73.160. The financial obligations listed above may be enforced in the same manner as a civil judgment. The defendant shall pay the costs of services to collect unpaid legal financial obligations.

**4.D.10 Petition For Remission:** The defendant, if not in willful default on financial obligations due hereunder, may at any time petition the court for remission of all or part of the financial obligations due, except restitution or interest on restitution, or to modify the method of payment under RCW 10.01.160 through RCW 10.01.180 and RCW 10.73. Non-restitution interest may be waived only after the defendant has either (a) paid the principal amount in full or (b) made 24 consecutive monthly payments as set by the Clerk, and further payment of interest will cause a significant hardship. RCW 10.82.090.

## V. NOTICES

The defendant, by signing below, acknowledges each of the statements in this section.

**5.1 Collateral Attack:** The defendant may not file a petition or motion for collateral attack on a judgment and sentence in a criminal case more than one year after the judgment becomes final if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction. For purposes of this section, "collateral attack" means any form of post-conviction relief other than a direct appeal. "Collateral attack" includes, but is not limited to, a personal restraint petition, a habeas corpus petition, a motion to vacate judgment, a motion to withdraw a guilty plea, a motion for a new trial, and a motion to arrest judgment under RCW 10.73.090 and RCW 10.73.100.

5.2 **Loss of Voting Rights:** The defendant understands and acknowledges that:

1. The defendant's right to vote is lost because of this felony conviction.
2. If the defendant is registered to vote, his or her registration will be canceled.
3. The defendant's right to vote may be restored by:
  - a. A certificate of discharge issued by the Yakima County Superior Court, as provided in RCW 9.94A.637; or
  - b. A court order issued by the Yakima County Superior Court restoring the defendant's right to vote, as provided in RCW 9.92.066; or
  - c. A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or
  - d. A certificate of restoration issued by the governor, as provided in RCW 9.96.020.
4. Voting before the right to vote is restored is a class C felony under RCW 29A.84.660.

5.3 **Sentence Condition Violation:** Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement for any violation related to a felony charge. RCW 9.94A.634. Any violation of this Judgment and Sentence is punishable by up to the total number of confinement days suspended for any violation related to a non-felony charge.

5.4 **Successful Completion:** Upon successful completion of the requirements of the sentence, the defendant shall be eligible for a certificate of discharge. RCW 9.94A.637.

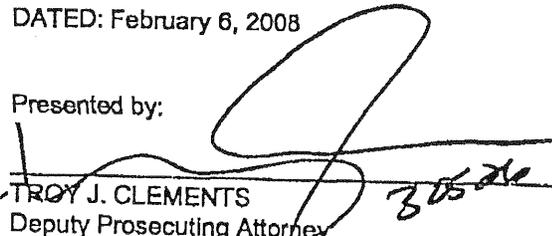
5.5 **Firearms:** The defendant understands that he or she must immediately surrender any concealed pistol license and may not own, use, or possess any firearm unless the right to do so is restored by a court of record. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

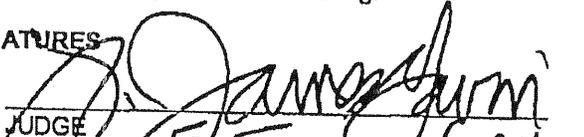
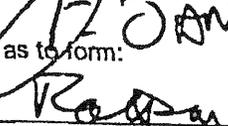
5.6 **Restitution Hearing:** If this box is checked  and initialed here \_\_\_\_\_ then the defendant gives up or waives the right to be present at any restitution hearing.

VI. SIGNATURES

DATED: February 6, 2008

Presented by:

*for*  305210  
 TROY J. CLEMENTS  
 Deputy Prosecuting Attorney  
 Washington State Bar No. 34399

  
 JUDGE  
 Approved as to form:  


TIMOTHY D. COTTERELL  
Attorney for Defendant  
Washington State Bar No. 19380

Acknowledging the notices in Section V and receiving a copy:

  
 DEFENDANT

INTERPRETER'S DECLARATION: I am a certified interpreter or have been found otherwise qualified by the court to interpret in the \_\_\_\_\_ language, which the defendant understands, and I have translated the notices in section V for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

\_\_\_\_\_  
Interpreter

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date and Place

VII. WARRANT OF CONFINEMENT

THE STATE OF WASHINGTON

TO: The Yakima County Sheriff  
TO: The Yakima County Department of Corrections  
TO: The Washington State Department of Corrections

The defendant has been convicted in the Superior Court of the State of Washington of the crime of:

COUNT 1 - SECOND DEGREE POSSESSION OF STOLEN PROPERTY

and the court has ordered that the defendant be punished as set out in the attached Judgment and Sentence.

YOU ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.

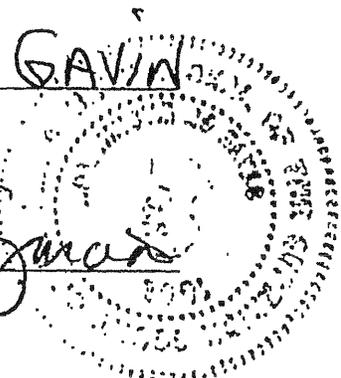
DATED: February 6, 2008

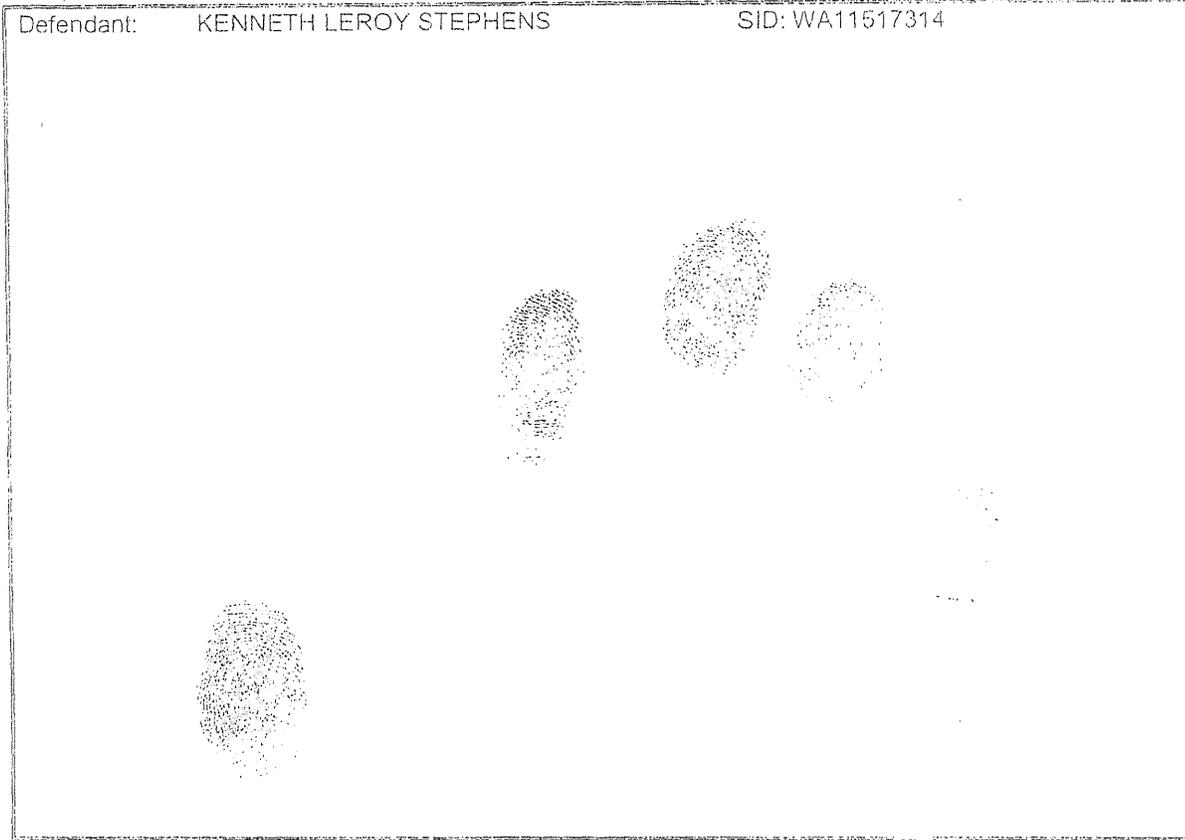
By the Direction of the Honorable

F. JAMES GAVIN  
JUDGE

KIM M. EATON, Clerk

By: [Signature]  
Deputy Clerk





FINGERPRINT CERTIFICATE OF ATTESTATION

STATE OF WASHINGTON )  
 ) ss.  
 County of Yakima )

I, Kim M. Eaton, Yakima County Clerk and ex-officio Clerk of the Superior Court, hereby attest that the fingerprints appearing on this certificate are the fingerprints of the above-named defendant, and were affixed in open court on February 6, 2008.

KIM M. EATON, Clerk

DATED: February 6, 2008

By: [Signature]  
 Deputy Clerk

Address of Defendant:

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

STATE OF WASHINGTON )  
 COUNTY OF YAKIMA )  
 I, Kim M. Eaton, Clerk of the above entitled court, do  
 Hereby certify that the foregoing instrument is a true, and  
 correct copy of the original in my office. IN  
 WITNESS WHEREOF, I hereunto set my hand and seal of said court  
 this 06-21-2008, at 12:37 PM.  
 Kim M. Eaton, Clerk of Court, Prosecution Attorney's Office  
 609 North Second Street, Yakima, WA 98901  
 Phone 509-574-1210 Fax 509-574-1211



YAKIMA COUNTY DEPARTMENT OF CORRECTIONS  
111 Front Street, Yakima WA 98901 (509) 574-1746

Certification of Credit for Time Served/Earned Release Time

5/3/2007 TO: Washington State Department of Corrections  
FROM: Yakima County Department of Corrections (Jail)  
RE: Name: Kenneth Leroy Stephens DOB: 08/01/60  
SID#: WA11517314 FBI#: 878222V7 SSN#: 536-62-8496 ALSO USES:  
536-62-8469  
Yakima County Superior Court Cause #: 06-1-02624-7  
Crime(s) of Conviction: SECOND DEGREE THEFT  
Date Crime Committed: 10/28/06

The above defendant/inmate is entitled to credit for time served/earned early release time as follows:

FACTUAL BASIS OF CALCULATIONS

Date of Arrest: 02/07/07 Booking #: 06-15904 Type of Arrest: WARRANT

Releases:

Release #1 from \_\_\_\_\_ to \_\_\_\_\_, or \_\_\_\_\_ Days

Release #2 from \_\_\_\_\_ to \_\_\_\_\_, or ( ) Days

Release #3 from \_\_\_\_\_ to \_\_\_\_\_, or ( ) Days

Total Release Time Deductions: 0 days

Date of Judgment and Sentence: 02/07/07

Date of Transportation to WSCC 02/13/08

Days in Other Facility Allowed by Judgment and Sentence: 15 Days

1. CREDIT FOR TIME SERVED:

DATE OF ARREST TO DATE OF SENTENCE (Including days allowed by J&S) 16 DAYS

SUBTRACT RELEASE TIME: 0 DAYS

TIME ALLOWED FROM DATE OF SENTENCE TO DATE OF TRANSPORT: 371 DAYS

TOTAL CREDIT FOR TIME SERVED: 387 DAYS

2. EARNED RELEASE TIME: None [ ] 10% XX 33% 193 DAYS

SUBTRACT LOSS OF EARNED RELEASE TIME 0 DAYS

TOTAL EARNED RELEASE TIME: 580 DAYS

For any additional copies needed, refer to the Washington State Department of Corrections, Shelton, WA.

Steve Robertson, Director

Yakima County, Washington

Prepared by: N. CUNNINGHAM Date: 2/11/2008

2-14-08

Not applied per Costello

EXHIBIT C



FILED

2007 FEB -6 PM 5:11

KIM M. EATON  
EX OFFICIO CLERK  
SUPERIOR COURT  
WASHINGTON

SUPERIOR COURT OF WASHINGTON FOR YAKIMA COUNTY

State of Washington

Plaintiff,

NO. 06-1-02624-7

vs.

KENNETH LEROY STEPHENS  
aka Robert Lee Stephens

Defendant.

FELONY JUDGMENT AND SENTENCE  
(FJS)

Prison

SID NO.: WA11517314  
Motor Vehicle Involved: No  
D.L.#: STEPHKL402NA; DOC: 705432;  
DOB: 8/1/1960; SEX: Male; RACE: White

Clerk's Action Required: 4.D.6 (Payroll  
Deduction); 5.2 (NLVR); 5.5 (NTIPF)

705432  
2-13-07  
CS

I. HEARING

1.1 **Hearing:** A sentencing hearing was held February 6, 2007. Present were the defendant, KIMBERLY GRIJALVA, attorney for the defendant, and THERESE M. MURPHY, Deputy Prosecuting Attorney.

1.2 **Allocution:** The defendant was given the right of allocution and asked if any legal cause existed why judgment should not be entered. There being no reason why judgment should not be pronounced, the Court makes the following findings and judgment.

II. FINDINGS

Based on testimony heard, statements by the defendant and/or victims, argument of counsel, any pre-sentence report, and case record to date, the court finds:

2.1 **Current Offense(s):** On May 30, 2005, the defendant was found guilty by a plea of:

Count 1      Crime: SECOND DEGREE THEFT  
RCW 9A.56.040(1)(a) and 9A.56.020(1)(a)  
Date of Crime: October 28, 2006  
Law Enforcement Incident No.: Yakima PD #06-20104

2.2 **Special Findings:** The Court makes no special findings.

2.3 **Criminal History:** Prior criminal history used in calculating the offender score (RCW 9.94A.525):

| Crime                  | Date of Sentence | Sentencing Court (County & State) | Date of Crime | Adult or Juvenile | Type of Crime |
|------------------------|------------------|-----------------------------------|---------------|-------------------|---------------|
| Second Degree Theft    | 03/27/2006       | Yakima Co, WA                     | 05/30/2004    | Adult             | NV            |
| Second Degree Burglary | 03/22/2006       | Yakima Co, WA                     | 08/04/2005    | Adult             | NV            |
| First Degree Theft     | 05/28/2004       | Yakima Co, WA                     | 04/07/2004    | Adult             | NV            |
| Second Degree Theft    | 12/03/2003       | Yakima Co, WA                     | 10/20/2003    | Adult             | NV            |
| Second Degree Theft    | 12/04/2002       | Yakima Co, WA                     | 09/11/2002    | Adult             | NV            |
| Second Degree Theft    | 06/10/1997       | Yakima Co, WA                     | 01/02/1997    | Adult             | NV            |
| Second Degree Theft    | 02/10/1995       | Yakima Co, WA                     | 11/27/1994    | Adult             | NV            |
| VUCSA                  | 03/22/1993       | Yakima Co, WA                     | 02/24/1993    | Adult             | Drug          |

2.4 Other Current Convictions under other cause number(s) used to determine offender score:

| Crime | Cause Number | Court (County and State) |
|-------|--------------|--------------------------|
| None  |              |                          |

2.5 Sentencing Data: The following is the defendant's standard range for each crime pursuant to RCW 9.94A.510:

| Count | Offender Score | Seriousness Level | Standard Range | Enhancements* | Enhanced Range | Maximum Term |
|-------|----------------|-------------------|----------------|---------------|----------------|--------------|
| 1     | 8              | I                 | 17-22 Months   |               |                | 5 Years      |

2.6 Exceptional Sentence: Substantial and compelling reasons do not exist which justify an exceptional sentence.

2.7 Financial Ability: The Court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The Court finds that the defendant has the present ability or likely future ability to pay the financial obligations imposed herein. RCW 9.94A.753.

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

### III. JUDGMENT

3.1 Guilty: IT IS ADJUDGED that the defendant is guilty of the counts and charges listed in paragraph 2.1.

### IV. SENTENCE AND ORDER

IT IS ORDERED that the defendant serve the sentence and abide by the conditions set forth below.

#### A. CONFINEMENT

4.A.1 Confinement: The defendant is sentenced to the following term of confinement:

~~17~~ <sup>15</sup> Months on Count 1

*DOC will check to see if when the Chelan Dept. was made, to see if he gets a few more days credit.*

Credit for Time Served in the Yakima County Jail: The defendant shall be given credit for 15 days served on this charge only. The defendant shall be given credit for good behavior as administered and computed by the Yakima County Department of Corrections.

Credit for Time in Other Jail: The defendant shall receive \_\_\_\_\_ days credit for time served on this case  in jail or prison \_\_\_\_\_;  in transport from \_\_\_\_\_;  in other \_\_\_\_\_

4.A.2 Concurrent or Consecutive:

Consecutive With Other Sentences: Unless otherwise specified here, this sentence shall be consecutive with prior sentences. RCW 9.94A.589(2).

4.A.3 Means of Confinement: The defendant shall serve this sentence as follows:

Total Confinement: The defendant shall serve the balance of confinement in a prison operated by the Washington State Department of Corrections because the term of confinement is over one year.

4.A.4 **Time of Confinement:** If not already in custody, the defendant shall report to the above facility  immediately  on or before \_\_\_\_\_ by \_\_\_\_\_ a.m./p.m. to begin serving this sentence.

**B. SUPERVISION BY THE DEPARTMENT OF CORRECTIONS**

4.B.1 **No Community Custody:** The defendant, by virtue of the offense committed, is not subject to community custody.

**C. SENTENCE CONDITIONS**

4.C.1 **DNA Testing:** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. If you are out of custody at the time of sentencing, you will immediately report to the front desk of the Yakima County Jail for the taking of a DNA sample. RCW 43.43.754.

4.C.2 **No Conditions:** Because there is no supervision ordered, the defendant must only complete any incarceration ordered and pay all financial obligations.

**D. FINANCIAL OBLIGATIONS**

4.D.1 **Financial:** The defendant shall pay financial obligations and abide by the conditions as set forth below. The defendant shall be under the jurisdiction and supervision of this Court for purposes of payment of financial obligations ordered until they are paid. The defendant shall report to the Yakima County Clerk, Yakima County Courthouse, Room 323, 128 North Second Street, Yakima, WA, within 24 hours of this order or release from incarceration, whichever is later. The defendant must notify the Yakima County Clerk's Office of changes in address or employment. During the period of repayment, the county clerk may require the offender to report to the clerk for the purpose of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the county clerk in order to prepare the collection schedule. RCW 9.94A.760(7)(b).

4.D.2 **Jurisdiction:** All legal financial obligations for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The clerk of the court is authorized to collect unpaid financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her financial obligations. RCW 9.94A.753(4) and RCW 9.94A.760(4).

4.D.3 **Restitution, Costs, Assessments, and Fine:** Defendant shall pay the following to the Yakima County Superior Court Clerk, Room 323, Yakima County Courthouse, Yakima, WA 98901:

|     |    |                   |   |
|-----|----|-------------------|---|
| RTN | \$ | -0-               | Restitution distributed to: _____, subject to modification              |
| PCV | \$ | 500.00            | Crime Penalty Assessment – felony or gross misdemeanor (RCW 7.68.035)   |
| FRC | \$ | <del>200.00</del> | <del>Criminal filing fee</del>  |
| PUB | \$ | 600.00            | Court appointed attorney recoupment (RCW 9.94A.760)                     |
| DNA | \$ | 100.00            | DNA collection fee (any felony committed after 7/1/02) (RCW 43.43.7541) |
| PDV | \$ | <del>100.00</del> | <del>Domestic Violence Assessment (RCW 10.99.080)</del>                 |
|     | \$ | 1500.00           | TOTAL   |

**4.D.4 Costs of Incarceration:** In addition to the above costs, the court finds that the defendant has the means to pay for the costs of incarceration, in prison at a rate of \$50.00 per day of incarceration or in the Yakima County Jail at the actual rate of incarceration but not to exceed \$100.00 per day of incarceration (the rate in 2006 is \$63.48 and the rate in 2007 is \$65.43 per day), and orders the defendant to pay such costs at the statutory rate as assessed by the Clerk. Such costs are payable only after restitution costs, assessments and fines listed above are paid. RCW 9.94A.760(2). *Not to exceed 250*

**4.D.5 Costs of Medical Care:** In addition to the above costs, the court finds that the defendant has the means to pay for any costs of medical care incurred by Yakima County on behalf of the defendant, and orders the defendant to pay such medical costs as assessed by the Clerk. Such costs are payable only after restitution costs, assessments and fines listed above are paid. RCW 70.48.130.

**4.D.6**  **Forfeiture of Funds:** The financial obligations ordered above, in part or in full, shall be paid from defendant's funds held by \_\_\_\_\_ who is ordered to pay such funds to the Clerk of the above Court. Any balance shall be paid by the defendant.

**4.D.7 Payments:** Unless provided above, the Yakima County Clerk shall, after investigation, set a minimum monthly payment for the defendant to pay towards the financial obligations. The Clerk may modify the monthly payment amount. Payments shall first apply to any restitution. Costs and assessments shall be paid in 180 days after restitution is paid in full/release. All other fees shall be paid in 270 days after restitution is paid in full/release. The defendant shall pay financial obligations to the Clerk of the Court, Room 323, Yakima County Courthouse, Yakima, Washington.

**4.D.8 Payroll Deduction:** Without further notice, the Yakima County Clerk may issue a Notice of Payroll Deduction at any time until all financial obligations are paid. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

**4.D.9 Interest, Judgment, and Collection:** The financial obligations listed herein shall bear interest from the date hereof until paid in full at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total financial obligations. RCW 10.73.160. The financial obligations listed above may be enforced in the same manner as a civil judgment. The defendant shall pay the costs of services to collect unpaid legal financial obligations.

**4.D.10 Petition For Remission:** The defendant, if not in willful default on financial obligations due hereunder, may at any time petition the court for remission of all or part of the financial obligations due, except restitution or interest on restitution, or to modify the method of payment under RCW 10.01.160 through RCW 10.01.180 and RCW 10.73. Non-restitution interest may be waived only after the defendant has either (a) paid the principal amount in full or (b) made 24 consecutive monthly payments as set by the Clerk, and further payment of interest will cause a significant hardship. RCW 10.82.090.

## V. NOTICES

The defendant, by signing below, acknowledges each of the statements in this section.

**5.1 Collateral Attack:** The defendant may not file a petition or motion for collateral attack on a judgment and sentence in a criminal case more than one year after the judgment becomes final if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction. For purposes of this section, "collateral attack" means any form of post-conviction relief other than a direct appeal. "Collateral attack" includes, but is not limited to, a personal restraint petition, a habeas corpus petition, a motion to vacate judgment, a motion to withdraw a guilty plea, a motion for a new trial, and a motion to arrest judgment under RCW 10.73.090 and RCW 10.73.100.

5.2 **Loss of Voting Rights:** The defendant understands and acknowledges that:

1. The defendant's right to vote is lost because of this felony conviction.
2. If the defendant is registered to vote, his or her registration will be canceled.
3. The defendant's right to vote may be restored by:
  - a. A certificate of discharge issued by the Yakima County Superior Court, as provided in RCW 9.94A.637; or
  - b. A court order issued by the Yakima County Superior Court restoring the defendant's right to vote, as provided in RCW 9.92.066; or
  - c. A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or
  - d. A certificate of restoration issued by the governor, as provided in RCW 9.96.020.
4. Voting before the right to vote is restored is a class C felony under RCW 29A.84.660.

5.3 **Sentence Condition Violation:** Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement for any violation related to a felony charge RCW 9.94A.634. Any violation of this Judgment and Sentence is punishable by up to the total number of confinement days suspended for any violation related to a non-felony charge.

5.4 **Successful Completion:** Upon successful completion of the requirements of the sentence, the defendant shall be eligible for a certificate of discharge. RCW 9.94A.637.

5.5 **Firearms:** The defendant understands that he or she must immediately surrender any concealed pistol license and may not own, use, or possess any firearm unless the right to do so is restored by a court of record. (The clerk of the court shall forward a copy of the defendant's driver's license, identicaid, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

5.6 **Restitution Hearing:** If this box is checked  and initialed here \_\_\_\_\_ then the defendant gives up or waives the right to be present at any restitution hearing.

VI. SIGNATURES

DATED: February 6, 2007

Presented by:

\_\_\_\_\_  
THERESE M. MURPHY  
Deputy Prosecuting Attorney  
Washington State Bar No. 31442

Acknowledging the notices in Section V and receiving a copy: .

\_\_\_\_\_  
JUDGE

Approved as to form:

\_\_\_\_\_  
KIMBERLY GRUJALVA  
Attorney for Defendant  
Washington State Bar No. 29771

\_\_\_\_\_  
DEFENDANT

## Appendix E



STATE OF WASHINGTON  
**DEPARTMENT OF CORRECTIONS**  
WASHINGTON CORRECTIONS CENTER  
P.O. Box 900 • Shelton, Washington 98584

March 12, 2008

To: Administrative Division  
Yakima County Jail

From: Jayne Olsen  
Correctional Records Technician

Re: Court of Appeals Decision – Jail Time Credits  
STEPHENS, Kenneth Leroy  
DOC#705432  
Yakima County Superior Court CSE#06-1-02624-7

On March 6, 2006, the Washington Court of Appeals, Division 1, published a decision in a personal restraint petition where the jail certified jail days for the same period of time to two consecutive sentences. Because under Washington Statutes an offender should not be credited twice for the same time period when serving jail time on causes that run consecutive to one another, the Court determined that certifying the same period of jail time to two or more consecutive sentences was a manifest error of law, which is an obvious mistake or error that is contrary to the intent of the law or statute.

The Court determined that the Department of Corrections has the authority to correct a manifest error of law in the jail's certification to reflect the proper amount of jail days for each sentence.

Additionally, in the case of a Department of Corrections sanction, that is reflected as credit for time served on the jail certification, the Department may also correct the jail time certification and apply the correct amount of jail time to a consecutive felony sentence.

The records office is forwarding this letter to the county jail administrator to point out the manifest error of credits noted on the jail certification which reflects 387 days jail time and 193 days good time credits.

This sentence is consecutive to Yakima County CSE#06-1-02170-9. The Department of Corrections will adjust the jail credits by 372 days and 193 days good time. Credits of 15 days jail time per the judgment and sentence have been applied to CSE#06-1-02624-7. Please amend your certification with this adjustment and return to the Records Department. Thank you.

cc: Central File  
Offender

Attachment

*“Working Together for SAFE Communities”*





STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

P. O. Box 41101 • Olympia, Washington 98504-1101 • Tel (360) 735-8200  
FAX (360) 664-4056

ADMINISTRATIVE BULLETIN AB-08-004

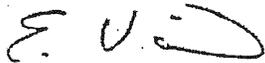
DATE: March 10, 2008  
TO: Executive Staff  
  
FROM: Eldon Vail  
Interim Secretary  
RE: DOC 350.100 Earned Release Time

Exhibit no. 10  
Cause No. 10-2-145-4  
Date 8/2/12  
Admitted YES  
Pet        Resp         
Pit ✓ Deft

## DOC Policy 350.100

### County Jail Earned Time

---

1. If the jail administrator certifies jail time credit to consecutive sentences for the same time period, and the Judgment and Sentence does not address jail time credits, the CRS (Correctional Records Supervisor) will correct the jail certification by deducting any duplicate jail time credits and jail good time credits from the jail certification totals and apply the remaining credits.
2. In the case of a Department sanction, if the jail administrator certifies jail credits to a consecutive sentence which includes credits for time served on the Department sanction and the Judgment and Sentence does not address jail time credits, the CRS will deduct the amount of sanction days served from the jail credits and the good time for sanction time served and apply the remaining credits to the consecutive sentence.
3. The CRS will send a letter to the jail administrator requesting an amended jail certification. However, the CRS does not need to wait for the amended jail certification to apply the proper credits.
4. The CRS will send the offender Court of Appeals Decision-Jail Time Credits, informing the offender of the Department's authority to correct the jail certification when there is a manifest error of law in the jail's certification.
5. If the court orders jail time credits for the same time period on consecutive sentences with the same intake date to prison, the Judgment and Sentence must be followed and the jail time credits will be applied accordingly.

6. If the court orders jail time credits for the same time period on consecutive sentence with different intake dates to Prison, added causes, the CRS will apply the credits for the Judgment and Sentence and then apply Wickert time, a type of out of time which is applied to a period of confinement when the offender is required to serve a consecutive period of confinement starting before the current confinement is complete, for the same time period.

## Appendix G



# OFFENDER'S KITE PAPELETA DE PETICION DEL RECLUSO

|  |  |                                |
|--|--|--------------------------------|
| OFFENDER NAME (PRINT) NOMBRE DEL RECLUSO (LETRA DE MOLDE)<br><i>Shane Ken /</i>              |  |                                |
| DOC NUMBER / NUMERO DOC<br><i>225432</i>   | UNIT, CELL / UNIDAD, CELDA<br><i>R3-B-54</i> | DATE / FECHA<br><i>2/13/09</i> |
| DESIRE INTERVIEW WITH OR ANSWER FROM / DESEA ENTREVISTA CON O RESPUESTA DE<br><i>Records</i> |  |                                |

Interpreter needed for \_\_\_\_\_ (language).  
Necesito intérprete para \_\_\_\_\_ (idioma).

### REASON/QUESTION RAZON/PREGUNTA

*Reception DI-17 / Served Case # 07-900554-4 First  
02/06/07, Credit for time served + 15 days.  
02/06/07 to 02/13/09 + 15 days = 307 served  
17 months Y-Credit + 123  
X 307 days = 510 days ← 510 credit*

*Sentenced case # 06-1-07-150-9 Second in 02/06/08  
Credit for time served from 11-16-06 + 3 days*

|  |                      |
|--|----------------------|
| SIGNATURE/FIRMA<br><i>K. [Signature]</i> | DAYS OFF/DIAS LIBRES |
|--|----------------------|

### RESPONSE RESPUESTA

*11/16/06 to 02/13/09 + 3 days = 457 days served  
23 months Y-Credit + 153  
307 days (609) credit  
660 My father is starting Phase 3 of Chem-  
radiation for his cancer. Is there anyway you  
could help me get track my release. These calculations  
do not work with Y3 credit time served usually. I do  
not know with what calculation for Y2 time and do*

|                                |            |
|--------------------------------|------------|
| RESPONDER/PERSONA QUE RESPONDE | DATE/FECHA |
|--------------------------------|------------|

*Believe I am way past my release date!!*

Distribution: WHITE/YELLOW-Responder, YELLOW-Return to Offender with Response, PINK-Offender keeps  
Distribución: BLANCA/AMARILLA-Persona que responde, AMARILLA-Devuelva al recluso con respuesta, ROSA-Se le  
queda al recluso  
DOC 21-473 E/S (11/26/07)

*Thank You!!  
Gwen [Signature]*



Washington Corrections Center  
Records Office

DATE: 04/01/08

TO: NAME: Stephens, Kenneth L  
DOC#: 705432  
LOCATION: R5 A4L

FROM: D. Tiffany  
Correctional Records Technician 1

REQUEST FOR A CENTRAL FILE REVIEW

A request to review your central file has been received by the WCC Records Office. Due to the amount of requests received by our office we maintain a log and reviews are scheduled in the order we receive them. The process to prepare your central file for a review is time consuming and, in most instances, there is approximately a 60-day waiting period.

Please come prepared to quietly review the contents of your file. If, during your review, you have any questions or concerns as to certain documents, dates, etc. that you find in your central file write them down and send a kite to the Records Office for investigation.

You can request a file review as often as you need one but after your initial review it would be beneficial to be specific in your request as to which documents you need to re-review as it does not take as much time to pull a few documents and prepare them for disclosure as it does to prepare an entire central file, especially, if you have more than one volume.

Lastly, if for some reason you would rather not wait for a file review and know what it is you need and would like copies of, please request copies.

Thank you for your cooperation and patience.



3/5/08

To: Judge Gavin,

cc: Legal Mail

Your Honor I pray this letter finds you in good spirits and health. Sir the last time I talked to you was Feb. 6<sup>th</sup> 2008, with my lawyer Tim Cotterell at my sentencing.

I am now writing to you from Shelton R-units, because the Yakima Jail Dispo and Records sent the wrong time that you credited me for.

~~As you had stated in court, you had commented too that I should be out and released from Shelton in a week or so, and I agreed with you that give or take a day or two,~~

Well your Honor the Records did credit me on Cause-#06-1-02170-9 with credit from 11-16-06 plus 3 days as you ordered on 2-6-08 plus good time. Shelton shows my release date being even earlier than you or I anticipated on this cause number, showing an ERD of 1-31-08.

But on Cause #06-1-0264-7 that you resentenced me on Feb. 6<sup>th</sup>, 2007, you had credited me the original 15 days that Judge Beauhuff earlier in November of 2006 had sentenced me too, with the wrong criminal history.

I did not contest the resentencing Feb. 6<sup>th</sup> 2007 to a new 17 month resentencing. Now Your Honor bear with me here please.

12 months later I come before you on

# Exhibit

4



**JEFFERS, DANIELSON,  
SONN & AYLWARD, P.S.**

*Established 1946*

November 18, 2009

Garfield R. Jeffers  
James M. Danielson  
David E. Sonn  
J. Patrick Aylward  
J. Kirk Bromiley  
Peter A. Spadoni  
Robert C. Nelson  
Donald L. Dimmitt  
Robert R. Siderius, Jr.  
Stanley A. Bastian  
Mitchell P. Delabarre  
Theodore A. Finegold

**RECEIVED**

**NOV 23 2009**

**STEWART, SOKOL & GRAY**

Todd M. Kiesz  
Kari D. Kube  
Brian C. Huber  
Michael E. Vannier

J. Kevin Bromiley  
Colleen M. Diener  
Jonathan R. Peirce  
Michelle A. Green  
Elizabeth A. McCown  
Megan M. Curry  
Kristin M. Ferrera

1995-0141-0028

Mr. Thomas A. Larkin  
Stewart, Sokol & Gray, LLC  
2300 SW First Avenue, Suite 200  
Portland, OR 97201-5047

Re: General Construction Company v. Grant County PUD No. 2

Dear Tom:

PUD's 10/21/08 Interrogatories and Requests for Production.

GCC has yet to provide straightforward response to the PUD's 10/21/08 Interrogatory No. 6(a) in any of its answers. By order dated July 23, 2009, Judge Knodell ordered GCC to "provide a complete responsive answer" to Interrogatory No. 6, as well as Nos. 7, 10, 11, 13, 17, 18, 19, 20, 23, 24, 25, and supplemental interrogatories: 2, 3, 9, 15, 17, and 18. GCC's "Third Supplemental Response to Defendant PUD's First Set of Interrogatories and Requests for Production" ("Third Supplemental Answers") arrived on September 8, 2009. Because GCC's Third Supplemental Answers did not contain "complete responsive answers" as the court ordered on July 23, Kristin Ferrera and I conducted a CR 26(i) conference with you and John on September 16, 2009. At that time, I again pointed out GCC's failure to "provide a complete responsive answer" to the following interrogatories.

- Interrogatory No. 6:

On behalf of GCC, John represented that GCC would provide all information that Interrogatory No. 6 requests and that Tab A-1, in chart form, delineates.

GCC has not done so. By way of example, Interrogatory No. 6 asks GCC to provide "(a) the date of the beginning of the event or occurrence on which GCC bases" "each and every claim for additional payment or additional time," and (b) the date on which GCC

---

2600 Chester Kimm Rd. • P. O. Box 1688 • Wenatchee, WA 98801  
Phone: 509-662-3685 • Fax: 509-662-2452 • www.jdsalaw.com

751894

ITSO005

RELEASE DATE CALCULATION

PAGE 002

DOC NO: 705432 NME: STEPHENS, KENNETH L STA MAX: 01/27/13 STATUS: ACTIVE  
COMMITMENT: "AI" COMM.STATUS: ACTIVE CONSECUTIVE TO "AH"

"AI"

TIME START DATE-----\* 01/31/2008

+ MAX ( 1Y 5M 0D) 517

- CREDIT TIME SERVED 15

+ OUT-TIME + WICKERT 0

+ CCI OUT/PAR ABSC TIME 0

MAXIMUM EXPIRATION DATE--\* 06/16/2009

+ MIN ( 1Y 5M 0D) 517

- CREDIT TIME SERVED (SRA) 15 *days*

- GOOD TIME (JAIL) 0

+ OUT-TIME + WICKERT 0 33%

MINIMUM EXPIRATION DATE--\* 06/16/2009

+ MAND ( 0Y 0M 0D) 0000000

- CREDIT TIME SERVED 0

+ OUT-TIME + WICKERT 0

- EARNED RELEASE 0

MANDATORY EXPIR. DATE----\* 00/00/0000

"AI" "AH-AI"

TIME SERVED TO-DATE 36

MINIMUM EXPIR. DATE-----\* 06/16/2009

GCT CERT. & ADDR. 0 0

GCT CERT. ONLY 0 0

+ GCT DENIED & ADDR. 0 0

+ GCT NOT CERTIFIED 0 0

FUTURE/UNCERT GCT 112 112

ET I & II 0.00 0.00

+ ET NOT EARNED 0.00 0.00

FUTURE ET 55.78 55.78

EARNED RELEASE DATE-----\* 12/30/2008

ADJ. EARNED RELEASE-----\* 12/30/2008

EARLY POSS. REL. DATE-----\* 12/30/2008

ADJ. EARLY POSS. REL-----\* 12/30/2008

TIME REMAINING TO SERVE 313

SANCTION ADMIT DATE-----\*

SANCTION RELEASE DATE-----\*

517

313

502

291

112

425

55

---

480

36

516

Your Honor this is the 17 month that you sentenced me on Feb 6th 2007.

Yakima only credited me with 15 days!  
It should read 365 days from Feb. 6th 2007 to Feb 6th 2008.  
plus 15 days and good time.  
Thank You.



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

State of Washington

NO. 06-1-2624-7

vs.

Kenneth Leroy Stephens

ORDER amending judgment and sentence

THIS MATTER HAVING COME ON for hearing before the undersigned judge/commissioner of the above-entitled court, it is hereby ORDERED THAT:

the judgment and sentence be amended as follows:

(section 4. A.1) credit for Time served in the

Yakima County Jail - the defendant shall be

given credit for 387 days served.

DONE IN OPEN COURT this 21<sup>st</sup> day of July, 2008.

[Signature]  
JUDGE/COURT COMMISSIONER

Presented by:  
(Copy received)

Travis G. Galt # 19380  
Attorney for Defendant

APPROVED AS TO FORM:  
(Copy received)

[Signature]  
Attorney for State 24399

EXHIBIT \_\_\_\_\_





STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

05-1-01208-6

ORDER OF RELEASE

SECTION 1

|  |                                       |  |   |  |
|--|---------------------------------------|--|---|--|
| OFFENDER'S NAME<br>STEPHENS, KENNETH L |                                       | DOC NUMBER<br>705432   | FACILITY<br>AVCC-W/R  |  |
| DATE OF BIRTH<br>08-01-1960            | SCHEDULED RELEASE DATE<br>09-01-06    | RECORDS MANAGER/DESIGNEE<br>ALICE PEREZ, CRS   | DATE<br>06-27-06  |  |
| SID NUMBER<br>11517314                 | AUTHORIZED/ACTUAL RELEASE<br>08-22-06 | TYPE OF RELEASE<br><input type="checkbox"/> 5990 W/SUPV<br><input checked="" type="checkbox"/> 5990 W/O SUPV<br><input type="checkbox"/> INS<br><input type="checkbox"/> DET/WARRANT | <input type="checkbox"/> TSF TO CCI/CCP<br><input type="checkbox"/> MON<br><input type="checkbox"/> MAX<br><input type="checkbox"/> PRS/CCM<br><input type="checkbox"/> CCV | <input type="checkbox"/> CCJ<br><input type="checkbox"/> PAROLE<br><input type="checkbox"/> BOND<br><input type="checkbox"/> VACATED<br><input type="checkbox"/> CCB |

The Department of Corrections, after carefully reviewing all available information, hereby releases the above named individual, an offender of a Washington State Correctional Facility.

SECTION 2

|  |   |
|--|---|
| RELEASE ADDRESS<br>3357 CASANDRA DRIVE<br>Wenatchee WA 98801 | EMERGENCY CONTACT: MUST BE COMPLETED<br>NAME Earl Stephens<br>ADDRESS 3357 CASANDRA DRIVE<br>Wenatchee WA 98801 |
| TELEPHONE 509-665-2481                                       | TELEPHONE 509-665-2481  |

I understand that I must report to the designated Community Corrections Officer (CCO) no later than the next work day following my actual release date as noted above.

|          |             |          |
|----------|-------------|----------|
| TO<br>NA | CITY, STATE | ZIP CODE |
|----------|-------------|----------|

SECTION 3

|   |                           |
|---|---------------------------|
| 1. I understand that I owe Legal Financial Obligations and must contact the Clerk of the Court in the county/counties in which I owe Legal Financial Obligations. I have received a copy of DOC Form 02-243 Notice to Offender for the current prison causes for which I owe Legal Financial Obligations.   | Offender's Initials<br>KS |
| 2. Per RCW 9.94A.637(5), I have been notified of the Department's Voluntary Assistance for Released Offenders.  | KS                        |
| 3. (If applicable) I have been registered with the Department of Corrections and informed of the registration requirements with my county of residence. I have signed and received a copy of the DOC Registration/Notification, DOC 20-312.   | NA                        |
| 4. Any detainer served by the Immigration and Naturalization Service (INS) remains in effect. If the INS detainer is dropped or if I return to the State of Washington, I will report no later than the next work day to the Duty Officer, PSI 1 - Court Liaison Section, 1516 2 <sup>nd</sup> Avenue, 2 <sup>nd</sup> Floor, Seattle, Washington 98101; Phone: (206) 254-4839. | NA                        |
| 5. I understand that, under the provision of the sentencing laws of the state of Washington, I am subject to the conditions and/or sentence requirements imposed by the court/ISRB. I also understand that if I am under the legal custody/supervision of the Department of Corrections, I must comply with all imposed conditions and instructions of the Department.          | KS                        |
| 6. If I am transferred to Community Custody and fail to report as ordered, I understand that escape charges may be filed against me.  | KS                        |

|  |  |                 |
|--|--|-----------------|
| OFFENDER'S NAME (PLEASE PRINT)<br>Kenneth Stephens | WITNESS<br>Ruth Hanson                   | DATE<br>8-22-06 |
| OFFENDER'S SIGNATURE<br>[Signature]                | RELEASING AGENT (CRM/CCO)<br>[Signature] | DATE<br>8-22-06 |

Distribution:  
Central File  
Offender  
Receiving Assignment Officer/ Supervising CCO (with Attachments)

Attachments:  
DOC Registration/Notification (if appropriate)  
Order of Parole (if appropriate)

Release Packet:  
J&S (All current causes on D14 except parole causes)  
PSI (Most recent)  
CHR Summary  
DOC 20-030 (Most recent)

SCANNED

KS  
26



81

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

**FILED**

AUG 03 2012

KIM MORRISON  
CHELAN COUNTY CLERK

KENNETH LeROY STEPHENS, )  
)  
Plaintiff, )  
)  
vs. )  
)  
STATE OF WASHINGTON, )  
)  
Defendant. )  
)

No. 10-2-00145-4

SPECIAL VERDICT FORM

12-9 0 0991 11

1. Did the Department of Corrections unjustifiably confine Kenneth Stephens, under the circumstances, beyond the period of time that it was legally entitled to confine him?

Circle one: Yes  No

If the answer to the first question is yes, answer number 2.

If your answer to the first question is no, stop here and sign verdict.

2. Was the unjustifiable confinement, under the circumstances, the proximate cause of Kenneth Stephens' damages?

Circle one: Yes  No

If the answer to the second question is yes, answer number 3.

If the answer to the second question is no, stop here and sign verdict.

3. What is the value of the damages suffered by Kenneth Stephens?

TOTAL AMOUNT OF DAMAGES: \$ \_\_\_\_\_

Date: 8-3-12

  
\_\_\_\_\_  
Presiding Juror



INSTRUCTION NO. 10

Consecutive sentences means the following:

When one sentence of confinement is to follow another in point of time, the second sentence is deemed to be consecutive.

Washington law provides that when sentences are ordered to be run consecutive with other sentences, as opposed to concurrent with other sentences, that the offender is not entitled to credit for jail time served for both sentences.