

COA No. 53250-2-I

**DIVISION ONE OF THE COURT OF APPEALS FOR
THE STATE OF WASHINGTON**

In Re Personal Restraint Petition of

**JACOB BOWMAN,
Petitioner**

v.

**The State of Washington,
Respondent.**

SUPPLEMENTAL BRIEF OF RESPONDENT

**DAVID S. McEACHRAN,
Whatcom County Prosecuting Attorney
By KIMBERLY THULIN
Senior Appellate Deputy Prosecutor
WSBA No. 21210
Attorney for Respondent**

**Whatcom County Prosecutor's Office
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A. FACTS

In the early morning hours of July 3rd, 1997, petitioner, Jacob Bowman fired seven-to-nine bullets into an apartment using a black 9mm Marlin model M-9 assault rifle. See Affidavit of Probable Cause, attached and incorporated herein, Exhibit A. Two of Bowman's bullets struck and killed eighteen year-old Raymond Hunter then inside the apartment. *Id.*

The State charged Bowman with murder in the first degree. See Exhibit B, Information. Then, on April 30th, 1998 Bowman agreed to plead guilty to an amended information of felony murder in the second degree predicated on drive by shooting. RCW 9A.36.045, Exhibit C, First Amended Information. Bowman was sentenced to 220 months for felony murder with an additional weapon enhancement of 60 months. See Bowman PRP, Judgment and Sentence entered May 18th, 1998, Exhibit D, attached and incorporated herein. The mandate was filed February 5th, 2001.

On October 23rd, 2003, well over one year after his judgment and sentence became final, Jacob Bowman filed this personal restraint petition requesting this court extend the holding set forth in In Re Andress, 147 Wn.2d 602, 56 P.3d 981 (2002) and find that felony murder cannot be predicated on drive by shooting. See Bowman PRP at 4. The state filed

an initial response brief on February 4th, 2005 asserting Bowman's petition should be dismissed as untimely.

Subsequently, this court ordered this matter linked with In Re Personal Restraint Petition of Nav, #55488-3-I. On August 10th, 2005 Bowman filed a notice of additional authority, incorporating by reference the legal arguments filed on behalf of petitioner Nav. The State then requested and was granted an opportunity to file this supplemental brief.

B. ARGUMENT

- 1. The legislature intends persons who commit drive by shooting, a class B felony, to be strictly liable for any death caused in furtherance of such crime. Therefore, Bowman's petition requesting collateral relief should be denied.**

Jacob Bowman is lawfully restrained pursuant to the crime of felony murder in the second degree predicated on drive by shooting. RCW 9A.36.045. Contrary to Bowman's argument, In re Andress, 147 Wn.2d 602, 56 P.3d 981 (2002), is not a significant change in the law material to his conviction; drive by shooting is not the equivalent to assault in the second degree as outlined herein and, the legislature clearly intends persons who commit drive by shooting to be strictly liable for any death caused in the commission of such felony. Therefore, pursuant to RCW 10.73.090, Bowman's petition is time-bared, without merit and should be dismissed.

Bowman nonetheless requests this court extend the holding of In re Andress, and find, for the first time, that felony murder cannot be predicated on drive by shooting. He argues there is no distinction between the felony of assault in the second degree and drive by shooting and, asserts that where commission of drive by shooting results in death, the felony and the homicide are not independent enough to meaningfully fall within the felony murder statute. Bowman's arguments are flawed and should be rejected.

A person is guilty of felony murder in the second degree when he commits or attempts to commit *any felony* other than those enumerated in RCW 9A.32.030(1)(c), and, in the course of and in furtherance of such crime or in immediate flight therefrom, he or another participant, causes the death of a person other than one of the parties.

A person is guilty of drive by shooting when, he or she recklessly discharges a firearm as defined in RCW 9.41.010 in a manner which creates a substantial risk of death or serious physical injury to another person and the discharge is either from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm, or both, to the scene of the discharge. RCW 9A.36.045(1).

For felony murder, the homicide and underlying felony must be part of the same transaction, not separate, distinct, or independent from it.

State v. Millante, 80 Wn.App. 237, 249-250, 908 P.2d 374 (1995), *review denied*, 129 Wn.2d 1012 (1996). For purposes of felony murder analysis, a homicide is deemed committed during the perpetration of a felony, if the homicide is within the ‘res gestae’ of the felony. State v. Leech, 114 Wn.2d 700, 706, 790 P.2d 160 (1990). A homicide is within the ‘res gestae’ if there is a close proximity in terms of time and distance between the felony and the homicide. Id.

In In Re Andress, 147 Wn.2d 602, 56 P.3d 981 (2002) however, our supreme court, relying in part on the “in furtherance language” of the 1975 version of the felony murder statute, concluded the legislature could not have intended assault in the second degree be a predicate offense to felony murder. The court determined it was illogical to find an assault part of the ‘res gestae’ of the murder where the assault and murder constitute the same conduct. See In re Andress, 147 Wn.2d at 610.

The Andress court reached this conclusion in part because it was concerned that felony murder, when predicated on assault in the second degree, “results in much harsher treatment of criminal defendants” and these concerns were not as apparent to the court in previous cases when it had rejected felony murder merger arguments. See In re Andress, 147 Wn.2d at 613, *citing* State v. Harris, 69 Wn.2d 928, 421 P.2d 662 (1966) (*supreme court declined to apply the felony murder merger doctrine in*

part because the facts did not warrant such an application as Harris had, “with gun in hand, threatened to kill several people, pointed the gun and pulled the trigger).

The severity of the felonious conduct engaged in by Bowman (and Nav) does not warrant extending Andress to felony murder prosecutions predicated on drive by shooting or reckless endangerment. Drive by shooting is a significantly distinct and a far more serious felony than assault in the second degree.

Furthermore, the elements of drive by shooting do not encompass committing homicide, thus the circular analysis suggested by Bowman should be rejected. As in any felony murder prosecution the underlying felony is and should be causally connected to a death. Where it is possible to commit the predicate felony without causing death, such predicate offenses should be considered sufficiently independent (assuming they meet the close proximity requirement) to fall within the felony murder rule. See, State v. Daniels, 124 Wn.App. 830, 103 P.3d 249 (2004).

The felony of drive by shooting was created by the legislature, initially as reckless endangerment in the first degree, in response to increasing concern over drug trafficking related drive by shootings and to ensure appropriate punishment for these offenders. See 1989 Laws of

Washington, Ch. 271, section 102, 103, 109,110, Laws of 1997, Ch. 338, section 44.

Drive-by shooting was and remains, categorized as a “violent offense,” with a seriousness level of VII, significantly higher than is assigned to assault in the second degree, which is ranked at a seriousness level IV. See Sentencing Guidelines Manual (1997), IV-5, IV-8, Felony Index. Only when commission of this activity results in death may a person be charged with felony murder.

Holding an individual strictly liable for any death caused during the commission of the inherently dangerous felonious activity of drive by shooting is well within reason and within our legislature’s intent. Nothing in Andress suggests a contrary result. Particularly in light of our legislator’s clarification in 2003, in the wake of Andress, reaffirming its intent that “any felony” including assault in the second-degree may be a predicate offense to felony murder in the second degree. See, Laws of 2003, Ch.3, section 1, 3. Thus, the Andress holding should be limited to felony murder predicated on assault in the second degree.

Collateral relief undermines the principles of the finality of litigation, degrades the prominence of trial, and sometimes costs society the right to punish admitted offenders. These significant costs require

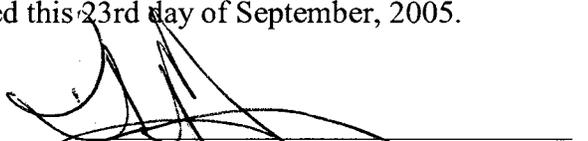
collateral relief be limited. In Re Hews, 99 Wn.2d 80, 86, 660 P.2d 263 (1983).

Washington courts have previously recognized that first-degree reckless endangerment (drive by shooting's predecessor) could serve as a predicate offense for felony murder. State v. Gilmer, 96 Wn.App. 875, 883-886, 981 P.2d 902 (1999), *review denied*, 139 Wn.2d 1023 (2000), see also, State's supplemental response to In Re Nav, #55488-3-I, incorporated herein. Nothing in Andress or the felony murder statute warrant granting the unprecedented request for collateral relief in this instance. Therefore, Bowman's untimely petition should be denied.

C. CONCLUSION

For the reasons set forth above, in the State's response brief to PRP of Bowman and the response briefs filed on behalf of the State in In Re Nav, #55488-3-I, attached and incorporated herein as additional authority, the State respectfully asks this court to dismiss Bowman's personal restraint petition as untimely.

Respectfully submitted this 23rd day of September, 2005.



Kimberly Thulin WSBA #21210
Appellate Deputy Prosecutor
Whatcom County Prosecuting Attorney
Attorney for Respondent

CERTIFICATE

I certify that on this date placed in the mail with proper U.S. postage thereon, or otherwise caused to be delivered, a copy of the attached document to this Court and appellant's counsel Suzanne Elliott, addressed as follows:

Suzanne Elliott
Ste 1300 Hoge Building
705 2nd Ave
Seattle, WA 98104-1741

Sydney Hopkino-Koss
Legal Assistant

9/23/2005
Date

[Handwritten scribble]
09/23/2005

EXHIBIT A

1 apartment at the time of the shooting and heard the shots as well as a car that sped
2 away towards Alabama Street.

3 Officer Snider also contacted Michael Smart who had been sleeping in a
4 bedroom in the apartment with his girlfriend when the shooting occurred. He
5 stated that he heard six to seven gunshots and then screaming. He was asked who
6 he believed would have done the shooting. He indicated that Ian McKnight had an
7 ongoing dispute with the Smarts and Todd Hamilton. Hamilton did not live at this
8 address, but McKnight did not know where he lived and knew that Hamilton vis-
9 ited the Smart's residence often. Mr. Smart stated that McKnight had argued with
10 Todd Hamilton and brandished a weapon towards him near the end of June.
11 Hamilton had seen McKnight on the 28th or 29th of June and had beaten him in a
12 fight.

13 Other officers were dispatched to this apartment to preserve the crime scene
14 and assist in the investigation. Officer Snider located seven spent 9mm shell cas-
15 ings outside the building in the parking area and in the street across from the wall
16 and window that had been penetrated by bullets.

17 During the time that the officers were investigating this shooting Raymond
18 Hunter was taken to the Emergency Room of St. Joseph's Hospital where he was
19 later determined to be brain dead due to the head wound that he had sustained. An
20 Autopsy was later conducted on the body of Raymond Hunter by Deputy Medical
21 Examiner Dr. Daniel Selove. A bullet was removed from Mr. Hunter's head and
22 another bullet was removed from his right shoulder area. These were preserved for
23 examination by the Washington State Crime Lab. Dr. Daniel Selove determined
24 that the cause of death was due to the brain damage from the bullet wound to the
25 head.

26 Officer Gitts of the Bellingham Police Department assisted in the crime
27 scene investigation and discovered nine bullet holes in the apartment west wall and
28 windows. In addition, there was a hole in a car that was parked in front of this side
29 of the apartment. It appeared that one of the bullets had hit the vehicle and then

1 penetrated the building.

2 Officer Monson attempted to obtain a track with Police Dog Major, but due
3 to the people in the area was not able to find a scent. From the witnesses state-
4 ments officers believed that the shooter had been in a vehicle and had left the
5 scene driving in a northerly direction.

6 Additional officers were called to the scene to interview witnesses and
7 neighbors and follow any investigative leads. Detective Rusty Miller was sent to
8 251 Pullman Court in Lynden at approximately 7:30 a.m., to watch the residence
9 at that location and see if Ian McKnight was present. Due to the problems that Mr.
10 McKnight had had with Todd Hamilton he was believed to be a suspect in this
11 shooting. Detective Miller observed Jacob Bowman, Victoria Walker and Vibol
12 Lieu outside the residence, speaking to a person in a Camaro when he arrived.
13 Detective Miller took a position approximately a block away and conducted sur-
14 veillance. Approximately 45 minutes later the Camaro left and Detective Miller
15 followed it for a short distance. He then returned to the residence and observed
16 Bowman, Walker and Lieu getting into a black Geo Storm automobile. Mr. Bow-
17 man was carrying a green canvas bag. The three people got into the car and left the
18 area. The car returned shortly after this and then left again. Detective Miller started
19 following the Geo Storm and observed a silver Thunderbird come up behind the
20 GEO and start chasing it. The cars went to the Guide Meridian where they headed
21 south and were driving at speeds up to 85 miles per hour. Detective Miller radioed
22 the location of the cars and other officers with marked patrol units responded. At
23 the 4200 block of the Guide Meridian marked patrol units stopped the GEO Storm.
24 When the car stopped, a passenger later identified as Ian McKnight, got out of the
25 car and was ordered back in by Officer Johnson. When the passenger got back
26 inside, the car sped off again and the officers pursued the vehicle with their emer-
27 gency lights on. The GEO went to the 3900 block of Meridian Street and braked
28 hard and slid into the curb. Once again the officers tried to talk the people out of
29 the car. At this time a male, later identified as Jacob Bowman got out of the vehi-

1 cle with a gun in his hand and ran from the officers. He was pursued by Detectives
2 Miller and Jensen. He disappeared around a building and went into a bushy area.
3 He reappeared and was stopped by Detective Miller and Jensen. He was unarmed
4 at this time. Detective Jensen went to the bushy area where Mr. Bowman had been
5 and found fresh footprints and located a black assault type rifle on the ground.
6 This was identified as a 9mm Marlin, Model M-9 rifle.

7 Mr. Bowman was handcuffed and a pat down search discovered a empty
8 9mm shell casing in his right front pocket. Mr. Bowman was advised of his rights
9 and asked to have an attorney present before speaking to the officers.

10 Detective Claudia Murphy later contacted Ian McKnight and spoke to him
11 about what had occurred earlier that morning. Mr. McKnight was not candid with
12 Detective Murphy at first and indicated that he knew nothing about the shooting of
13 the apartment at 1700 Alabama. He later indicated that he had been at his house
14 with Victoria Walker, Jacob Bowman, and Vibol Lieu. He said that he had fallen
15 asleep and the others were still in the room. He woke up at 2:00 a.m. and noticed
16 that Jacob Bowman was gone and that Victoria's keys were not on the table where
17 they had been earlier. He thought that Bowman had taken her car and had gone for
18 a ride. He went back to sleep and received a telephone call a short time later from
19 Bowman. Bowman stated that he had "just put some work in," and that that there
20 were a lot of 5-0- around." The 5-0 designation referred to police officers. Bow-
21 man came back to McKnight's house at approximately 3:30 a.m. and spoke to
22 McKnight. McKnight stated that Bowman was not speaking openly since Victoria
23 Walker was present, but he indicated that Mike Smart's apartment just got shot up.
24 They talked for a few hours and then all four people left McKnight's house. Bow-
25 man picked up a green bag that he brought into the car with him. Bowman told
26 them to drive past Alabama Street and they saw police cars and a van. Bowman
27 reportedly made the comment that it looked like someone had been shot. McK-
28 night stated that Bowman had a smirk on his face and appeared to be bragging.
29 They then drove to the Lynden area and went to Vibol Lieu's house.

1 Mr. McKnight stated that when they were at Lieu's house Donny Smart
2 drove there with a number of friends. He told Bowman, Lieu and Walker that
3 Mike Smart's house had been shot up and one of the people inside had been hit in
4 the back and in the head. Shortly after talking to these people, Walker, McKnight,
5 Lieu and Bowman got into the Geo and left to come to Bellingham.

6 During the drive to Bellingham McKnight said that a Thunderbird driven by
7 Mike Smart started to chase them. The Thunderbird disappeared and they were
8 then stopped by police officers.

9 McKnight stated that during the early morning hours after the shooting,
10 Bowman told him that, "I got them, that will teach them." Bowman also told him
11 that he had used duct tape to cover his license plate during the shooting.

12 McKnight indicated that Jacob Bowman had been seeking acceptance from
13 the Piru gang for a long time and had been told that he needed to put in some work
14 to get respect. He felt that Bowman was trying to earn his "stripes" and was look-
15 ing for a way to do it. The situation of Hamilton and Smart beating McKnight up,
16 who was respected by the Piru's, gave him the opportunity to gain respect by
17 shooting up Smart's house.

18 The shell casings that were found at the scene of this shooting and the gun
19 taken at the time of Bowman's arrest and the 9mm shell casing found on his per-
20 son were given to Forensic Scientist Evan Thompson of the Washington State
21 Crime Lab. He examined the casings and determined that the casings found at the
22 crime scene had been fired by the gun that was taken from the possession of Jacob
23 Bowman. He also determined that the shell casing taken from Mr. Bowman's
24 pants pocket had also been fired by the 9mm gun that was taken from his posses-
25 sion.

26 All of these acts occurred in Whatcom County, Washington.
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David S. McEachran
Prosecuting Attorney
Wash. Bar # 2496

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SUBSCRIBED AND SWORN to before me this 9th day of July, 1997.


NOTARY PUBLIC in and for the State
of Washington, residing at Bellingham.
My commission expires: 01-09-98

EXHIBIT B

FILED
CLERK
JUL 18 AM 11 18
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR WHATCOM COUNTY

THE STATE OF WASHINGTON,)	No. 97-1-00572-1
)	
Plaintiff,)	
)	INFORMATION FOR:
vs.)	
)	
JACOB DANIEL BOWMAN,)	MURDER IN THE 1ST DEGREE,
)	ONE COUNT
Defendant.)	
)	
)	
)	

I, DAVID S. MCEACHRAN, Prosecuting Attorney in and for the County of Whatcom, State of Washington, come now in the name and by the authority of the State of Washington, and by this information do accuse JACOB DANIEL BOWMAN with the crime of MURDER IN THE 1ST DEGREE, ONE COUNT committed as follows:

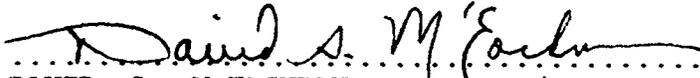
then and there being in Whatcom County, Washington,

MURDER IN THE 1ST DEGREE, ONE COUNT: That the defendant, JACOB DANIEL BOWMAN, then and there being in said county and state, on or about the 3rd day of July, 1997, under circumstances manifesting an extreme indifference to human life, did engage in conduct, to-wit: did shoot through the walls and windows of Apt. #1 located at 1700 Alabama Street, the city of Bellingham, said county and state, with a firearm, which created a grave risk of death to a person, thereby causing the death of Raymond Hunter, a human being, in violation of RCW 9A.32.030(1)(b), which violation is a Class A Felony;



contrary to the form of the Statute in such cases made and provided and against the peace and dignity of the State of Washington.

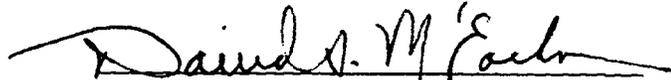
DATED this 9th day of July, 1997.



.....
DAVID S. MCEACHRAN, Prosecuting Attorney in and for Whatcom County, State of Washington.

STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I, DAVID S. MCEACHRAN, being first duly sworn on oath, depose and say: that I am a duly elected and acting Prosecuting Attorney in and for Whatcom County, State of Washington, I have read the foregoing information, know the contents thereof and the same is true as I verily believe.


DAVID S. MCEACHRAN, WSBA #2496
Prosecuting Attorney

SUBSCRIBED AND SWORN to before me this 9th day of July, 1997.


NOTARY PUBLIC in and for the State of Washington, residing at Bellingham. My Commission Expires on January 9, 1998.

EXHIBIT C

DATED this 30th day of April, 1998.

David S. McEachran
.....
DAVID S. MCEACHRAN, Prosecuting Attorney in and for Whatcom
County, State of Washington.

STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I, DAVID S. MCEACHRAN, being first duly sworn on oath,
depose and say: that I am a duly elected and acting Prosecuting
Attorney in and for Whatcom County, State of Washington, I have
read the foregoing information, know the contents thereof and
the same is true as I verily believe.

David S. McEachran

DAVID S. MCEACHRAN WSBA #2496
Prosecuting Attorney

SUBSCRIBED AND SWORN to before me this 30th day of
April, 1998.

Suzi E. Whitford

NOTARY PUBLIC in and for the
State of Washington, residing
at Bellingham. My Commission
Expires on May 9, 2001.

EXHIBIT D

FILED IN OPEN COURT

5-18 19 98

WHATCOM COUNTY CLERK

By [Signature]
Deputy

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR WHATCOM COUNTY

THE STATE OF WASHINGTON,)	
)	
Plaintiff,)	No. 97-1-00572-1
)	
vs.)	
)	
JACOB DANIEL BOWMAN)	JUDGMENT AND SENTENCE
)	(FELONY)
Defendant.)	

I. HEARING

- 1.1 A sentencing hearing in this case was held:
May 18, 1998.
- 1.2 Present were:

Defendant: JACOB DANIEL BOWMAN
Defendant's Lawyer: RICHARD C. KIMBERLY
Prosecuting Attorney: DAVID S. MCEACHRAN
Judge: DAVID A. NICHOLS
- 1.3 The State has moved for dismissal of Count(s) n/a.
- 1.4 Defendant was asked if there was any legal cause why judgment should not be pronounced, and none was shown.

II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report and case record to date, the Court finds:

- 2.1 CURRENT OFFENSE(S): The defendant was found GUILTY on April 30, 1998, by PLEA of: MURDER IN THE SECOND DEGREE:

Count No. I
 Crime: MURDER IN THE SECOND DEGREE
 RCW: 9A.32.050(1)(b) and 9.94A.310(3)(a)
 Crime Code: Class "A" Felony
 Date of Crime: July 3, 1997
 Incident No. 97B-22161

JUDGMENT AND SENTENCE (FELONY)
CONFINEMENT OVER ONE YEAR - 1

98-9-01066-7

712

50a

ORIGINAL

[Signature]
Jan
K

(XX) With a special verdict/finding for use of deadly weapon on Count(s): I.

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

() Additional current offenses are attached in Appendix A.

2.2 CRIMINAL HISTORY: Criminal history used in calculating the offender score is (RCW 9.94A.360): NO FELONY HISTORY OF WHICH WE ARE AWARE.

2.3 SENTENCING DATA:

	Offender Score	Seriousness Level	Range	Maximum Term
COUNT NO. I:	0	XIII	123-220 mos.	LIFE
	(plus firearms clause)		60 mos.	IMPRISONMENT
		TOTAL:	183-280 mos.	

2.4 EXCEPTIONAL SENTENCE:

() Substantial and compelling reasons exist which justify a sentence (above) (below) the standard range for Count(s) _____. Finding of Fact and Conclusions of Law are attached in Appendix D.

2.5 CATEGORY OF OFFENDER: The defendant is:

(a) (XX) An offender who shall be sentenced to confinement over one year.

(b) () An offender who shall be sentenced to confinement one year or less.

(c) () A first time offender who shall be sentenced under the waiver of the presumptive sentence range (RCW 9.94A.030(12), .120(5)).

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the crime(s) of: MURDER IN THE SECOND DEGREE.

JUDGMENT AND SENTENCE (FELONY)
CONFINEMENT OVER ONE YEAR - 2

IV. ORDER

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

4.1 Defendant shall pay to the Clerk of this Court:

- (a) \$110.00 court costs;
- (b) \$500.00 victim fund assessment;
- (c) \$ TBD - restitution
_____ Joint & several with co-defendant;
_____ On all counts charged;
_____ Other:
- () Schedule of Restitution is attached as Appendix E.
- (d) \$ n/a recoupment for court-appointed attorney's fees;
- (e) \$ _____ fine;
- (f) \$ _____ drug enforcement fund;
- (g) OTHER COSTS FOR:
 - () \$100.00 = CRIME LABORATORY ANALYSIS
- (h) \$ 610.00 + RESTITUTION = TOTAL MONETARY OBLIGATIONS
- (i) Payments shall be made in the following manner:

(XX) That the defendant shall set up a payment schedule with his/her community corrections officer. That the defendant shall report IMMEDIATELY to his/her Community Corrections Officer to set up a schedule for the payment of his/her court-ordered legal financial obligations and the Community Corrections Officer shall monitor these payments.

() That defendant shall pay the amount of \$ _____ per month toward his/her legal financial obligations. That the defendant shall report IMMEDIATELY to his/her Community Corrections Officer to set up a schedule for the

payment of his/her court-ordered legal financial obligations and the Community Corrections Officer shall monitor these payments.

(j) This Court shall retain jurisdiction over the defendant for a period of TEN (10) years to assure payment of the above monetary obligations.

4.2 The Court DISMISSES Count(s) n/a.

4.3 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the DEPARTMENT OF CORRECTIONS as follows commencing IMMEDIATELY:

220 MONTHS for Count No. I.
60 MONTHS for Firearms Clause.

(XX) Credit is given for TIME SERVED OF TBD DAYS as of July 3, 1997, and credit for any additional time served beyond that date until defendant is transported to the Department of Corrections.

(XX) That the defendant shall cooperate fully with the Bellingham Police Department and the Whatcom County Prosecutor's Office in the investigation of all of the events leading to the shooting death of Raymond Hunter, the events immediately after this shooting until defendant's arrest, and the involvement of any other persons in the planning, execution, and covering up of this act;

(XX) That the defendant shall make a full and truthful statement to Detectives of the Bellingham Police Department and to the Whatcom County Prosecutor's Office concerning all of the events leading to the shooting death of Raymond Hunter, the events immediately after this shooting until defendant's arrest, and the involvement of any other persons in the planning, execution, and covering up of this act; That this statement shall be made under oath;

(XX) That the defendant shall submit to a polygraph test or tests given by officers of the Bellingham Police Department to verify his truthfulness and the completeness of the statement or statements that he makes concerning all of the events leading to the shooting death of Raymond Hunter, the events immediately after this shooting until defendant's arrest, and the

involvement of any other persons in the planning, execution, and covering up of this act;

(XX) That the defendant shall, if called as a witness, testify truthfully and fully concerning all of the events leading to the shooting death of Raymond Hunter, the events immediately after this shooting until defendant's arrest, and the involvement of any other persons in the planning, execution, and covering up of this act.

(XX) That the defendant understands and agrees that if the Prosecuting Attorney believes there has been a failure of any of the above-mentioned conditions, the determination of such failure shall be made by the sentencing judge. If the judge determines that any of the conditions have not been met by the defendant, the defendant agrees that the sentencing court shall review the sentence imposed and may re-sentence the defendant within the standard range.

(XX) CUSTODIAL RECOMMENDATION FOR COMMUNITY PLACEMENT FOR TWO (2) YEARS conditioned upon full compliance with the following terms, all of which are imposed pursuant to RCW 9.94A.120(8)(b):

(XX) Defendant shall not possess or own weapons of any kind at any time.

() Defendant shall submit to random urine analysis as requested by her supervising community corrections officer at the defendant's own expense.

() Defendant shall undergo evaluation for poly drug abuse with strict and full compliance with all treatment recommendations.

() Defendant shall not consume alcohol of any kind at any time.

() Defendant shall undergo counseling as approved by his/her community corrections officer.

(XX) **NO CONTACT PROVISION:** Defendant shall not approach or communicate with, directly or indirectly, or through any third person or by any means, with:

ANY MEMBERS OF THE HUNTER FAMILY

The NO CONTACT ORDER previously entered in this cause number is hereby:

(XX) Extended for the statutory maximum sentence, to wit:

- (XX) Permanent: Class A Felony
- () Ten Years: Class B Felony
- () Five Years: Class C Felony
- () One Year: Gross Misdemeanor

(XX) HIV TESTING: The Health Department or designee shall test the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing.

(XX) DNA TESTING: That the defendant shall submit a blood sample of FIVE (5) m.l. to be acquired under medically safe conditions under the supervision of a Whatcom County Corrections Officer. This sample shall be safely transported to the Washington State Crime Laboratory in Seattle, DNA Section, pursuant to RCW 43.43.754.

Violations of the conditions or requirements of this sentence are punishable by up to SIXTY (60) days of confinement for each violation (RCW 9.94A.200(2)).

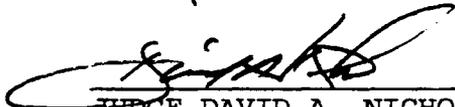
The following Appendices are attached to this Judgment and Sentence and are incorporated by reference:

- () Appendix A Additional Current Offenses
- () Appendix B Additional Criminal History
- () Appendix C Current Offense(s) Sentencing Information
- () Appendix D Findings of Fact and Conclusions of Law for an Exceptional Sentence
- () Appendix E Schedule of Restitution
- () Appendix F Additional Conditions

SIGNED IN THE PRESENCE OF THE DEFENDANT. ,

Date:

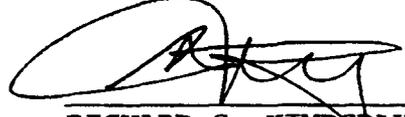
May 18, 1996


JUDGE DAVID A. NICHOLS

Presented by:

Approved as to form:


DAVID S. MCEACHRAN,
Prosecuting Attorney
WSBA #2496


RICHARD C. KIMBERLY
Attorney for Defendant
WSBA#10666

*** Defendant's Name: JACOB DANIEL BOWMAN
Date of Birth: 11/4/80; Sex: Male; Race: White

JUDGMENT AND SENTENCE (FELONY)
CONFINEMENT OVER ONE YEAR - 7

FILED N OPEN COURT

5-18 19 98

WHATCOM COUNTY CLERK

By _____ Deputy

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR WHATCOM COUNTY

THE STATE OF WASHINGTON,)	
)	
Plaintiff,)	No. 97-1-00572-1
)	
vs.)	
)	
JACOB DANIEL BOWMAN,)	WARRANT OF COMMITMENT
)	
Defendant.)	
_____)	

THE STATE OF WASHINGTON
TO: THE SHERIFF OF WHATCOM COUNTY

The defendant, JACOB DANIEL BOWMAN, has been convicted in the Superior Court of the State of Washington of the crime or crimes of MURDER IN THE SECOND DEGREE, and the Court has ordered that the defendant be punished by serving the determined sentence of 220 months on Count No. I, plus SIXTY (60) MONTHS for the firearm clause which is not subject to good time credit, for a total of 280 months.

Defendant shall receive credit for time served of _____ as of July 3, 1997, and credit for any additional time served beyond that date until defendant is transported to the Department of Corrections.

YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.

By Direction of the HONORABLE

DATED: 5-18-98

DAVID A. NICHOLS
JUDGE

N.F. JACKSON, JR., Clerk

By: [Signature]
Deputy Clerk

JUDGMENT AND SENTENCE (FELONY)
CONFINEMENT OVER ONE YEAR - 8

CAUSE NUMBER: 97-1-00572-1

Thumb prints of: Jacob Daniel Bowman

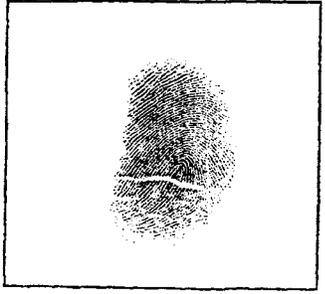
Jacob Bowman
(Defendant's Signature)

Attested by: _____ (Seal)

[Signature]
(Deputy County Clerk)

WA0370000 5-18-98 (date)

Left Thumb



Right Thumb

