

NO. 79834-6

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SUPREME COURT  
STATE OF WASHINGTON

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**SUPREME COURT OF THE STATE OF WASHINGTON**

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JAYSON LOREN EDWARD BUSH,

Appellant,

v.

STATE OF WASHINGTON,

Respondent.

---

**RESPONDENTS' ANSWER AND BRIEF IN SUPPORT THEREOF**

---

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## I. INTRODUCTION

Governor Gregoire revoked a conditional commutation of the sentence of Petitioner, Jayson Loren Edward Bush, after being satisfied that Mr. Bush violated one of its conditions of his commutation by committing an offense classified as a felony or gross misdemeanor in the state of Washington. Mr. Bush has filed a personal restraint petition alleging that the Due Process Clause of the Fourteenth Amendment compels the Governor to give him notice and a hearing prior to revoking the conditional commutation. The State of Washington opposes Mr. Bush's petition and asks that it be denied.

## II. ISSUE PRESENTED

Does the discretionary power granted to the Governor by article III, section 9, of the Washington Constitution create a liberty interest in conditional commutations that is protected by the Due Process Clause?

## III. STATEMENT OF THE CASE

Mr. Bush was convicted in 1997 of three counts of Assault in the First Degree after he was involved in a drive-by shooting. Exhibit 1, Declaration of Westensee, Attachment B, Conditional Commutation; Attachment L, Amended Information; Attachment M, Judgment and Sentence. Mr. Bush fired at several individuals and hit one person in the thigh causing an injury that required surgery. Exhibit 1, Attachment B.

Mr. Bush received a sentence of 279 months. Exhibit 1, Attachment M; Attachment N.

In 2004, former Governor Gary Locke granted Mr. Bush a conditional commutation of his sentence. Exhibit 1, Attachment B. The conditional commutation listed fourteen specific conditions, the violation of which would result in sanctions as deemed appropriate by the Department of Corrections (DOC). Exhibit 1, Attachment B. In addition, the conditional commutation contained an express provision that “in the event Mr. Bush commits any offense classified as a felony or gross misdemeanor in the State of Washington, this Conditional Commutation is revoked and the sentence imposed by the court reinstated without benefit of sentence reduction credit.” Exhibit 1, Attachment B. The conditional commutation also directed DOC to provide a written report to the Clemency and Pardons Board regarding the violation of any condition of the conditional commutation. Exhibit 1, Attachment B.

On April 8, 2006, Mr. Bush violated the conditions of the conditional commutation when he assaulted a ten-year-old child with a hockey stick and a belt. Exhibit 1, Attachment D, Incident Report; Attachment G, Statement of Arresting Officer; Attachment K, Affidavit of Facts. Mr. Bush was arrested on April 9, 2006, and on April 11, 2006, he was charged with Assault of a Child in the Third Degree, an offense

classified as class C felony under RCW 9A.36.140(2) and Assault in the Fourth Degree, an offense classified a gross misdemeanor under RCW 9A.36.041(2). Exhibit 1, Attachment D; Attachment E, Spokane Sheriff/Police Additional Report; Exhibit H, Warrant; Exhibit I, Information.

Community Corrections Officer Dennis Westensee was Mr. Bush's community custody supervisor in April 2006. Exhibit 1, ¶ 2. After Mr. Bush was arrested and charged with a felony, Mr. Westensee wrote letters to Governor Gregoire and to the Clemency and Pardons Board informing them of Mr. Bush's arrest. Exhibit 1, ¶ 6, Attachment A. Mr. Westensee also provided Governor Gregoire and the Clemency and Pardons Board with copies of the conditional commutation, color photographs of the victim, the Spokane Police incident report, an additional report of the Spokane Police and Sheriff, the statement of the arresting officer and a preliminary finding of probable cause, the warrant, information filed by the Spokane County Prosecuting Attorney, release conditions pending trial, and the statement of the investigating officer and an affidavit of facts. Exhibit 1, Attachments B-K. In addition, Mr. Westensee provided Governor Gregoire and the Clemency and Pardons Board with the amended information for Mr. Bush's 1997 conviction, the judgment and

sentence for Mr. Bush's 1997 conviction, and the warrant of commitment for Mr. Bush's 1997 conviction. Exhibit 1, Attachments L-N.

Governor Gregoire reviewed the information provided to her by Mr. Westensee. See Personal Restraint Petition [PRP] of Bush, Exhibit C, Letter of Gregoire<sup>1</sup>. After reviewing the information provided to her by Mr. Westensee, Governor Gregoire was satisfied that Mr. Bush had violated the conditions of his conditional commutation. Exhibit 2.

Governor Gregoire wrote a letter to Mr. Bush stating:

I have reviewed the photographs of the alleged victim's injuries, police incident reports, statement of probable cause and filings under the above-reference cause number including affidavits of facts. As a direct consequence of your pending prosecution, I am writing to advise you that effective May 30, 2006, your Conditional Commutation is revoked, subject only to a showing by you that charges against you have been dismissed prior to the effective date of this revocation.

Exhibit 2.

The charges against Mr. Bush were not dismissed, and therefore Mr. Bush's conditional commutation was revoked effective May 30, 2006.

*See* Petition.<sup>2</sup>

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<sup>1</sup> Also attached herein for ease of reference as Exhibit 2.

<sup>2</sup> Mr. Bush entered into a "Stipulation to Police Reports and Order of Continuance For 24 Months" (SOC) with respect to two counts of Fourth Degree Assault in this matter. See PRP of Bush, Exhibit A. Because Mr. Bush's conditional pardon was revoked and he is confined under his original sentence, the SOC is not currently operative. However, under the SOC, if Mr. Bush violates its conditions on his conduct, he stipulates to the accuracy and admissibility of the police reports and sworn

#### IV. ARGUMENT

##### A. **A CONDITIONAL COMMUTATION DOES NOT CREATE A LIBERTY INTEREST PROTECTED BY DUE PROCESS.**

Mr. Bush's Petition should be denied because a conditional commutation creates no liberty interest protected by due process.

##### 1. **The Governor Has Broad Authority Under the Washington Constitution and Statutes to Grant and Revoke Conditional Pardons and Commutations.**

The Washington Constitution vests the power to pardon and commute sentences in the Governor. "The pardoning power shall be vested in the governor under such regulations and restrictions as may be prescribed by law." Article III, § 9. Only very general regulations or restrictions have been prescribed by law with regard to the Governor's authority to grant commutations and pardons:

(5)The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

.....

(7) The governor may pardon any offender.

RCW 9.94A.728(5)(7).

RCW 10.01.120 affirms the governor's broad authority to grant pardons and commutations "upon such conditions, and with such

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declarations of witnesses and the victim in this matter, and to a term of imprisonment.

restrictions, and under such limitations as he may think proper.” In *Spencer v. Kees*, the Court examined this language<sup>3</sup> in response to the offender’s contention that he was entitled to a hearing prior to revocation of a conditional pardon. *Spencer v. Kees*, 47 Wash. 276, 280, 91 P. 963 (1907). The Court rejected the offender’s argument, finding it significant that the law prescribed no process other than the governor’s own decisional power, to determine whether the conditions of a pardon have been broken. “No other regulations or restrictions have been prescribed by law, and no other method has been provided for determining when the conditions of a pardon have been broken.” *Id.* at 280.

There would be much force in this contention [that revocation may not occur without opportunity to be heard] if other provisions had been made for determining when conditional pardons have been violated, but there are none. **We are of the opinion, therefore, that the provision above stated reposes power in the Governor, not only to effect a release, but to make conditional pardons effective.**

*Id.* at 280(emphasis added). See also *Ex Parte Costello*, 22 Wn.2d 697, 702 (1945), stating that “the effect of [*Spencer*] is that the conditional pardon therein granted could be revoked *without notice or hearing* for a violation of the conditions upon which the pardon was granted.” (emphasis added).

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See PRP of Bush, Exhibit A, p. 3.

<sup>3</sup> Cited in *Spencer* as § 6997, Bal. Ann. Code & St.

The Clemency and Pardons Board, which may recommend the granting of pardons or commutations to the Governor, does not have authority to conduct hearings regarding the revocation of a conditional pardon or commutation. RCW 9.94A.885(2). And the legislature specifically provided that the statute governing the Clemency and Pardons Board did not create a due process right to any of its proceedings. “Nothing in this section is intended or may be relied upon to create a right or benefit, substantive or procedural, enforceable at law by any person.” RCW 9.94A.885(3).

2. **State Law Imposes No Substantive Limitations on Conditional Commutations As Necessary to Create a Protected Liberty Interest.**

A protected liberty interest must exist before due process requirements come into play under either the United States Constitution or the Washington Constitution. *PRP of Ayers*, 105 Wn.2d 161, 164 (1986). Liberty interests may be created from only two sources, the due process clause or state laws. *In re Cashaw*, 123 Wn.2d 138, 144, 866 P.2d 8 (1994).

The due process clause itself does not create a liberty interest in release from prison prior to serving a full, maximum sentence. *Cashaw*, 123 Wn.2d at 144, *citing Greenholtz*, 442 U.S. at 7. “There is no constitutional or inherent right of a convicted person to be conditionally

released before the expiration of a valid sentence. . . . [T]he conviction, with all its procedural safeguards, has extinguished that liberty right: “[G]iven a valid conviction, the criminal defendant has been constitutionally deprived of his liberty.” *Greenholtz v. Inmates of Nebraska Penal and Correctional Complex*, 422 U.S. 1, 7 (1979), quoting *Meachum v. Fano*, 427 U.S. 215, 224, 96 S.Ct. 2532, 2538 (1976); see also *PRP of Ayers*, 105 Wn.2d 161, 164 (1986).

Although the state may create a due process liberty interest where none previously existed, it can only do so “[b]y enacting a law that places substantive limits on official decisionmaking.” *Cashaw*, 123 Wn.2d at 144.

For a state law to create a liberty interest, it must contain “substantive predicates” to the exercise of discretion and “specific directives to the decisionmaker that if the regulations’ substantive predicates are present, a particular outcome must follow.” Thus, laws that dictate particular decisions given particular facts can create liberty interests, but laws granting a significant degree of discretion cannot.

*Cashaw*, 123 Wn.2d at 144, quoting *Kentucky Dep’t of Corrections v. Thompson*, 490 U.S. 454, 463, 109 S.Ct. 1904, 1910 (1989); *Swenson v. Trickey*, 995 F.2d 132, 134 (8<sup>th</sup> Cir.), *cert. denied*, 510 U.S. 999, 114 S.Ct. 568 (1993); see also *Conn. Bd. of Pardons v. Dumschat*, 452 U.S. 458, 463, 101 S.Ct. 2460 (1981)(there is no constitutional right to release from a valid prison sentence absent a right explicitly conferred by the state.)

No Washington law contains “substantive predicates” and “specific directives” to the Governor in exercising her discretion over whether to grant *or* revoke conditional pardons. On the contrary, the law regarding the Governor’s authority over pardons and commutations is very broad and leaves full discretion with the Governor. When there is no statute defining the obligations, setting forth criteria, or mandating “shalls,” there is no analogous duty or constitutional entitlement. *Dumschat*, 452 U.S. at 466. “The ground for a constitutional claim, if any, must be found in statutes or other rules defining the obligations of the authority charged with exercising clemency.” *Id.* at 465.

The conditional nature of the pardon hardly changes this circumstance. Its conditions are not state laws or rules creating “substantive predicates” that limit the exercise of the Governor’s discretion, as required to create a liberty interest. Rather, as this Court recognized in *Spencer*, they “manifest a plain intention on the part of the Governor to himself maintain control over the pardon”. *Spencer*, 47 Wash. at 281. The Court there correctly concluded, “Under the circumstances the appellant was at large merely at the will of the Governor. The Governor had it in his power to order the appellant to prison at any time.” *Id.* at 282, quoting *Woodward v. Murdock*, 124 Ind. 439, 24 N.E. 1047.

This is in contrast with parole revocation where a liberty interest protected by due process attaches. The United States Supreme Court has explained, "Rather than being an ad hoc exercise of clemency," parole has become "an established variation on imprisonment of convicted criminals." *Morrisey v. Brewer*, 408 U.S. 471, 477, 92 S.Ct. 2593 (1972). Parole is an integral part of a penological system designed "to help individuals reintegrate into society as constructive individuals as soon as they are able, without being confined for the full term of the sentence imposed," and "to alleviate the costs to society of keeping an individual in prison." *Id.* To accomplish these specific purposes of parole, "those who are allowed to leave prison early are subjected to specified conditions for the duration of their terms." *Id.* at 478. The conditions of parole thus serve two purposes. First, "they prohibit, either absolutely or conditionally, behavior that is deemed dangerous to the restoration of the individual into normal society," and through the requirement of reporting the parole officer is provided an opportunity to advise and guide the offender into constructive development. *Id.* Based on this established statutory structure of parole, the *Morrisey* Court concluded that "implicit in the [parole] system's concern with parole violations is the notion that the parolee is entitled to retain his liberty as long as he substantially abides by the conditions of his parole.'" *Id.* at 479.

As the United States Supreme Court observed in *Morrissey*, the “ad hoc exercise of clemency” is different. *Morrissey*, 408 U.S. at 477. Clemency and pardon are not part of a statutorily “established variation on imprisonment of convicted criminals.” *Id.* Rather, clemency and pardon are extraordinary acts of unfettered executive grace, as a matter of long established Washington State law. *Spencer*, 47 Wash. at 280-81. They create no protected liberty interest in an offender, and the offender should have no due process expectations with regard to them.

In this case, there are no “statutes or other rules defining the obligations of the authority charged with exercising clemency.” *Dumschat*, 452 U.S. at 465. Therefore, there is no ground for a constitutional claim. The law regarding pardons and commutations in Washington grants an extraordinary degree of discretion to the Governor, and therefore it *cannot* create a liberty interest. *Cashaw*, 123 Wn.2d at 144.

**B. THIS COURT REPEATEDLY HAS HELD THAT NOTICE AND HEARING ARE NOT REQUIRED BEFORE THE GOVERNOR MAY REVOKE A CONDITIONAL COMMUTATION.**

Case law emphatically favors the Governor’s broad powers to both grant and revoke conditional pardons and commutations. The Court explained early on, in *Spencer v. Kees*, that the governor has the right not

only to give a conditional pardon to an offender, but also to revoke that conditional pardon without notice or an opportunity to be heard. 47 Wash. at 280. In *Spencer*, the governor granted a conditional pardon to the offender, an invalid, on the condition that he be placed under the care and surveillance of a doctor and that he live with and be supported by relatives. *Id.* at 278. The conditional pardon included language to the effect that a failure to meet the conditions “shall cause the revocation of this pardon and the recommitment of the said Edward Spencer to the penitentiary to serve out the remainder of his term according to the sentence imposed on him by the court . . . .” *Id.*

As the *Spencer* Court explained, the governor granted the conditional pardon “as a matter of grace, and not of duty. He did not intend to completely exonerate the appellant or to release him from the force and effect of the sentence, but expressly provided that a failure to comply with the conditions ‘shall cause the revocation of this pardon.’” *Spencer*, 47 Wash. at 280-81. The language of the pardon granted in *Spencer* was significant because it showed “a plain intention on the part of the Governor to himself maintain control over the pardon, and to revoke the same upon failure of the condition.” *Spencer*, 47 Wash. at 281. Like the offender in *Spencer*, Mr. Bush “was at large merely at the will of the Governor. The Governor had it in his power to order the appellant to

prison at any time.” *Spencer*, 47 Wash. 282, quoting *Woodward v. Murdock*, 124 Ind. 439, 24 N.E. 1047.

The Court re-examined the issue of revocation of conditional pardons nearly forty years later in *Henry v. Webb*, 21 Wn.2d 283 (1944). The issue in *Henry* was whether the Board of Prison Terms and Paroles had the authority to grant a parole to an individual who had already received a commuted sentence from the governor, which was later revoked for violation of conditions imposed. Citing *Spencer*, the Court stated that there was no question, “but that the governor had authority to revoke the conditional pardon, as was done in this case, because of failure to comply with the conditions upon which such pardon was granted.” *Henry*, 21 Wn.2d at 286.

One year later, the Court again visited the issue of revocation of conditional pardons, in *Ex Parte Costello*, 22 Wn.2d 697 (1945). In *Costello* the offender was granted a conditional pardon by the governor, which was later revoked by a subsequent governor for violating the conditions of his pardon “in that he frequented taverns in the City of Everett, being intoxicated, having in his possession a forty-five pistol and during the course of an argument he threatened several soldiers.” *Costello*, 22 Wn.2d at 699. Again citing *Spencer*, the Court stated that “the effect of that decision is that the conditional pardon therein granted

could be revoked *without notice or hearing* for a violation of the conditions upon which the pardon was granted.” *Costello*, 22 Wn.2d at 702 (emphasis added).

In *Costello* the Court clarified that when a conditional pardon contains an express provision that it may be revoked at any time without notice. As in *Henry* and *Costello*, “the governor may summarily revoke such conditional pardon at any time without notice or hearing for a violation of any one or all of the conditions upon which such pardon was granted and accepted.” *Costello*, 22 Wn.2d at 703. But the Court did not require that such an express provision be contained in a conditional pardon in order to preserve the governor’s right to revoke it upon a violation of the conditions. *Id.* at 702-03.

Even if an express provision in the pardon were necessary for the Governor to revoke a conditional pardon without notice or hearing, and there is no constitutional or statutory basis for such a requirement, the conditional pardon granted to Mr. Bush contained such language: “[I]n the event Mr. Bush commits any offense classified as a felony or gross misdemeanor in the State of Washington, this Conditional Commutation *is revoked* and the sentence imposed by the court reinstated without the benefit of sentence reduction credit.” The italicized language connotes automatic summary revocation.

The decision about whether the conditions have been violated resides only with the governor:

[T]he Governor had power to enforce the performance of the conditions, and, *when he became satisfied* that the conditions of the pardon were being violated, he was authorized to issue his warrant revoking the pardon . . . .

*Spencer*, 47 Wash. at 281 (emphasis added). As in *Spencer*, when Governor Gregoire became satisfied that the conditions of Mr. Bush's pardon had been violated, she was authorized to revoke his conditional commutation.

Contrary to Mr. Bush's assertions, Governor Gregoire did not make her decision in a vacuum, but relied upon copies of photographs of the victim's injuries, police incident reports, statement of probable cause, and filings by the Spokane County Prosecutor's Office, including affidavits of facts.

Even if the Governor's decision were not founded on such strong evidence, it still would stand. "Decisions of the Executive Branch, however serious their impact, do not automatically invoke due process protection; there simply is no constitutional guarantee that all executive decisionmaking must comply with standards that assure error-free determinations." *Greenholtz*, 422 U.S. at 7; *see also PRP of Ayers*, 105 Wn.2d 161, 164 (1986). Moreover, "pardon and commutation decisions

have not traditionally been the business of courts; as such, they are rarely, if ever, appropriate subjects for judicial review.” *Dumschat*, 452 U.S. at 464.

V. CONCLUSION

Mr. Bush does not have a liberty interest in the revocation of his conditional commutation, and the Governor had the right to revoke it without a hearing. Therefore, Mr. Bush’s Personal Restraint Petition must be denied.

RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of April, 2007.

ROBERT M. MCKENNA  
Attorney General



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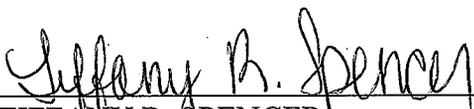
CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 21<sup>st</sup> day of April, 2007, I served all parties, or their counsel of record, a true and correct copy of this document by the method(s) indicated below at the following addresses(s):

MARLA L. POLIN  
Trageser Law Office, P.S.  
1428 W. Northwest Blvd.  
Spokane, WA 99205

US Mail, Postage Prepaid  
 Overnight Mail (Fed-Ex)

EXECUTED this 21<sup>st</sup> day of April, 2007 at Spokane, WA.

  
\_\_\_\_\_  
TIFFANY R. SPENCER  
Legal Assistant

**EXHIBIT 1**

**DECLARATION OF  
DENNIS L. WESTENSEE**

**THE SUPREME COURT  
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:  
JAYSON LOREN EDWARD BUSH,  
Petitioner,

No. 79834-6

DECLARATION OF DENNIS  
L. WESTENSEE

1. I, Dennis L. Westensee, am a Community Corrections Officer III with the Washington State Department of Corrections (DOC).
2. In April 2006 I supervised Jayson Loren Edward Bush, DOC # 769229.
3. Mr. Bush was released to community custody supervision with DOC after he received a Conditional Commutation of his sentence from former Governor Gary Locke on May 25, 2004. The Conditional Commutation released Mr. Bush from prison on the condition that he successfully complete twenty-four months of community custody supervision.
4. The last paragraph of the Conditional Commutation stated that Mr. Bush's Conditional Commutation would be revoked if he committed any offense classified as a felony or gross misdemeanor in the State of Washington, and it further stated, "The Department of Corrections shall provide a written report to the Clemency and

**EXHIBIT** 1

Pardons Board regarding the violation of any condition of this Conditional Commutation.”

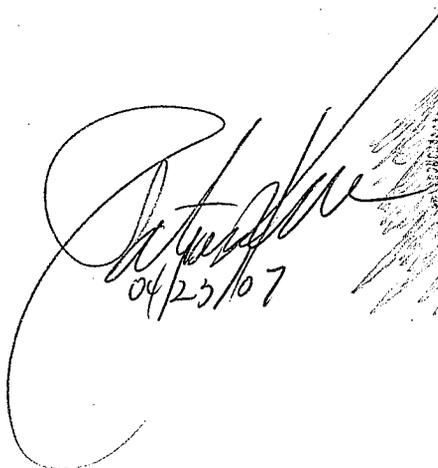
5. Mr. Bush was arrested on April 9, 2006, by the Spokane Police Department and was charged with third degree assault of a child.
6. On April 17, 2006, I wrote letters to Governor Gregoire and to the Clemency and Pardons Board informing them that Mr. Bush had been arrested and charged with a felony for third degree assault of a child. A true and correct copy of my letter to Governor Gregoire is attached to this Declaration as Attachment A.
7. Included with the letters were several documents. True and correct copies of those documents, with victim identification redacted, are attached to this declaration as follows:
  - B. Conditional Commutation of Jayson Loren Edward Bush
  - C. Color photographs (7) of victim
  - D. Incident report, Spokane Police, dated 4/9/06
  - E. Spokane Police/Sheriff Additional Report
  - F. Spokane Police/Spokane County Sheriff Photolog
  - G. Statement of Arresting Officer and Preliminary Finding of Probable Cause
  - H. Warrant dated 4/11/06

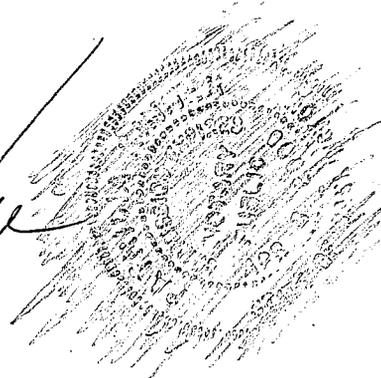
- I. Information filed 4/11/06
- J. Release Conditions Pending Trial
- K. Statement of Investigating Officer, Affidavit of Facts
- L. Amended Information, Cause No. 96-1-02141-6
- M. Judgment and Sentence, Cause No. 96-1-02141-6
- N. Warrant of Commitment, Cause No. 96-1-02141-6

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 23 day of April 2007, in Spokane, Washington.

  
DENNIS L. WESTENSEE

  
04/23/07



**EXHIBIT 1  
ATTACHMENT A**

**DECLARATION OF  
DENNIS L. WESTENSEE**



STATE OF WASHINGTON  
**DEPARTMENT OF CORRECTIONS**  
**OFFICE OF CORRECTIONAL OPERATIONS**  
**NORTH MAPLE OFFICE**

1821 North Maple • Spokane, Washington 99205 • (509) 323-7419  
FAX (509) 568-3161

April 17, 2006

The Honorable Christine Gregoire, Governor  
Office of the Governor  
P.O. Box 40002  
Olympia, WA 98504-0002

Re: Jayson Loren Edward Bush  
DOC No. 769229  
Conditional Commutation of Sentence

Dear Governor Gregoire:

Currently I supervise the above-referenced defendant. On May 25, 2004, former Governor Gary F. Locke granted Mr. Bush, a person who was serving consecutive prison sentences for three counts of first degree assault, a Commutation of Sentence. This released him from prison on the condition that he successfully complete twenty-four months of Community Custody supervision with the Department of Corrections. See attached Conditional Commutation. The last paragraph in this Commutation states "that in the event Mr. Bush commits any offense classified as a felony or gross misdemeanor in the State of Washington, this Commutation is revoked and the sentence imposed by the court reinstated without the benefits of sentence reduction credit, whereupon Mr. Bush shall be immediately returned to the Washington Corrections Center."

It now appears that Mr. Bush has violated his Commutation by assaulting a child in Spokane on or about April 8, 2006. He is presently being charged with a felony for third degree assault of a child in Spokane County Superior Court under Cause No. 06101206-3. A critique of the police reports that are attached to this letter, including pictures of the victim, allege Mr. Bush assaulted a 10-year old boy by striking him with a wooden hockey stick. According to the victim, Mr. Bush then grabbed a leather belt with a large buckle and struck the victim more than thirteen times. Investigating police officers reported that the victim's buttocks were swollen and they had several red welts along with black and blue bruising. The victim was taken to a local hospital, examined by a physician and eventually turned over to Child Protective Services. Bush was arrested by the Spokane Police Department on April 9, 2006 and is presently being held in the Spokane County Jail with bond set at \$100,000.

*"Working Together for SAFE Communities"*

**EXHIBIT** 1A

April 17, 2006

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Attached to this letter is a copy of a Warrant showing Spokane County Superior Court found probable cause; Information filed by the Spokane County Prosecutor's Office; Release Conditions showing bond has been set at \$100,000; and Officer's Affidavit of Facts.

It should be noted that Mr. Bush was released from the institution on June 1, 2004 to a term of community custody not to exceed twenty-four months and this is due to terminate on May 31, 2006, and at the time of this letter I have been unable to verify if jurisdiction will be lost after this date. Due to the above circumstances which support Mr. Bush has violated his conditional commutation, I am writing this letter for your consideration in revoking his Commutation of Sentence. I will also be notifying the Clemency and Pardons Board and informing them of his apparent violation of Commutation of Sentence.

Enclosed for your convenience are the names and telephone numbers of individuals with whom I have been in contact, who are familiar with this case and may be able to offer you information and assistance. In addition, a copy of Mr. Bush's original judgment and sentence as well as a copy of the Information filed in his original charges are enclosed.

If you have any questions or need further information, please contact me.

Sincerely,

Dennis L. Westensee  
Community Corrections Officer, III  
Telephone No.: (509) 323-7377

Enclosures

cc: Paul Weisser, Assistant Attorney General  
Kate McLachlan, Assistant Attorney General  
Delbert Nuner, CCS

Paul Weisser, Assistant Attorney General  
P.O. Box 40116  
Olympia, WA 98504-0116  
(360) 586-1445

Kate McLachlan, Assistant Attorney General  
1116 West Riverside Avenue  
Spokane, WA 99201  
(509) 456-3123

Kelly Fitzgerald, Spokane County Deputy Prosecuting Attorney  
Public Safety Building  
1100 West Mallon  
Spokane, WA 99260  
(509) 477-3662

Delbert Nuner, Community Corrections Supervisor  
1821 North Maple Street  
Spokane, WA 99205  
(509) 323-7379

**EXHIBIT 1  
ATTACHMENT B**

**DECLARATION OF  
DENNIS L. WESTENSEE**

**CONDITIONAL COMMUTATION  
OF  
JAYSON LOREN EDWARD BUSH**

**To All To Whom These Presents Shall Come, Greetings:**

Whereas, on September 22, 1996 Jayson Loren Edward Bush, then 17 and without any prior criminal history, was involved in a drive by shooting. Mr. Bush pled guilty to three counts of first degree assault. He was sentenced to 93 months on each count to be served consecutively for a total of 23 years and three months. His earned release date would be October 18, 2016; and

Whereas, prior to this incident, Mr. Bush, who is of Cape Verdean descent and is bi-racial, had reportedly been the victim of racial harassment at his high school. As a result of this harassment, Mr. Bush transferred to a different high school and began to carry a gun. The night of the shooting, Mr. Bush was picked up from work by two friends. While they were driving, a Mustang with three young men from Mr. Bush's former high school pulled up along side the car and words were exchanged. The argument escalated as the cars entered a residential area. Mr. Bush and his friends temporarily lost sight of the Mustang, but later saw the driver and passengers getting out of the car. According to Mr. Bush, at that point, several of the men started shouting and running toward the vehicle that he was in. Mr. Bush reports that he then panicked and fired at the unoccupied Mustang and then fired into the air. While shooting, Mr. Bush hit one young man in the in the thigh, which required surgery; and

Whereas, while in prison, Mr. Bush has become a religious person, embracing Islam and working to change himself. He has completed his GED and is completing a correspondence course for a Bachelors Degree program in Islamic Studies and Arabic. He has also completed an Anger and Stress Management Course. Mr. Bush has a great deal of support in the community, including the National Association for the Advancement of Colored People; and

Whereas, the Clemency and Pardons Board was favorably impressed by the extent to which Mr. Bush has taken responsibility for his past actions and has turned his life around. The Board believes he has been adequately punished, has been rehabilitated, and that further incarceration would serve no purpose; and

Whereas, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crime, and the unanimous recommendation of the Clemency and Pardons Board, and in light of the foregoing, I have determined that the best interests of justice will be served by this action; and

**EXHIBIT** 1B

NOW, THEREFORE, I, Gary Locke, by virtue of the power vested in me as Governor of the state of Washington, grant to Jayson Loren Edward Bush this Conditional Commutation, commute the remainder of the sentence imposed to a term of community custody not to exceed the normal term imposed by the sentencing court (twenty-four months), SUBJECT TO THE FOLLOWING CONDITIONS:

Mr. Bush shall:

1. Report regularly to a community corrections officer as directed by the Department of Corrections;
2. Pay a monthly supervision fee as directed by the community corrections officer;
3. Notify the Department of Corrections prior to any changes of address or employment;
4. Remain in the geographic area as directed by the community corrections officer;
5. Not possess, receive, ship, or transport a firearm, ammunition, or explosives;
6. Not possess or use alcohol or possess or use any controlled substances without a prescription;
7. Submit to regular and random urinalysis and breathalyzer testing, as directed by the community corrections officer;
8. Participate in substance abuse evaluation as directed by the community corrections officer, and follow-up on any recommendations from such evaluation;
9. Participate in a chemical dependency evaluation as directed by the community corrections officer, and follow-up on any recommendations from such evaluation;
10. Participate in chemical dependency and substance abuse support groups, as directed by the community corrections officer;
11. Not associate with any drug users or dealers;
12. Participate in electronic monitoring, if deemed appropriate by the community corrections officer;
13. Participate in any mental health evaluation as recommended by the community corrections officer, and follow-up on any recommendations from such evaluation; and,
14. Comply with all standard conditions, recommendations, and instructions of community placement as directed by the community corrections officer and with all other applicable conditions imposed by the sentencing court.

Violation of any of the above conditions shall result in sanctions as deemed appropriate by the Department of Corrections. **PROVIDED**, that in the event Mr. Bush commits any offense classified as a felony or gross misdemeanor in the State of Washington, this Conditional Commutation is revoked and the sentence imposed by the court reinstated without the benefit of sentence reduction credit, whereupon Mr. Bush shall be immediately returned to the Washington Corrections Center or any such other facility as the Secretary of Corrections deems appropriate. The Department of Corrections shall provide a written report to the Clemency and Pardons Board regarding the violation of any condition of this Conditional Commutation.



IN WITNESS THEREOF, I have  
hereunto set my hand and caused the  
seal of the State of Washington to be  
affixed at Olympia this 25<sup>th</sup> day  
of May Two Thousand Four

Garry F. Locke  
Governor of Washington

BY THE GOVERNOR:

Secretary of State  
ASST.

**EXHIBIT 1  
ATTACHMENT C**

**DECLARATION OF  
DENNIS L. WESTENSEE**

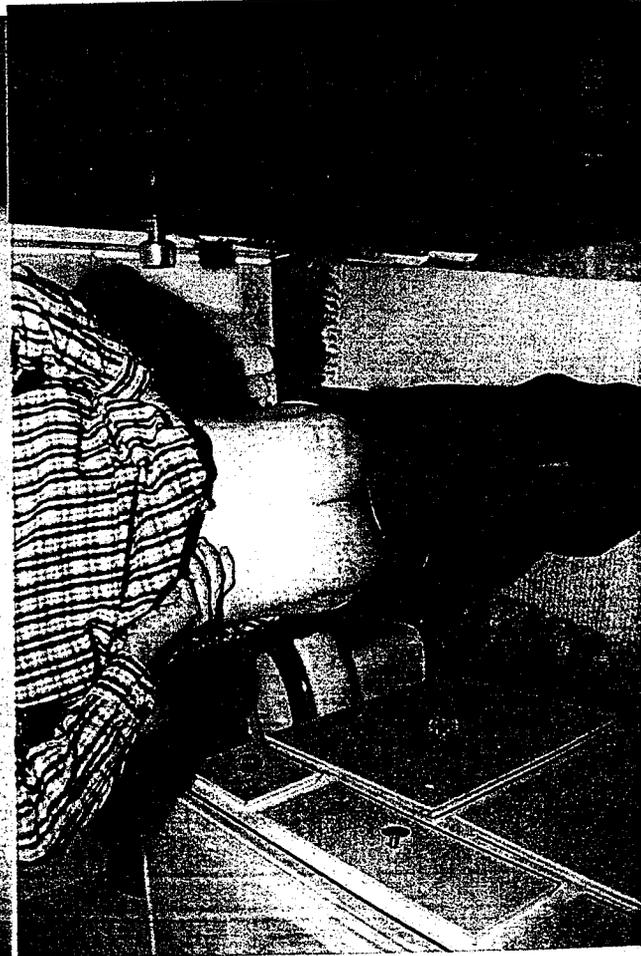
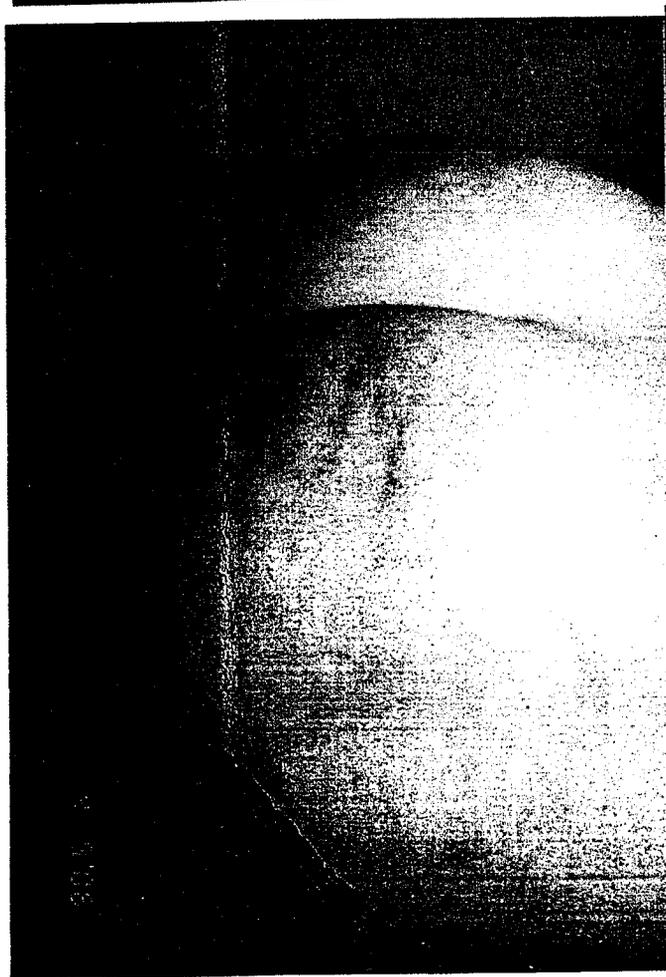
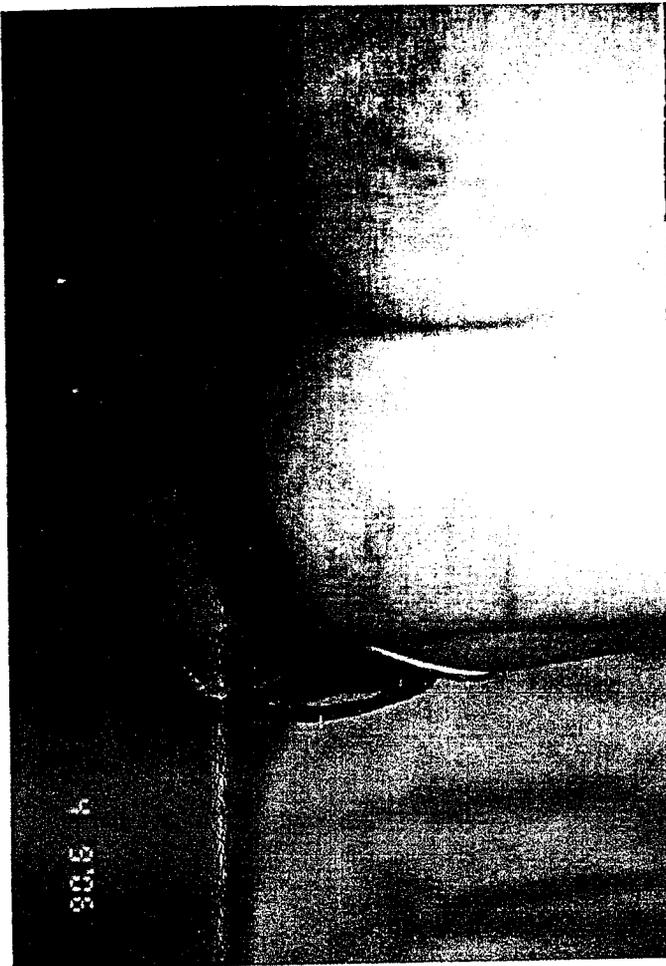
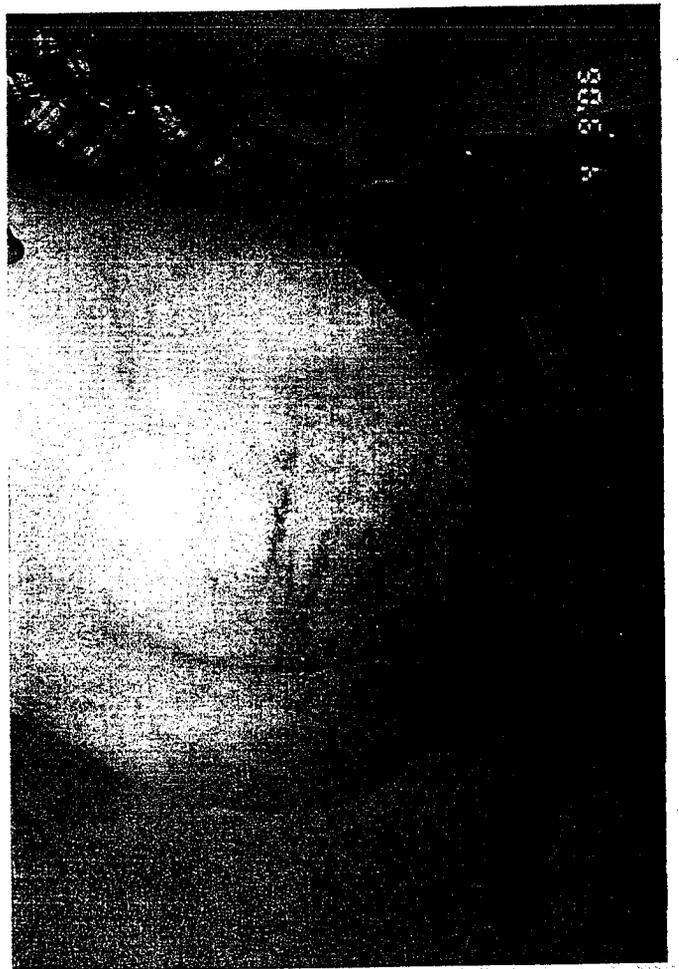
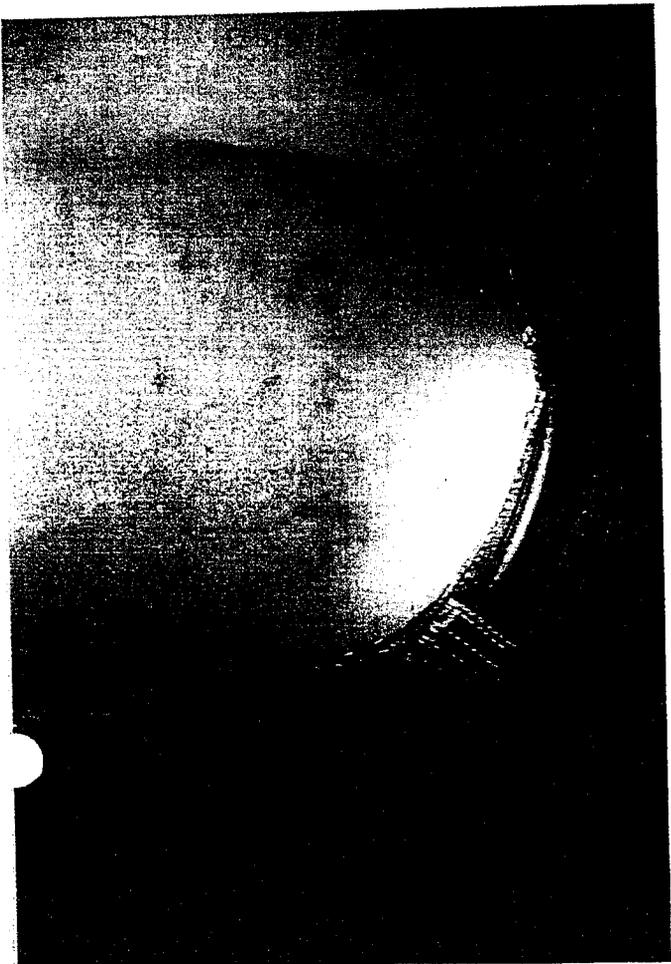
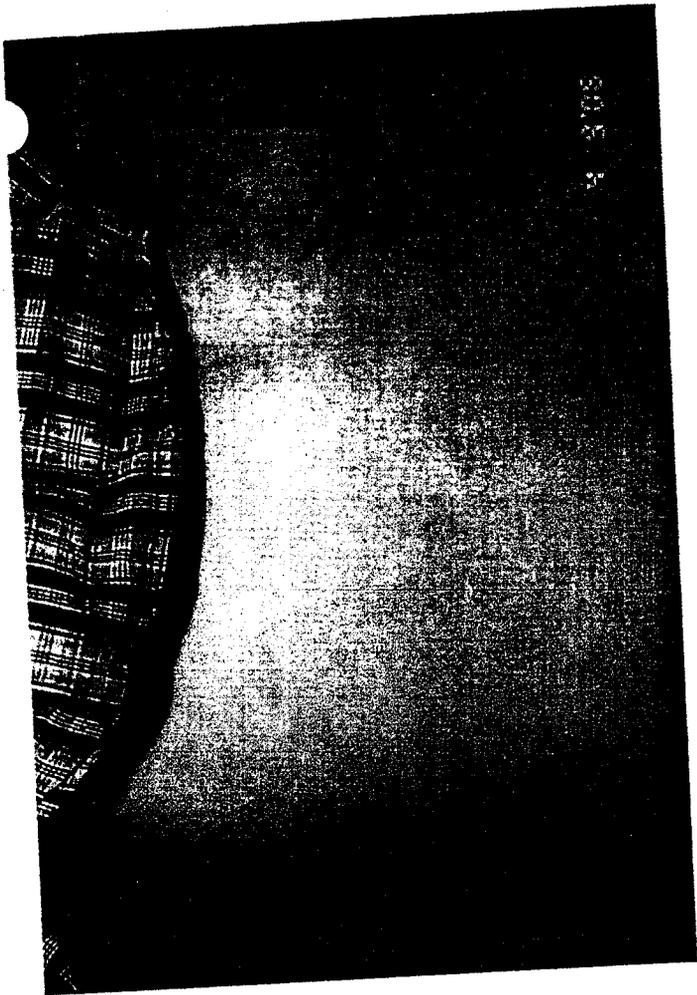


EXHIBIT 1C



**EXHIBIT 1  
ATTACHMENT D**

**DECLARATION OF  
DENNIS L. WESTENSEE**

568-3161

# Incident Report

## Spokane Police/Spokane County Sheriff

AGENCY NAME/SUBSTATION

EVIDENCE NUMBER

INCIDENT NUMBER

SPD

06-102733

INCIDENT TYPE

Arrest, Child Abuse, Domestic Violence

INCIDENT CLASSIFICATION #1

ASSAULT 3RD

ATTEMPTED

INCIDENT CLASSIFICATION #2

CHILD ABUSE

ATTEMPTED

INCIDENT CLASSIFICATION #3

DOMESTIC VIOLENCE

ATTEMPTED

INCIDENT CLASSIFICATION #4

ATTEMPTED

RESPONDING TO (Officer Assault)

ASSIGNMENT (Officer Assault)

REPORTED ON

DATE/TIME

OCCURRED ON

DATE/TIME

OCCURRED TO

DATE/TIME

DISTRICT

Sun 04/09/2006

16:17

Sat 04/08/2006

20:00

Sat 04/08/2006

20:10

DISPATCH TIME

ARRIVED TIME

CLEARED TIME

REPORT DATE

REPORT TIME

EST. TOTAL PROPERTY LOSS

PRIMARY CHARGE

9A.36.140(1) CHILD ASSAULT-3D(CRIMINAL NEG)

UCR/NIBRS CODE

/ 13A

ADDITIONAL CHARGES

9A.28.040 Criminal Conspiracy

LOCATION OF INCIDENT

1711 W 10th #7, Spokane, WA

LOCATION NAME (IF APPLICABLE)

ENTRY POINT

METHOD

WEAPON/TOOL/FORCE USED

SECURITY

EVIDENCE

TYPE OF PREMISE (FOR VEHICLES STATE WHERE PARKED)

SOLVABILITY FACTORS

Suspect Arrested, Useful Physical Evidence

RELATED INCIDENT NUMBERS

INCIDENT XREF

06-102780

ADDITIONAL REPORTING OFFICERS

C. Lyons, S. Nemec

CODE

NAME: LAST, FIRST, MIDDLE

SEX RACE/ETHNICITY

DATE OF BIRTH/AGE

A-1

Bush, Jayson E

M B-Black

07/05/1979 26

HEIGHT

WEIGHT

BUILD

HAIR

EYES

DESCRIPTORS

6'01"

150

Light

Brown

BRO - Brown

CONFIDENTIALITY

ADDRESS: STREET, CITY STATE ZIP

RESIDENTIAL STATUS

PHONE

1711 W 10th #7, Spokane, WA

475-6821

PLACE OF EMPLOYMENT/SCHOOL/ADDRESS

OCCUPATION

EMPLOYER PHONE

CHARGE LEVEL

DESCRIPTION

UCR/NIBRS CODE

Felony

9A.36.140(1) CHILD ASSAULT-3D(CRIMINAL NEG)

13A

WARRANT #

BAIL

TYPE OF ARREST

MULTIPLE ARRESTEE SEGMENTS INDICATOR

CITATION #

DATE

TIME

BOOKED WHERE

DATE

TIME

Spokane County Jail

04/09/2006

18:56

ARREST LOCATION

1711 W 10th #7, Spokane, WA

STATEMENT

CHARGES

SUSPECT ARMED WITH

ORAL

ADMITTED

WRITTEN

DENIED

DISPOSITION OF JUVENILE

JUV. PAR/GRD.

NAME/RELATIONSHIP OF PERSON NOTIFIED

DATE & TIME NOTIFIED

NOTIFIED BY

Notified  
 YES  NO

ID NO./NAME OF REPORTING OFFICER

APPROVAL

DATE/TIME

DISTRIBUTION

#311 - Mellaak, Sherril

#147 - Nemec, Sean

04/10/2006 01:37

Child Protective Services, Department of Corrections, SPD

Incident Report #1

04/10/2006 01:37:20.490

EXHIBIT

1D

# Incident Report Continued

## Spokane Police/Spokane County Sheriff

INCIDENT CLASSIFICATION  
**ASSAULT 3RD**

ATTEMPTED  INCIDENT NUMBER  
**06-102733**

CODE **A-2** NAME: LAST, FIRST, MIDDLE **Nelson, Anneliese R** SEX RACE/ETHNICITY **F W-White** DATE OF BIRTH/AGE **09/24/1976 29**  
HEIGHT WEIGHT BUILD HAIR EYES DESCRIPTORS

CONFIDENTIALITY  ADDRESS: STREET, CITY STATE ZIP **1711 W 10th #7, Spokane, WA** RESIDENTIAL STATUS PHONE **475-6821**  
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS OCCUPATION EMPLOYER PHONE

CHARGE LEVEL **Gross Misdemeanor** DESCRIPTION **9A.28.040 Criminal Conspiracy** UCR/NCIC CODE  
WARRANT # BAIL TYPE OF ARREST MULTIPLE ARRESTEE SEGMENTS INDICATOR

CITATION # **B51437** DATE **04/09/2006** TIME **19:42** BOOKED WHERE DATE **04/09/2006** TIME **19:42**

ARREST LOCATION **1711 W 10th #7, Spokane, WA** STATEMENT  ORAL  WRITTEN CHARGES  ADMITTED  DENIED SUSPECT ARMED WITH

JUV. PAR/GRD. NAME/RELATIONSHIP OF PERSON NOTIFIED DATE & TIME NOTIFIED NOTIFIED BY DISPOSITION OF JUVENILE  
 YES  NO

CODE **C-1** NAME: LAST, FIRST, MIDDLE **Dunn, Johanna M** SEX RACE/ETHNICITY **F W-White** DATE OF BIRTH/AGE **07/08/1967 38**  
HEIGHT WEIGHT BUILD HAIR EYES DESCRIPTORS

CONFIDENTIALITY  ADDRESS: STREET, CITY STATE ZIP **429 W Mansfield Street, Spokane, WA 99205** RESIDENTIAL STATUS PHONE **(509) 325-1031**  
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS OCCUPATION EMPLOYER PHONE

CODE **V-1** NAME: LAST, FIRST, MIDDLE **Nelson-Smith, Christopher Robin Casey** SEX RACE/ETHNICITY **M W-White** DATE OF BIRTH/AGE **01/03/1996 10**  
HEIGHT WEIGHT BUILD HAIR EYES DESCRIPTORS

CONFIDENTIALITY  ADDRESS: STREET, CITY STATE ZIP **1711 W 10th #7, Spokane, WA** RESIDENTIAL STATUS PHONE **475-6821**  
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS OCCUPATION EMPLOYER PHONE

RELATIONSHIP TO SUSPECT **Victim was Child of** VICTIM OF **Offns. # 9A.36.140(1) CHILD ASSAULT-3D(CRIMINAL NEG)** OFNDR. # **A-1**

CODE **O-1** NAME: LAST, FIRST, MIDDLE **Blake, Lori** SEX RACE/ETHNICITY **F W-White** DATE OF BIRTH/AGE  
HEIGHT WEIGHT BUILD HAIR EYES DESCRIPTORS

CONFIDENTIALITY  ADDRESS: STREET, CITY STATE ZIP **1313 N Atlantic #2000, Spokane, WA 99205** RESIDENTIAL STATUS PHONE  
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS OCCUPATION EMPLOYER PHONE

**Incident Report Continued**  
**Spokane Police/Spokane County Sheriff**

Page 3

INCIDENT CLASSIFICATION

**ASSAULT 3RD**ATTEMPTED  INCIDENT NUMBER**06-102733**

ADDITIONAL PHONES

**(Work) 363-3333**

On 04-9-06 at approx. 1617 hrs I responded to 429 W Mansfield reference possible child abuse complaint.

I contacted Comp/Dunn who stated her 10 yr old nephew, Nelson-Smith, Christopher Robin Casey [goes by Robin] told her his mom's boyfriend Bush, Jayson "whipped" him with a belt last night. Dunn stated Robin showed her his "buttocks" which was red and swollen and bruised [black & Blue]. Dunn advised me she had taken photos of Robins bruises.

I asked Dunn if she knew mom or boyfriend, Dunn stated mom is her sister Nelson, Annaliese.

I then spoke with Robin. Robin stated he and a friend had been out playing, the friend apparently had not told his grandmother where he was going to be. Robin thought grandma new. Robin stated when he got home Bush asked him if his friends grandma new where they had been, Robin thinking she had known told Bush grandma new. Bush told Robin he was lying "again" that the grandma did not know where they had been.

Robin stated Bush got very mad picked up a wooden hockey stick [approx. 3Ft long narrow on one end larger on the other] and a Black leather belt with a large buckle "Pimp". Robin stated Bush asked him which one he wanted to be spanked with. Robin stated he chose the hockey stick thinking it wouldn't hurt very bad. Robin stated Bush hit him twice on the bottom, this stung very bad so he moved away over to the couch yelling "no more of the hockey stick". Robin stated Bush came over to him leaned over his head putting Robins face near Bush's chest. Robin stated Bush asked him how many school assignments he had missed. Robin stated he told him 13. Robin stated Bush started hitting him with the belt, once, then five times then several more he believes more than thirteen.

I asked Robin where his mom was when this was happening, he stated she was sitting across the room not saying or doing anything to stop Bush.

Robin continued to tell me Bush has lived with them for approx. one year. Robin stated he also has a 4yr and 10 month old brothers, Robin stated he has seen bruises on both of them in the past. Robin also stated this is the first time Bush has actually ever hit him but has threatened many times in the past.

Robin stated Bush has threatened to send him away so he would not see his mother.

Robin stated Bush usually makes him and brother Simon [4yr] do squats, push-ups or some form of exercise for their punishment.

I had Cpl. Strickland respond to take photos of Robin's injuries.

Robin's "Buttock" was swollen had several red welts, along with black & blue bruising covering both "cheeks".

Robin was taken to Deaconess by Dunn to be examined by a physician, where I had Lori Blake from CPS contact us for an AEP on Robin.

**Incident Report Continued**  
**Spokane Police/Spokane County Sheriff**

Page 4

INCIDENT CLASSIFICATION  
**ASSAULT 3RD**ATTEMPTED  INCIDENT NUMBER  
**06-102733**

After talking with Sgt Nemeec and due to the severity of Robin's injuries it was determined that there was PC to arrest Bush for 3rd degree Child Assault.  
Also due to the lack/failure of Nelson [mom] to protect Robin from this assault PC existed for her for Criminal Conspiracy.

Sgt Nemeec and reserve officer C. Lyons did contact Nelson and Bush at the address on 10th, where Bush was arrested and transported to jail for 3rd assault of a child. Nelson was issued a criminal ticket for Criminal Conspiracy by Sgt. Nemeec.

See Sgt. Nemeec and officer Lyon's report for more information.

It should be noted I did contact Bush's Probation Officer Westensee, Denny to advise him of this incident.

An affidavit was completed on Bush.

**EXHIBIT 1  
ATTACHMENT E**

**DECLARATION OF  
DENNIS L. WESTENSEE**

**SPOKANE POLICE/SHERIFF ADDITIONAL REPORT**

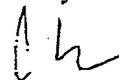
DATE: <b>040906</b>	TIME: <b>1617</b>	CHARGE/INCIDENT: <b>3<sup>rd</sup> Degree Assault of a Child</b>	PAGE: <b>1/1</b>	INCIDENT NUMBER: <b>060102733</b>
COMPLAINANT: (LAST, FIRST M.)		RACE:	SEX:	DOB:
STREET ADDRESS:		CITY:	STATE:	ZIP:
ARREST: (LAST, FIRST M.)		DOB:	LOCATION OF INCIDENT: <b>429 W. Mansfield</b>	DATE: <b>060906</b>
			RES. PHONE:	BUS. PHONE:

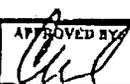
On 040609 at approx. 1942 hrs., I responded to 1711 W. 10<sup>th</sup> #7 to assist Sgt. Nemece with contacting a suspect in a child abuse.

Upon arrival Sgt. Nemece and I contacted (A-1) Bush. Sgt. Nemece advised Bush that he was under arrest for 3<sup>rd</sup> Degree Assault of a Child and I placed him into handcuffs (DL).

On Sgt. Nemece's probable cause I transported and booked Bush into Spokane County Jail.

C. Lyons #25-0325



OFFICER NAME: <b>C. Lyons</b>	NUMBER: <b>250325</b>	AREA: <b>R25</b>	OFFICER NAME:	NUMBER:	AREA:	APPROVED BY: 
----------------------------------	--------------------------	---------------------	---------------	---------	-------	---

**EXHIBIT** IE

**EXHIBIT 1  
ATTACHMENT F**

**DECLARATION OF  
DENNIS L. WESTENSEE**



**EXHIBIT 1  
ATTACHMENT G**

**DECLARATION OF  
DENNIS L. WESTENSEE**

ADULT  JUVENILE

Page 1 of 2

Statement of Arresting Officer and Preliminary Finding of Probable Cause

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
 IN THE SUPERIOR COURT JUVENILE DEPARTMENT OF THE STATE OF WASHINGTON  
 IN THE DISTRICT COURT OF THE STATE OF WASHINGTON  
 IN THE MUNICIPAL COURT OF THE CITY OF SPOKANE

IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON )  
COUNTY OF SPOKANE ) ss.  
CITY OF SPOKANE )

Report Number 060102723  
 SUMMONS  
 WARRANT REQUESTED  
 IN CUSTODY

Comes now S. Malinak, 311  
Law Enforcement Officer, and states that the following person was arrested by this officer at the following time and place:

Name Bush, Jayson E  
DOB 7-5-79 Sex M Race B  
Date and Time of Booking 4-9-06 2025 Date of Incident 4-8-06  
Place of Arrest 1711 W 10th #7 Spokane WA  
Victim Nelson, Smith, Christopher R. C. DOB 1-3-96  
Listed Booking Charges 3<sup>rd</sup> Assault of Child DN

The above individual was arrested for the listed charges based upon the following facts and circumstances:  
(List Elements of Crime and Reason for Focus on Suspect)

on 4-8-06 at approx 2000 hrs at 1711 W 10th  
#7 Spokane WA Spokane County the crime of  
Child Assault 3<sup>rd</sup> was committed.

EXHIBIT 16

AFFIDAVIT OF PROBABLE CAUSE (continued)

Defendant BUSH, Jayson E DOB 7-5-79 Report Number 060102733

This officer can testify to:

- 1) responding to 429 W Mansfield reference a possible child assault.
- 2) Taking statements from Comp and victim.
- 3) observing victim's injuries which are greater than transient pain or minor temporary marks.
- 4) Placing victim with Child Protective Services

Comp: Can testify to:

- 1) victim telling & showing her his injuries

Victim can testify:

- 1) Def striking him several times with a belt and two times with a hockey stick (wood).

Officer Lyons can testify to:

- 1) Arresting/Booking Def for 3<sup>rd</sup> child Assault.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Date 4-9-06 Signature [Signature] 311

Place Spokane WA Approved By \_\_\_\_\_

City Shift Commander (625-4150)  
 Washington State Patrol (456-4101)

County Shift Commander (477-2642)  
 Juvenile Detention Center (458-2449)

**EXHIBIT 1  
ATTACHMENT H**

**DECLARATION OF  
DENNIS L. WESTENSEE**



bodily harm and/or which was accompanied by substantial pain that did extend for a period sufficient to cause considerable suffering,

and probable cause having been determined,

THEREFORE, IN THE NAME OF THE STATE OF WASHINGTON, you are commanded forthwith to apprehend and bring the said JAYSON E. BUSH, BM 07/05/79, forthwith before this Court to answer said information. Service of this warrant is hereby authorized by telegraph or teletype pursuant to RCW 10.31.060.

Read to Defendant(s):

INTERESTED PARTIES MAY REQUEST THAT THE ACCOMPANYING PAPERS TO AN ARREST WARRANT NOT BE FILED. (SEE GR 15).

THE STATE OBJECTS TO THE FILING OF THE ACCOMPANYING PAPERS TO THE ARREST WARRANT. [ ] YES [ ] NO

Bond Fixed in the Sum of 20,000<sup>00</sup>

4-11, 2006

MARYANN C. MORENO

Judge

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 11 day of

April, 2006

THOMAS R. FALLQUIST, County Clerk

Wm. Han Deputy

I HEREBY CERTIFY THAT I executed the attached warrant by reading it to the defendant, this 11<sup>th</sup> day of April, 2006.

Mileage \_\_\_\_\_

Service \$30<sup>00</sup>

WARRANT \$7<sup>00</sup>

TOTAL \$37<sup>00</sup>

LARRY LINDSKOH Sheriff

By [Signature]

**EXHIBIT 1  
ATTACHMENT I**

**DECLARATION OF  
DENNIS L. WESTENSEE**

COPY

ORIGINAL FILED

APR 11 2006

THOMAS R. FALLQUIST  
SPOKANE COUNTY CLERK

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

STATE OF WASHINGTON )

Plaintiff, )

v. )

JAYSON E. BUSH  
BM 07/05/79 )

Defendant(s). )

INFORMATION

(INFO)

No.

06101206-3

KELLY A. FITZGERALD

Deputy Prosecuting Attorney

PA# 06-9-23304-0

RPT# 002-06-0102733

RCW 9A.36.140(1)DV-F (#05497)

Comes now the Prosecuting Attorney in and for Spokane County, Washington, and charges the defendant(s) with the following crime(s):

ASSAULT OF A CHILD IN THE THIRD DEGREE, committed as follows: That the defendant, JAYSON E. BUSH, in the State of Washington on or about April 08, 2006, being eighteen (18) years of age or older, did, with criminal negligence, cause bodily harm to CRCN-S, a child under the age of thirteen (13) years, by means of a weapon or other instrument or thing likely to produce bodily harm and/or which was accompanied by substantial pain that did extend for a period sufficient to cause considerable suffering,

Deputy Prosecuting Attorney

VCSB #2520

**COPY**

DEFENDANT INFORMATION:

Address: 706 W PROVIDENCE AVE SPOKANE WA 99205-2991

Height: 6'01"

Eyes: Bro

SID #: 018197949

JAYSON E. BUSH

Weight: 160

DOL #:

DOC #:

Hair: Bro

State:

FBI NO. 600306DB2

INFORMATION

Page 1

EXHIBIT II

SPOKANE COUNTY PROSECUTING ATTORNEY  
COUNTY CITY PUBLIC SAFETY BUILDING  
SPOKANE, WA 99260 (509) 477-3662

**EXHIBIT 1  
ATTACHMENT J**

**DECLARATION OF  
DENNIS L. WESTENSEE**

COPY  
ORIGINAL FILED  
APR 13 2006  
SUPERIOR COURT  
SPOKANE COUNTY, WA

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

STATE OF WASHINGTON )

Plaintiff, )

v. )

JAYSON E. BUSH )  
BM 07/05/79 )

Defendant. )

No. 06-1-01206-3  
PA# 06-9-23304-0  
RPT# 002-06-0102733  
RCW 9A.36.140(1)DV-F (#05497)  
RELEASE CONDITIONS  
PENDING TRIAL (CrR 3.2)  
(ADULT) (CHILD)(ORECRP)

- [ ] 1. Defendant shall be in the custody of Spokane County Jail.  
[ ] a. Housing at Geiger is authorized if eligible and approved.
- [ ] 2. Defendant shall be released on his/her own recognizance.
- [ ] 3. Defendant shall post an unsecured appearance bond in the sum of \$ \_\_\_\_\_.

- [ ] a. Defendant shall deposit \$ \_\_\_\_\_ in cash.
- [x] 4. Defendant shall post a (surety) (cash) bond in the sum of \$ 100,000

if released:

Defendant shall remain:

706 W. Providence Ave.  
Spokane, WA 99205-2991  
Phone number: (509) 327-0752

- [ ] 5. Defendant shall return to custody in the Spokane County Jail during the hours \_\_\_\_\_

*Reserved  
for  
Arraignment*

Further, defendant shall: \_\_\_\_\_  
\_\_\_\_\_

- Appear all court dates;
- Regularly contact her/his attorney;
- Remain in Spokane County;
- Commit no law violations;
- No use or possession of non-prescribed controlled substances, legend drugs, or drug paraphernalia;
- No contact with minors under the age of 18; and
- Other: \_\_\_\_\_  
\_\_\_\_\_

THE COURT FINDS THAT THERE EXISTS a substantial danger that the defendant will commit a serious crime or that the defendant's physical condition is such to jeopardize his safety or that of others or that he will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice and, therefore:

1. Defendant shall not approach or communicate with (victim) CRCN-S

- or any others residing at the same residence
- or any immediate member of his/her family
- or any witness of the State, as listed in the police reports or witness lists

2. Defendant shall not go to the following (area) (premises)

the \_\_\_\_\_ block of \_\_\_\_\_ in  
Spokane County

or any known location of any individual listed in number 1 of this page  
(e.g. school, work, residence, etc.)

3. Defendant shall not
- a. possess any dangerous weapons.
  - b. engage in the activity of \_\_\_\_\_
  - c. engage in the activity of sexual contact with minors under the age of 18

d. indulge in (intoxicating liquor) (the following drugs: \_\_\_\_\_)

e. possess any pornographic material

4. Defendant shall report regularly and remain under the supervision  of North East Washington Treatment Alternatives (NEWTA), or other approved facility by the Department of Corrections. Defendant shall report within 24 hours of the entry of this order

Other: \_\_\_\_\_

5. Defendant shall be detained until his physical condition permits his/her release.

DONE IN OPEN COURT this 12 day of APRIL, 2006, in the presence of the defendant.

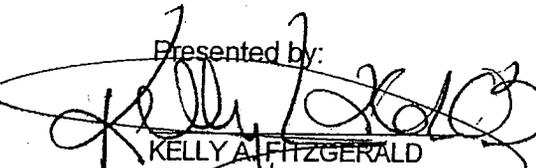
  
\_\_\_\_\_  
JUDGE

MARYANN C. MORENO

**NOTICE TO DEFENDANT:**

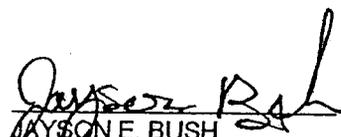
Your attorney is required to advise the Court if you do not maintain regular contact with your lawyer. If you do not maintain regular contact with your lawyer the Court may issue a bench warrant for your apprehension and incarceration in the Spokane County Jail.

Presented by:

  
KELLY A. FITZGERALD  
Deputy Prosecuting Attorney  
WSBA # 26203

Approved:

  
\_\_\_\_\_  
Maria L. Conrad  
Attorney for Defendant  
WSBA# 36657

  
\_\_\_\_\_  
JAYSON E. BUSH

**EXHIBIT 1**  
**ATTACHMENT K**

**DECLARATION OF**  
**DENNIS L. WESTENSEE**

STATEMENT OF INVESTIGATING OFFICER  
AFFIDAVIT OF FACTS

06101206-3

STATE OF WASHINGTON)  
COUNTY OF SPOKANE)

ss.

REPORT NUMBER: 02-06-102733

DEFENDANT: Bush, Jayson E

DOB: 07-05-1979

The undersigned, a law enforcement officer, competent to testify, states as follows:  
That he/she believes a crime was committed by the above-named defendant/defendants  
in the City and County of Spokane, State of Washington, because:

The defendant, Bush, in Spokane County, State of Washington on or about 040606,  
being eighteen years of age or older, did, with criminal negligence, cause bodily harm to,  
C. Nelson-Smith, a child under the age of thirteen years, by means of a weapon or other  
instrument or thing likely to produce bodily harm, an approximate 3 foot wooden hockey  
stick and leather belt with large buckle, which was accompanied by substantial pain that  
did extend for a period sufficient to cause considerable suffering.

**Witness J. Dunn can testify to the following:**

- That she is victim C. Nelson-Smith's Aunt and sister to witness A. Nelson, which is also  
victim C. Nelson-Smith's mother.
- That victim C. Nelson-Smith told her the defendant "Whipped" him.
- That victim C. Nelson-Smith showed her injuries to his buttocks, which were "Red,  
swollen, bruised black and blue.

STATEMENT OF INVESTIGATING OFFICER  
AFFIDAVIT OF FACTS

STATE OF WASHINGTON)  
COUNTY OF SPOKANE)

ss.

REPORT NUMBER: 02-06-102733

DEFENDANT: Bush, Jayson E

DOB: 07-05-1979

---

**Victim C. Nelson-Smith can testify to the following:**

- On 040906, he was at 1711 W 10<sup>th</sup> #7, with his mother A. Nelson and the defendant, which is where they live together.
- At the time of the assault, he was under thirteen years old.
- The defendant accused him of lying and missing school assignments.
- The defendant was "Very mad".
- The defendant hit him twice on the bottom (buttocks), with an approximate 3' wooden hockey stick, narrow on one end and larger on the other, which "Stung very bad", causing him to move out of the way and yell, "No more of the hockey stick".
- The defendant hit him over thirteen times, on the bottom, with a black leather belt with a large buckle reading, "Pimp".
- As a result of being assaulted he received injuries to his bottom.
- That his mother was present and watched the assault occur.

**Witness A. Nelson can testify to the following:**

- On 040906, she was at 1711 W 10<sup>th</sup> #7, with victim C. Nelson-Smith and defendant.
- She watched the defendant assault victim C. Nelson-Smith.

STATEMENT OF INVESTIGATING OFFICER  
AFFIDAVIT OF FACTS

STATE OF WASHINGTON)  
COUNTY OF SPOKANE)

ss.

REPORT NUMBER: 02-06-102733

DEFENDANT: Bush, Jayson E

DOB: 07-05-1979

---

**Officer Malinak will testify to the following:**

- Taking witness J. Dunn and victim C. Nelson-Smith's statements.
- Seeing several swollen welts and black and blue bruising covering both of victim C. Nelson-Smith's buttocks.
- Having probable cause to arrest the defendant for 3<sup>rd</sup> assault of a child.
- Transferring PC to arrest the defendant to Sgt. Nemeč.

**Corporal Strickland will testify to the following:**

- Taking pictures of victim C. Nelson-Smith's injuries on 040906.

**Reserve Officer Lyons will testify to the following:**

- Having PC transferred to him by Sgt. Nemeč to arrest the defendant and booking the defendant into jail for the above listed charge.

**Sergeant Nemeč will testify to the following:**

- Having PC transferred to him by Officer Malinak to arrest the defendant for the above listed charge.
- Hearing the defendant say he wanted a lawyer
- Asking witness A. Nelson if she wanted to answer questions, but she wouldn't respond.

STATEMENT OF INVESTIGATING OFFICER  
AFFIDAVIT OF FACTS

STATE OF WASHINGTON)  
COUNTY OF SPOKANE)

ss.

REPORT NUMBER: 02-06-102733

DEFENDANT: Bush, Jayson E

DOB: 07-05-1979

---

-Arresting witness A. Nelson for Criminal Conspiracy for failing to stop a felony assault by the defendant against victim C. Nelson-Smith.

**Officer T.A. Johnson will testify to the following:**  
Preparing this affidavit of facts.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. (9A.72.085)

DATE April 10, 2006, PLACE SPOKANE, WASHINGTON SIGNATURE

Johnson #416

**EXHIBIT 1  
ATTACHMENT L**

**DECLARATION OF  
DENNIS L. WESTENSEE**

FILED

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON 3 0 1997

IN AND FOR THE COUNTY OF SPOKANE

THOMAS R. FALLQUIST  
SPOKANE COUNTY CLERK

STATE OF WASHINGTON,	)	AMENDED
	)	INFORMATION
Plaintiff,	)	
	)	NO. 96-1-02141-6
v.	)	
	)	PATRICIA A. THOMPSON
	)	Deputy Prosecuting Attorney
JAYSON EDWARD BUSH	)	
WM 070579	)	
	)	PA# 96-9-93565-0
	)	RPT# 02-96-0253726
Defendant(s)	)	RCW CTS 1-3: 9A.36.011(1)(a)-F
	)	(#05401)

Comes now the Prosecuting Attorney in and for Spokane County, Washington, and charges the defendant(s) with the following crime(s):

COUNT I: FIRST DEGREE ASSAULT, committed as follows: That the defendant, JAYSON EDWARD BUSH, in Spokane County, Washington, on or about SEPTEMBER 22, 1996, did, with intent to inflict great bodily harm, intentionally assault JUSTIN O. McCORMACK, with a firearm or deadly weapon, to-wit: a .357 magnum revolver,

H O COUNT II: And the Prosecuting Attorney, as aforesaid, further charges the defendant, JAYSON EDWARD BUSH, with the crime of FIRST DEGREE ASSAULT, committed as follows: That the defendant, JAYSON EDWARD BUSH, in Spokane County, Washington, on or about SEPTEMBER 22, 1996, did, with intent to inflict great bodily harm, intentionally assault MATTHEW PANIDIS and MICHAEL FRY, with a firearm or deadly weapon, to-wit: a .357 magnum revolver,

COUNT III: And the Prosecuting Attorney, as aforesaid, further charges the defendant, JAYSON EDWARD BUSH, with the crime of FIRST DEGREE ASSAULT, committed as follows: That the defendant, JAYSON EDWARD BUSH, in Spokane County, Washington, on or about SEPTEMBER 22, 1996, did, with intent to inflict great bodily harm,

EXHIBIT 12

JAMES R. SWEETSER  
Spokane County Prosecuting Attorney  
County-City Public Safety Building  
Spokane, WA 99260

intentionally assault BRYCE MACKIN and TRAVIS J. DELANEY, with a  
firearm or deadly weapon, to-wit: a .357 magnum revolver,

*Patricia A. Thompson*  
Deputy Prosecuting Attorney

\*\*\*\*\*

DEFENDANT INFORMATION: JAYSON EDWARD BUSH

Address: 706 W. PROVIDENCE, SPOKANE, WA  
Height: 601 Weight: 155  
Hair: BROWN Eyes: BROWN  
DOL #: State:  
SID #: DOC #:

\*\*\*\*\*

JAMES R. SWEETSER  
Spokane County Prosecuting Attorney  
County-City Public Safety Building  
Spokane, WA 99260

**EXHIBIT 1**  
**ATTACHMENT M**  
**DECLARATION OF**  
**DENNIS L. WESTENSEE**

DOC

SUPERIOR COURT OF WASHINGTON  
COUNTY OF SPOKANE

STATE OF WASHINGTON, Plaintiff,

NO. 96-1-02141-6

v.

769229

PA# 96-9-93565-0

RPT# 02-96-0253726

RCW CTS 1-3: 9A.36.011(1) (a)-F  
(#05401)

**COPY**  
ORIGINAL FILED  
SEP 29 1997  
SPOKANE COUNTY, WA

JAYSON EDWARD BUSH,  
M 070579  
Defendant.

SID: 18197949

JUDGMENT AND SENTENCE (JS)

- Prison
- Persistent Offender
- Jail One Year or Less
- First Time Offender
- Special Sexual Offender Sentencing Alternative
- Special Drug Offender Sentencing Alternative

RMS/REPORT ORDERED:

100397

I. HEARING

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

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 7/30/97 by  plea  jury verdict  bench trial of:

Count No.: I Crime: FIRST DEGREE ASSAULT  
RCW CT 1: 9A.36.011(1)(a)-F (#05401)  
Date of Crime SEPTEMBER 22, 1996  
Incident No. 02-96-0253726

Count No.: II Crime: FIRST DEGREE ASSAULT  
RCW CT 2: 9A.36.011(1)(a)-F (#05401)  
Date of Crime SEPTEMBER 22, 1996  
Incident No. 02-96-0253726

Count No.: III Crime: FIRST DEGREE ASSAULT  
RCW CT 3: 9A.36.011(1)(a)-F (#05401)  
Date of Crime SEPTEMBER 22, 1996  
Incident No. 02-96-0253726

**RECEIVED**  
OCT 1 1997

DOC RECORDS  
SPOKANE

as charged in the Amended Information

- Additional current offenses are attached in Appendix 2.1
- A special verdict/finding for use of a firearm was returned on Count(s) \_\_\_\_\_. RCW 9.94A.125, .310
- A special verdict/finding for use of a deadly weapon other than a firearm was returned on Count(s) \_\_\_\_\_. RCW 9.94A.125, .310

**EXHIBIT** IM

- A special verdict/finding of sexual motivation was returned on Count(s) \_\_\_\_\_. RCW 9.94A.127
- A special verdict/finding for Violation of the Uniform Controlled Substances Act was returned on Count(s) \_\_\_\_\_, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public stop shelter.
- The defendant was convicted of vehicular homicide which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400):
- Other current conviction listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360)

Crime	Date of Crime	Crime Type	Adult or Juv	Place of Conviction	Sent. Date
<i>no known prior felonies</i>					

- Additional criminal history is attached in Appendix 2.2
- The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.360
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.360):

2.3 SENTENCING D: :

CT NO	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	Plus enhancement for Firearm (F), other deadly weapon finding (D), or VUCSA (V) in a protected zone	Total STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	0	XII	93-123 mo	NA	93-123 mo	LIFE
II	0	XII	93-123 mo	NA	93-123 mo	LIFE
III	0	XII	93-123 mo	NA	93-123 mo	LIFE

Additional current offense sentencing data in Appendix 2.3 *must run conv 279-31 mo*

2.4  **EXCEPTIONAL SENTENCE:** Substantial and compelling reasons exist which justify an exceptional sentence  above  within  below the standard range for Count(s) \_\_\_\_\_ Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney  did  did not recommend a similar sentence.

2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.142

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.142): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are  attached or  as follows *agreed recommendation for high end of 369 mo total*

III. JUDGMENT

3.1 The defendant is **GUILTY** of the Counts and Charges listed in paragraph 2.1 and Appendix 2.1

3.2  The Court **DISMISSES** Counts \_\_\_\_\_

3.3  The defendant is found **NOT GUILTY** of Counts \_\_\_\_\_

IV. SENTENCE AND ORDE

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of the Court

\$ TBD Restitution to: to be left on 130 Day

JASS CODE \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

RTN/RJN \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

(Name and Address-address may be withheld and provided confidentially to Clerk's Office)

PCV \$500.00 Victim Assessment RCW 7.68.035

CRC \$110.00 Court costs, including: RCW 9.94A.030,  
9.94A.120, 10.01.160, 10.46.190

Criminal Filing fee \$ \_\_\_\_\_ FRC

Witness costs \$ \_\_\_\_\_ WFR

Sheriff service fees \$ 37 SFR/SFS/SFW/SRF

Jury demand fee \$ \_\_\_\_\_ JFR

Other \$ \_\_\_\_\_

PUB \$ \_\_\_\_\_ Fees for court appointed attorney RCW 9.94A.030

WRF \$ \_\_\_\_\_ Court appointed defense expert and other defense costs RCW 9.94A.030

FCM \$ \_\_\_\_\_ Fine RCW 9A.20.021; [ ] VUCSA additional fine deferred due to indigency RCW 69.50.430

DDF/LDI/ \$ \_\_\_\_\_ Drug enforcement fund of \_\_\_\_\_  
FCD/NTF/SAD/SDI RCW 9.94A.030

CLF \$ \_\_\_\_\_ Crime lab fee [ ] deferred due to indigency RCW 43.43.690

EXT \$ \_\_\_\_\_ Extradition costs RCW 9.94A.120

\$ \_\_\_\_\_ Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1,000 maximum) RCW 38.52.430

\$ \_\_\_\_\_ Other costs for: \_\_\_\_\_

\$ 610.00 TOTAL RCW 9.94A.145

The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.142. A restitution hearing:

shall be set by the prosecutor  
[ ] is scheduled for \_\_\_\_\_

[ ] RESTITUTION. Schedule attached, Appendix 4.1

[ ] Restitution ordered above shall be paid jointly and severally with:  
NAME of other defendant CAUSE NUMBER (Victim Name) (Amount\$)

JN

[ ] The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.200010

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ 160 per month-commencing \_\_\_\_\_  
RCW 9.94A.145

[ ] In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate. RCW 9.94A.145

[ ] The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 10.73

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73

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

Provided further the results of the HIV test are to be confidential but are to be provided to the victim, prosecuting attorney, community corrections officer and the public defender as necessary.

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

4.3 The defendant shall not use, own, or possess firearms or ammunition while under the supervision of the Department of Corrections. RCW 9.94A.120

4.4 The Defendant shall not have contact with the victims listed in amended information (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE years (not to exceed the maximum statutory sentence.)

[ ] Domestic Violence Protection Order or Anti-Harassment Order is attached as Appendix 4.4.

4.5 OTHER \_\_\_\_\_

4.6 CONFINEMENT OVER OF YEAR. The defendant is sentenced as follows:

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

93 (days) (months) on Count No. I ;  
93 (days) (months) on Count No. II ;  
93 (days) (months) on Count No. III .

Actual number of months of total confinement ordered is: 279 mths  
(Add mandatory firearm or deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and the following which shall be served consecutively: all counts shall run consecutively to one another

The sentence herein shall run consecutively with the sentence in cause number(s) \_\_\_\_\_ but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.400. Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_

(b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number.

RCW 9.94A.120. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: from 9/26/96 to present

4.7 COMMUNITY PLACEMENT AND COMMUNITY CUSTODY. RCW 9.94A.120. Community placement is ordered for a community placement eligible offense (e.g., sex offense, serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense), or community custody is ordered to follow work ethic camp if it is imposed, and standard mandatory conditions are ordered. Community Placement is ordered for the period of time provided by law. The defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at Department of Corrections-approved education, employment and/or community service; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) to unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by the Department of Corrections. The residence location and living arrangements are subject to the prior approval of the Department of Corrections while in community placement or community custody.

See additional pg for other conds of sent)

- The defendant shall not consume any alcohol.
- Defendant shall have no contact with: the victims listed in amended information
- Defendant shall remain  within  outside of a specified geographical boundary, to wit: \_\_\_\_\_
- The defendant shall participate in the following crime-related treatment or counseling services: \_\_\_\_\_
- The defendant shall comply with the following crime-related prohibitions: \_\_\_\_\_
- Other conditions: \_\_\_\_\_

4.8  **WORK ETHIC CAMP.** RCW 9.94A.137, RCW 72.09.410. The court finds that defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. If the defendant successfully completes work ethic camp, the department shall convert the period of work ethic camp confinement at the rate of one day of work ethic camp to three days of total standard confinement. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions of community custody. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.7.

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

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **LENGTH OF SUPERVISION.** The defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. RCW 9.94A.145.
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.200010. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.200030
- 5.4 **RESTITUTION HEARING.**  
[ ] Defendant waives any right to be present at any restitution hearing (sign initials): \_\_\_\_\_
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.200

**Cross off if not applicable:**

5.6 **FIREARMS.** You may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification, to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047

Cross off if not applicable:

5.7 SEX OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense, you are required to register with the sheriff of the county of the state of Washington where you reside. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 10 days of moving. If you change your residence to a new county within this state, you must register with the sheriff of the new county and you must give written notice of your change of address to the sheriff of the county where last registered, both within 10 days of moving. If you move out Washington state, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington state.

5.8 OTHER: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

DONE in Open Court in the presence of the defendant this 26 day of September, 1997.

Kenneth H. Kato  
 JUDGE  
 Print name: KENNETH H. KATO

Patricia A. Thompson  
 PATRICIA A. THOMPSON  
 Deputy Prosecuting Attorney  
 WSBA # 8035

Kenneth Knox  
 KENNETH KNOX  
 Attorney for Defendant  
 WSBA# 14667

Jayson-Loan S. Bush  
 JAYSON EDWARD BUSH  
 Defendant

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

JUDGMENT AND SENTENCE (Felony)

CAUSE NUMBER of this case: 96-1-02141-6.

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

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

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

**IDENTIFICATION OF DEFENDANT**

SID No. \_\_\_\_\_ Date of Birth 07051979  
(If no SID take fingerprint card for State Patrol)

FBI No. \_\_\_\_\_ Local ID No. 251333  
PCN No. \_\_\_\_\_ Other \_\_\_\_\_

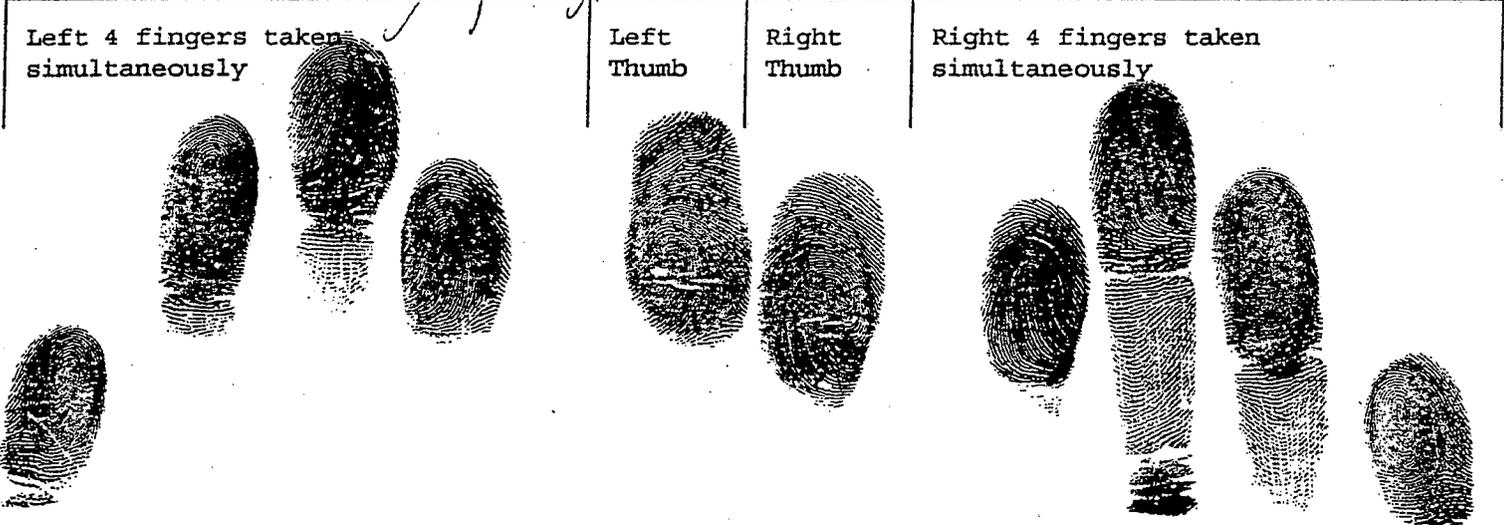
Alias name , SSN , DOB 07051979:

Race: [ ] Asian/Pacific Islander [ ] Black/African-American [X] Caucasian [ ] Hispanic [X] Male  
[ ] Native American [ ] Other: \_\_\_\_\_ [ ] Non-hispanic [ ] Female

FINGERPRINTS. I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto.

Clerk of the Court: Rose Mary Webb, Deputy Clerk. Dated: 9-26-97

DEFENDANT'S SIGNATURE: Gayson-Jacm S. Bish



**EXHIBIT 1  
ATTACHMENT N**

**DECLARATION OF  
DENNIS L. WESTENSEE**

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF SPOKANE

SEP 28 1997  
SUPERIOR COURT  
SPOKANE COUNTY, WA

STATE OF WASHINGTON )

Plaintiff, )

v. )

JAYSON EDWARD BUSH,  
WM 070579 )

Defendant. )

NO. 96-1-02141-6

PA# 96-9-93565-0

RPT# 02-96-0253726

RCW CTS 1-3: 9A.36.011(1)(a)-F.  
(#05401)

WARRANT OF COMMITMENT

THE STATE OF WASHINGTON

TO: The Sheriff of Spokane County.

The defendant: JAYSON EDWARD BUSH has been convicted in the Superior Court of the State of Washington of the crime(s) of: FIRST DEGREE ASSAULT-THREE COUNTS

and the court has ordered that the defendant be punished by serving a total determined sentence of 279 (days) (months) as ordered in the Judgment and Sentence.

Credit be given for (time) (365 days) served solely on these charges.

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

(X) 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

Date: 9-26-97

*Kenneth H. Kato*  
Judge

KENNETH H. KATO

~~THOMAS R. FALLON~~

Clerk

By: *Rose Mary Webb*  
Deputy Clerk

**EXHIBIT 2**

**LETTER FROM GREGOIRE  
TO BUSH DATED 5/4/06**



CHRISTINE O. GREGOIRE  
Governor

STATE OF WASHINGTON  
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 753-6780 • www.governor.wa.gov

May 4, 2006

Jayson Loren Edward Bush  
Spokane County Jail  
West 1100 Mallon Street  
Spokane, WA 99205

c/o Dennis L. Westensee, CCO III  
Washington State Department of Corrections  
1821 North Maple Street  
Spokane, WA 99205

VIA FACSIMILE and FIRST CLASS MAIL

Re: Revocation of Conditional Commutation of Sentence  
Spokane Superior Court Cause No. 06101206-3

Dear Mr. Bush,

On May 25, 2004, former Governor Gary Locke granted you a Conditional Commutation that released you from prison on the condition that you successfully complete twenty-four months of Community Custody supervision and not violate any conditions of the commutation. You were released from prison on June 1, 2004, and the term of your supervision expires on May 31, 2006.

The last paragraph of your Conditional Commutation states:

**"[I]n the event Mr. Bush commits any offense classified as a felony or gross misdemeanor in the State of Washington, this Conditional Commutation is revoked and the sentence imposed by the court reinstated without the benefit of sentence reduction credit, whereupon Mr. Bush shall be immediately returned to the Washington Corrections Center...."**

The Department of Corrections recently advised me that on or about April 8, 2006, Spokane law enforcement officers arrested you for, and subsequently charged you with, a felony for Assault of a Child in the Third Degree under RCW 9A.36.031(d). I have reviewed the photographs of the alleged victim's injuries, police incident reports, statement of probable cause and filings under

EXHIBIT 2

Jayson Loren Edward Bush

May 4, 2006

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the above-reference cause number including affidavits of facts. As a direct consequence of your pending prosecution, I am writing to advise you that effective May 30, 2006, your Conditional Commutation is revoked, subject only to a showing by you that charges against you have been dismissed prior to the effective date of this revocation.

Sincerely,



Christine O. Gregoire  
Governor

Encl. (1) May 25, 2005, Commutation

cc: Richard E. Mitchell, General Counsel  
Kate McLachlan, Assistant Attorney General  
Copy also sent to J. Bush residence: 706 W. Providence Ave., Spokane, WA 99205-2991