

No. 59970-4

81522-4

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON  
DIVISION I

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IN RE THE PERSONAL RESTRAINT PETITION OF:

STEVEN J. CLARK,

PETITIONER.

RECEIVED  
COURT OF APPEALS  
DIVISION ONE  
MAY - 8 2007

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**PERSONAL RESTRAINT PETITION**

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*Attorney for Mr. Clark*

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A. STATUS OF PETITIONER

Steven J. Clark (Clark) challenges his 1997 King County convictions for two counts of Robbery in the Second Degree (97-1-09348-8 SEA). Clark is currently not in custody as a result of this conviction. However, he still has remaining legal financial obligations. A “no contact order” remains in effect. In addition, this conviction (and others) precludes Clark from voting and possessing a firearm. Finally, this conviction served as a necessary predicate for Clark’s current life sentence as a result of a subsequent robbery conviction and persistent offender finding (King County Case No. 99-1-094131-6 SEA).

B. FACTS

On January 20, 1998, Steven Clark pled guilty to two counts of robbery in the second degree committed on October 29<sup>th</sup> and November 3, 1997. *See Appendix A, Judgment and Sentence.* Neither crime included a deadly weapon allegation.

In his plea statement, Clark was told that in addition to confinement, “the judge will sentence me to community placement for at least one year.” *See Appendix B, Statement of Defendant on Plea of Guilty.* The plea form further stated: “During the period of community placement, I will be under the supervision of the Department of Corrections, and will have restrictions placed on my activities.” *Id.*

When Clark was sentenced on February 27, 1998, consistent with the guilty plea, the court ordered community placement (“The Court having found the defendant guilty of offense(s) qualifying for community placement...”), and imposed a number of “mandatory conditions.”

According to the court file, on March 12, 1998, the State made and the Court granted an *ex parte* motion to modify the *Judgment* by vacating community placement. According to the documents, the State did not provide the defendant notice, an opportunity to appear, or an opportunity to choose to withdraw his guilty pleas. Further, Clark did not have counsel at the time.

This is Clark’s first *Personal Restraint Petition* attacking this judgment.

C. ARGUMENT

1. INTRODUCTION

Community placement was not a statutorily authorized consequence of a second-degree robbery conviction when Clark was convicted and sentenced. *See* Former RCW 9.94A.120 (9)(a) (1997). Nevertheless, Clark was told when he pled guilty (in the written plea statement) that a one-year term of community placement was a mandatory sentence condition. As promised, when Clark was sentenced, community placement was imposed.

The “face” of Clark’s judgment reveals this infirmity. Thus, Clark’s petition is not time barred.

Because Clark’s plea was based on misinformation about a direct consequence, it was neither knowing nor voluntary. Clark does not need to show that he would have made a different choice if he had been correctly advised that community placement was not permitted. Instead, Clark should be entitled to withdraw his plea.

2. FACIAL INVALIDITY

RCW 10.73.090 establishes a one-year time limit for collateral attack on a judgment. More than one year has elapsed since this conviction was final. However, the one-year time limit does not apply if a judgment is invalid on its face. RCW 10.73.090. Further, there is an additional statutory exception to the one year time bar where a sentence exceeds the Court’s jurisdiction. RCW 10.73.100(5). Both apply here.

A judgment is “invalid on its face” if that document alone reveals an infirmity. *In re Pers. Restraint of LaChapelle*, 153 Wash.2d 1, 100 P.2d 805 (2004) (an improperly calculated sentence is invalid on its face). A judgment and sentence is invalid on its face if it exceeds the sentencing authority authorized by statute and the alleged defect is evident on the face of the document without further elaboration. *See In re Pers. Restraint of Hemenway*, 147 Wash.2d 529, 532, 55 P.3d 615 (2002); *In re Pers.*

*Restraint of Goodwin*, 146 Wash.2d 861, 866, 50 P.3d 618 (2002); *In re Pers. Restraint of Thompson*, 141 Wash.2d 712, 718-19, 10 P.3d 380 (2000).

The *Judgment* in this case is invalid on its face because it orders community placement, which was not a statutorily authorized condition of sentence. Likewise, because an unauthorized term of community placement was imposed, the sentence exceeds the jurisdiction of the court. Thus, Clark's petition is not time barred.

3. FACIAL INVALIDITY REVEALING AN INVOLUNTARY PLEA

When a judgment reveals an infirmity "on its face," the reviewing court can then look to other documents to determine whether there is "fundamental defect which inherently results in a complete miscarriage of justice." See *In re Pers. Restraint of Thompson*, 141 Wash.2d 712, 719, 10 P.3d 380 (2000) (quoting *In re Pers. Restraint of Fleming*, 129 Wash.2d 529, 532, 919 P.2d 66 (1996)).

Collateral documents, such as a guilty plea statement, may be considered when those documents are relevant in assessing the validity of the judgment and sentence. *Hemenway*, 147 Wash.2d at 532. An examination of supporting documents in this case, most notably the guilty plea statement, reveals a fundamental error leading to a "miscarriage of justice," as Clark demonstrates below.

4. INVOLUNTARY PLEA

When a defendant pleads guilty, he must do so knowingly, voluntarily, and intelligently. *Henderson v. Morgan*, 426 U.S. 637, 644-45, 96 S.Ct. 2253, 49 L.Ed.2d 108 (1976); *McCarthy v. United States*, 394 U.S. 459, 466, 89 S.Ct. 1166, 22 L.Ed.2d 418 (1969); *State v. Ross*, 129 Wn.2d 279, 284, 916 P.2d 405 (1996); *In re Barr*, 102 Wn.2d 265, 269, 684 P.2d 712 (1984); *Wood v. Morris*, 87 Wn.2d 501, 507, 554 P.2d 1032 (1976); *State v. Aaron*, 95 Wn.App. 298, 302, 974 P.2d 1284, *review denied*, 139 Wn.2d 1002, 989 P.2d 1138 (1999). Whether a plea satisfies this standard depends primarily on whether the defendant correctly understood its consequences. *State v. Walsh*, 143 Wn.2d 1, 8, 17 P.3d 591 (2001); *State v. Miller*, 110 Wn.2d 528, 531, 756 P.2d 122 (1988). *See also* CrR 4.2(d); *In re Fonseca*, 132 Wn. App. 464, 132 P.3d 154 (2006) (plea withdrawn where defendant did not know he was ineligible for DOSA at time he pled guilty).

A defendant must be properly informed of all direct consequences of his guilty plea. *See State v. Ross*, 129 Wn.2d 279, 285, 916 P.2d 405 (1996); *State v. Barton*, 93 Wn.2d 301, 305, 609 P.2d 1353(1980) (“Defendant must be informed of all the direct consequences of his plea prior to acceptance of a guilty plea.”). In *In re Pers. Restraint of*

*Hoisington*, 99 Wn. App. 423, 993 P.2d 296 (1999), the Court stated that “a guilty plea entered on a plea bargain that is based upon misinformation about sentencing consequences is not knowingly made.” 99 Wn. App. at 428.

Mandatory community placement is a direct consequence of a guilty plea. *State v. Turley*, 149 Wn.2d 395, 399, 69 P.3d 338 (2003). Clark was told in his guilty plea that a period of mandatory community placement would follow his period of confinement. Thus, he was clearly misinformed about a direct consequence of his guilty plea.

Where a defendant is misinformed about a “direct consequence of a guilty plea” he does not need to demonstrate that the misinformation materially affected his decision to plead guilty. *In re Pers. Restraint of Isadore*, 151 Wn.2d 294, 88 P.3d 390 (2004). According to *Isadore*, a defendant “need not make a special showing of materiality” in order for misinformation to render a guilty plea invalid, but instead must show that the misinformation concerned “a *direct* consequence of [the] guilty plea.” 151 Wn.2d at 296 (emphasis added).

*Isadore* is the mirror image of this case. Isadore pled guilty to second degree burglary and third degree assault, but neither the State nor the defense was aware that Isadore's convictions required community placement after incarceration. After Isadore was sentenced, the Department of Corrections notified the prosecutor's office that Isadore's sentence should

have included a mandatory one-year term of community placement. On the State's motion, the trial court amended Isadore's sentence to include the community placement condition. Later, the Washington Supreme Court granted Isadore's personal restraint petition, determined his plea was involuntary, and granted his requested remedy of specific performance of the plea agreement holding that Isadore was deprived of his constitutional right to due process because his guilty plea was not knowing, voluntary and intelligent.

Withdrawal of a guilty plea is appropriate even where correction of the mistake works to a defendant's benefit. For example, in *State v. Mendoza*, 157 Wn.2d 582, 141 P.3d 149 (2006), the Washington Supreme Court held that a guilty plea is involuntary when it is based on a miscalculated sentence range, even where the correct sentence range results in a lower sentence. 157 Wn.2d at 584. "Accordingly, we adhere to our precedent establishing that a guilty plea may be deemed involuntary when based on a direct consequence of the plea, regardless of whether the actual sentence range is lower or higher than anticipated. Absent a showing that the defendant was correctly informed of all of the direct consequences of his guilty plea, the defendant may move to withdraw the plea." *Id.* at 591.

Because the *Mendoza* decision is central to this case, a brief exposition is warranted. The *Mendoza* opinion begins its reasoning with the settled law that when a defendant pleads guilty, due process requires

that he must do so knowingly, voluntarily, and intelligently. *Id.* at 587; *In re Isadore, supra* (citing *Boykin v. Alabama*, 395 U.S. 238, 242, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969) (“Consequently, if a defendant's guilty plea is not equally voluntary and knowing, it has been obtained in violation of due process and is therefore void. Moreover, because a guilty plea is an admission of all the elements of a formal criminal charge, it cannot be truly voluntary unless the defendant possesses an understanding of the law in relation to the facts.”). This standard is reflected in CrR 4.2(d), which mandates that the trial court “shall not accept a plea of guilty, without first determining that it is made voluntarily, competently and with an understanding of the nature of the charge and the consequences of the plea.”

The *Mendoza* court then relies on the “clarification” in *Isadore* that a defendant who is misinformed of a direct consequence of pleading guilty is not required to show the information was material to his decision to plead guilty in order to seek withdrawal of the plea. (“In determining whether the plea is constitutionally valid, we decline to engage in a subjective inquiry into the defendant’s subjective risk calculation and the reasons underlying his or her decision to accept the plea bargain.”) *Mendoza*, 157 Wn.2d at 590-91. A guilty plea based on incorrect information regarding a direct consequence of the plea is deemed involuntary without a case specific showing of materiality because a “reviewing court cannot determine with

certainty how a defendant arrived at his personal decision to plead guilty, nor discern what weight a defendant gave to each factor relating to the decision." *Isadore*, 151 Wn.2d at 302. Instead, a knowing, voluntary, and intelligent guilty plea requires a meeting of the minds. *See State v. Miller*, 110 Wn.2d 528, 531, 756 P.2d 122 (1988).

*Mendoza* created one exception to the rule above. When a defendant is "clearly informed before sentencing" of the correct direct consequences of the plea, "and the defendant does not object or move to withdraw the plea on that basis before he is sentenced, the defendant waives the right to challenge the voluntariness of the plea." 157 Wn.2d at 592.

That exception does not apply in this case. Here, there was an obvious and uncorrected (at the time of sentencing) mutual mistake about community placement which renders Clark's plea involuntary.

It does not matter if the infirmity was a result of a plea bargain. The Washington Supreme Court has repeatedly held that "an individual cannot, by way of a negotiated plea agreement, agree to a sentence in excess of that allowed by law." *In re Pers. Restraint of Hinton*, 152 Wash.2d 853, 861, 100 P.3d 801 (2004). *See also Goodwin*, 146 Wash.2d at 870, 50 P.3d 618 ("a plea bargaining agreement cannot exceed the statutory authority given to the courts.") (quoting *In re Pers. Restraint of Gardner*, 94 Wash.2d 504, 507, 617 P.2d 1001 (1980)); *Thompson*, 141 Wash.2d at 723, 10 P.3d 380 ("[T]he actual sentence imposed pursuant to a plea bargain must be

statutorily authorized....”). A defendant simply “cannot empower a sentencing court to exceed its statutory authorization.” *State v. Eilts*, 94 Wash.2d 489, 495-96, 617 P.2d 993 (1980). The fact that a defendant may have arguably agreed to a particular sentence does not cure a facial defect in the judgment and sentence where the sentencing court acted outside its authority. *In re Pers. Restraint of West*, 154 Wash.2d 204, 110 P.3d 1122 (2005). In any event, Clark did not knowingly agree to a community placement knowing that it was not statutorily authorized.

The exception in *Mendoza* does not extend to errors that were corrected after sentencing without notice to a defendant. Legally, Clark controlled the choice of remedies. Here, the State decided to choose for Clark and then asked a judge to act on that choice without notice to Clark.

#### 4. WITHDRAWAL OF PLEA

Clark is entitled exercise his choice. He chooses to withdraw his guilty plea. A defendant may withdraw his guilty plea if it was invalidly entered or if its enforcement would result in a manifest injustice. *Isadore, supra*; CrR 4.2(f). “An involuntary plea produces a manifest injustice.” *Isadore*, 151 Wn.2d at 298.

Where a plea agreement is based on misinformation, the defendant may choose specific enforcement of the agreement or withdrawal of the guilty plea.” *Walsh*, 143 Wn.2d at 8-9. See also *In re Pers. Restraint of Hoisington*, 99 Wn. App. 423, 993 P.2d 296 (2000). The defendant's

choice of remedy controls, unless there are compelling reasons not to allow that remedy. *Miller*, 110 Wn.2d at 535.

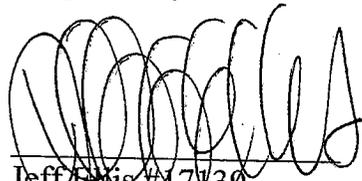
As noted above, Clark chooses withdrawal of his plea. Clark has not been given a choice of remedies previously. Instead, the State sought and was granted an *ex parte* order modifying the *Judgment* without giving notice to Clark and without giving him the option to withdraw his plea. Clark does not seek to now alter a previous choice. Instead, he seeks to make a choice for the first time.

D. CONCLUSION AND PRAYER FOR RELIEF

Based on the above, this Court should vacate Clark's robbery convictions and remand this case to King County Superior Court to permit him to withdraw his guilty pleas.

DATED this 7<sup>th</sup> day of May, 2007.

Respectfully Submitted:



Jeff Ellis #17139  
*Attorney for Mr. Clark*

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**VERIFICATION OF PETITION**

I, Steven J. Clark, verify under penalty of perjury that the attached *Personal Restraint Petition* is true and correct and has been filed on my behalf.

DATED this 29 day of April, 2007.

  
Steven J. Clark

**APPENDIX A--  
JUDGMENT AND SENTENCE**

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

STEVEN J CLARK

Defendant.

No. 97-1-09348-8 SEA

JUDGMENT AND SENTENCE

FILED

98 MAR -2 AM 7:58

KING COUNTY SUPERIOR COURT CLERK SEATTLE, WA.

927696 3-03-98

MAR 2 1998

COMMITMENT ISSUED

COPY TO SENTENCING GUIDELINES COMMISSION MAR 2 1998 PRESENTING STATEMENT & INFORMATION ATTACHED

I. HEARING

1.1 The defendant, the defendant's lawyer, ALICE M ZALESKI, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were:

1.2 The state has moved for dismissal of count(s) III

II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report(s) and case record to date, and there being no reason why judgment should not be pronounced, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on (date): 01-20-98 by plea of:

Count No.: I Crime: ROBBERY IN THE 2ND DEGREE
RCW 9A.56.210 Crime Code 02924
Date of Crime 10-29-97 Incident No.

Count No.: II Crime: ROBBERY IN THE SECOND DEGREE
RCW 9A.56.210 Crime Code 02924
Date of Crime 11-03-97 Incident No.

Count No.: Crime:
RCW Crime Code
Date of Crime Incident No.

Additional current offenses are attached in Appendix A.

SPECIAL VERDICT/FINDING(S):

- (a) A special verdict/finding for being armed with a Firearm was rendered on Count(s):
(b) A special verdict/finding for being armed with a Deadly Weapon other than a Firearm was rendered on Count(s):
(c) A special verdict/finding was rendered that the defendant committed the crimes(s) with a sexual motivation in Count(s):
(d) A special verdict/finding was rendered for Violation of the Uniform Controlled Substances Act offense taking place in a school zone in a school on a school bus in a school bus route stop zone in a public park in public transit vehicle in a public transit stop shelter in Count(s):
(e) Vehicular Homicide Violent Offense (D.W.I. and/or reckless) or Nonviolent (disregard safety of others)
(f) Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score (RCW 9.94A.400(1)(a)) are:

2.2 OTHER CURRENT CONVICTION(S): Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

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

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
(a) BURG 2	04-09-87	ADULT	861046701	KING
(b) ASLT 2	08-18-89	ADULT	891014366	KING
(c)				
(d)				

- Additional criminal history is attached in Appendix B.
- Prior convictions (offenses committed before July 1, 1986) served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(6)(c)):
- One point added for offense(s) committed while under community placement for count(s)

2.4 SENTENCING DATA:

SENTENCING DATA	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE	ENHANCEMENT	TOTAL STANDARD RANGE	MAXIMUM TERM
Count I	7	IV			22 TO 29 MONTHS	10 YRS AND/OR \$20,000
Count II	5	IV			22 TO 29 MONTHS	10 YRS AND/OR \$20,000
Count						

Additional current offense sentencing data is attached in Appendix C.

2.5 EXCEPTIONAL SENTENCE:

- Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) Findings of Fact and Conclusions of Law are attached in Appendix D. The State  did  did not recommend a similar sentence.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

The Court DISMISSES Count(s) III Robbery in the 2nd Degree

IV. ORDER

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

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
- Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.142(2), sets forth those circumstances in attached Appendix E.
- Restitution to be determined at future hearing on (Date) at .m.  Date to be set.
- Defendant waives presence at future restitution hearing(s).
- Defendant shall pay Victim Penalty Assessments pursuant to RCW 7.68.035 in the amount of \$100 if all crime(s) date prior to 6-6-96 and \$500 if any crime date in the Judgment is after 6-5-96.
- Restitution is not ordered.

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a)  \$ Court costs;  Court costs are waived;
- (b)  \$ Recoupment for attorney's fees to King County Public Defense Programs, 2015 Smith Tower, Seattle, WA 98104;  Recoupment is waived (RCW 10.01.160);
- (c)  \$ Fine;  \$1,000, Fine for VUCSA;  \$2,000, Fine for subsequent VUCSA;  VUCSA fine waived (RCW 69.50.430);
- (d)  \$ King County Interlocal Drug Fund;  Drug Fund payment is waived;
- (e)  \$ State Crime Laboratory Fee;  Laboratory fee waived (RCW 43.43.690);
- (f)  \$ Incarceration costs;  Incarceration costs waived (9.94A.145(2));
- (g)  \$ Other cost for: 3,773<sup>00</sup> *interest + trust fees waived*

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 3,773<sup>00</sup>. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:

- Not less than \$ per month;  On a schedule established by the defendant's Community Corrections Officer.  The Defendant shall remain under the Court's jurisdiction and the supervision of the Department of Corrections for up to ten years from date of sentence or release from confinement to assure payment of financial obligations.

4.4 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;  (Date): \_\_\_\_\_ by \_\_\_\_\_ m.

25 months on Count I \_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

ENHANCEMENT time due to special deadly weapon/firearm finding of \_\_\_\_\_ months is included for Counts \_\_\_\_\_

The terms in Count(s) I + II are concurrent consecutive.  
The sentence herein shall run concurrently/consecutively with the sentence in cause number(s) \_\_\_\_\_  
\_\_\_\_\_ but consecutive to any other cause not referred to in this Judgment.

Credit is given for  109 days served  days as determined by the King County Jail solely for conviction under this cause number pursuant to RCW 9.94A.120(15). 113 days JT

4.5  NO CONTACT: For the maximum term of 10 So. days G years, defendant shall have no contact with Estella Kim, Christian Scheller, & Alice Thai as named in cert for P/C  
Violation of this no contact order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.

4.6  BLOOD TESTING: (sex offense, violent offense, prostitution offense, drug offense associated with the use of hypodermic needles) Appendix G is a blood testing and counseling order that is part of and incorporated by reference into this Judgment and Sentence.

4.7 COMMUNITY PLACEMENT, RCW 9.94A.120(9): Community Placement is ordered for any of the following eligible offenses: any "sex offense", any "serious violent offense", second degree assault, any offense with a deadly weapon finding, any CH. 69.50 or 69.52 RCW offense, for the maximum period of time authorized by law. All standard and mandatory statutory conditions of community placement are ordered.

Appendix H (for additional nonmandatory conditions) is attached and incorporated herein.

4.8  WORK ETHIC CAMP: The court finds that the defendant is eligible for work ethic camp and is likely to qualify under RCW 9.94A.137 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the Department shall convert the period of work ethic camp confinement at a rate of one day of work ethic camp to three days of total standard confinement and the defendant shall be released to community custody for any remaining time of total confinement. The defendant shall comply with all mandatory statutory requirements of community custody set forth in RCW 9.94A.120(9)(b).

Appendix K for additional special conditions, RCW 9.94A.120(9)(c), is attached and incorporated herein.

4.9  SEX OFFENDER REGISTRATION (sex offender crime conviction): Appendix J is attached and incorporated by reference into this Judgment and Sentence.

4.10  ARMED CRIME COMPLIANCE, RCW 9.94A.103,105. The state's plea/sentencing agreement is  attached  as follows:

The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

Date: FEB. 27, 1998

Judge Anthony P. Wartnik  
Print Name: ANTHONY P. WARTNIK

Presented by: [Signature]  
Deputy Prosecuting Attorney, Office WSBA ID #91002  
Print Name: Shannon Anderson

Approved as to form: [Signature]  
Attorney for Defendant, WSBA # 15053  
Print Name: Alice M. Zalasky

FINGERPRINTS



RIGHT HAND  
FINGERPRINTS OF:

STEVEN JOSEPH CLARK

DATED: 2/27/98

Anthony P. Wartick  
JUDGE, KING COUNTY SUPERIOR COURT

DEFENDANT'S SIGNATURE: [Signature]

DEFENDANT'S ADDRESS: 32531 NE. 5th

Carnation WA, 98014

DOC

ATTESTED BY:

M. JANICE MICHELS, SUPERIOR COURT CLERK

BY: Patricia A. Kuehn  
DEPUTY CLERK

CERTIFICATE

I, \_\_\_\_\_,  
CLERK OF THIS COURT, CERTIFY THAT  
THE ABOVE IS A TRUE COPY OF THE  
JUDGEMENT AND SENTENCE IN THIS  
ACTION ON RECORD IN MY OFFICE.  
DATED: \_\_\_\_\_

CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK

OFFENDER IDENTIFICATION

S.I.D. NO. WA14406779

DATE OF BIRTH: DECEMBER 7, 1967

SEX: M

RACE: WHITE

1 IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

2 STATE OF WASHINGTON, )

3 Plaintiff, )

No. 97-1-09348-8 SEA

4 vs. )

ORDER SETTING RESTITUTION

5 STEVEN JOSEPH CLARK, )

6 Defendant, )

7 The court ordered payment of restitution as a condition of sentencing. The Court has  
determined that the following persons are entitled to restitution in the following amounts;

8 IT IS ORDERED that defendant make payments through the registry of the clerk of the  
court as follows:

9 Christina Schaller  
10 c/o Wells Fargo Bank  
11 1620 Fourth Ave.  
Seattle, WA 98101

AMOUNT: \$56.00

12 Estela Kim  
13 c/o Washington Federal Savings and Loan  
425 Pike St.  
Seattle, WA 98101

AMOUNT: \$30.00

14 Wells Fargo Bank  
15 1620 Fourth Ave.  
Seattle, WA 98101  
16 RE: 10/29/97 robbery

AMOUNT: \$1,797.00

17 Washington Federal Savings and Loan  
18 425 Pike St.  
Seattle, WA 98101  
RE: 11/3/97 robbery

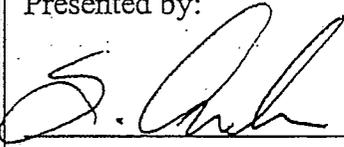
AMOUNT: \$1,390.00

19 DONE IN OPEN COURT this 27<sup>th</sup> day of February, 1998.

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21 Anthony P. Wartnik  
JUDGE ANTHONY P WARTNIK

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Presented by:

  
\_\_\_\_\_

Shanna Anderson  
Deputy Prosecuting Attorney

Copy received; Notice  
Presentation waived:

  
\_\_\_\_\_

Alice Zaleski/PDA  
Attorney for Defendant

Order Setting Restitution  
CCN# 1239567      REF# 97111118  
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DNA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

STEVEN J CLARK

Defendant.

No. 97-1-09348-8 SEA

APPENDIX G  
ORDER FOR BLOOD TESTING  
AND COUNSELING

(1)  HIV TESTING AND COUNSELING:

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense committed after March 23, 1988. RCW 70.24.340):

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 296-4848 to make arrangements for the test to be conducted within 30 days.

(2)  DNA IDENTIFICATION:

(Required for defendant convicted of sexual offense or violent offense. RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention and/or the State Department of Corrections in providing a blood sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangement for the test to be conducted within 15 days.

If both (1) and (2) are checked, two independent blood samples shall be taken.

Date: FEB. 27, 1998

Anthony B. Wartick  
JUDGE, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON )
Plaintiff, )
v. )
STEVEN J CLARK )
Defendant. )
No. 97-1-09348-8 SEA
APPENDIX H
COMMUNITY PLACEMENT

The Court having found the defendant guilty of offense(s) qualifying for community placement, it is further ordered as set forth below.

COMMUNITY PLACEMENT: Defendant additionally is sentenced on convictions herein, for each sex offense and serious violent offense committed on or after 1 July 1990 to community placement for two years or up to the period of earned release awarded pursuant to RCW 9.94A.150(1) and (2) whichever is longer and on conviction herein for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, to a one-year term of community placement.

Community placement is to begin either upon completion of the term of confinement or at such time as the defendant is transferred to community custody in lieu of early release.

(a) MANDATORY CONDITIONS: Defendant shall comply with the following conditions during the term of community placement:

- (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) While in community custody not unlawfully possess controlled substances;
(5) Pay community placement fees as determined by the Department of Corrections;
(6) Receive prior approval for living arrangements and residence location; and
(7) Defendant shall not own, use, or possess a firearm or ammunition when sentenced to community service, community supervision or both. (RCW 9.94A.120(13))

WAIVER: The following above-listed mandatory conditions are waived by the court:

(b) OFF-LIMITS ORDER (SODA): The Court finds that the defendant is a known drug trafficker as defined in RCW 10.66.010(3) who has been associated with drug trafficking in an area described in Attachment A. Attachment A is incorporated by reference into the Judgment and Sentence and the Court also finds that the area described in Attachment A is a Protected Against Drug Trafficking area (PADT). As a condition of community placement, the defendant shall neither enter nor remain in the PADT area described in Attachment A.

(c) OTHER CONDITIONS: Defendant shall comply with the following other conditions during the term of community placement:

Date: FEB 27, 1997

Anthony P. Wartick
JUDGE, King County Superior Court

**APPENDIX B--  
GUILTY PLEA STATEMENT**

FILED CERTIFIED COPY

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

93 JAN 25 AM 10:15 KING COUNTY SUPERIOR COURT CLERK SEATTLE, WA.

Accelerated Non Accelerated DPA Defense

STATE OF WASHINGTON

Plaintiff,

v.

Steven Clark

Defendant.

No. 97-1-09348-8 SEA

STATEMENT OF DEFENDANT ON PLEA OF GUILTY (Felony)

1. My true name is Steven J. Clark

2. My age is 30. Date of birth 12-7-67

3. I went through the 12 grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is Aliw M. Zalucki

(b) I am charged with the crime(s) of Robbery in the Second Degree (2 counts) The elements of this crime(s) are see information, attached and incorporated by reference herein

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

(a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;

STATEMENT OF DEFENDANT ON PLEA OF GUILTY 1 OF 9

SC FORM REV 10/97

22

- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a determination of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA(S), I UNDERSTAND THAT:

(a) The crime(s) with which I am charged carries a maximum sentence(s) of 10 years imprisonment and a \$ 20,000 <sup>per count</sup> fine.

RCW 9.94A.030(23),(27), provide that for a third conviction for a "most serious offense" as defined in that statute or for a second conviction for a "most serious offense" which is also a "sex offense" as defined in that statute I may be found a Persistent Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.120(4). The law does not allow any reduction of this sentence.

(b) The standard sentence range is from 22 (days) months to 29 (days) months confinement, based on the prosecuting attorney's understanding of my criminal history. The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. If my current offense was prior to 7/1/97: criminal history always includes juvenile convictions for sex offenses and also for Class A felonies that were committed when I was 15 years of age or older; may include convictions in Juvenile Court for felonies or serious traffic offenses that were committed when I was 15 years of age or older; and juvenile convictions, except those for sex offenses and Class A felonies, count only if I was less than 23 years old when I committed the crime to which I am now pleading guilty. If my current

offense was after 6/30/97: criminal history includes all prior adult and juvenile convictions or adjudications.

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

(d) If I am convicted of any new crimes before sentencing, or if I was on community placement at the time of the offense to which I am now pleading guilty, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase.

If the current offense to which I am pleading guilty is a most serious offense as defined by RCW 9.94A.030, (23), (27), and additional criminal history is discovered, not only do the conditions of the prior paragraph apply, but also if my discovered criminal history contains additional prior convictions, whether in this state, in federal court, or elsewhere, of most serious offense crimes, I may be found to be a Persistent Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.120(4).

Even so, my plea of guilty to this charge is binding on me. I cannot change my plea if additional criminal history is discovered, even though it will result in the mandatory sentence that the law does not allow to be reduced.

(e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay \$500.00, or \$100.00 if my crime date is prior to 6/7/96, as a victim's compensation fund assessment. If this crime resulted in injury to any person or damages to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, incarceration, lab and attorney fees. Furthermore, the judge may place me on community supervision,

impose restrictions on my activities, and order me to perform community service.

(f) The prosecuting attorney will make the following recommendation to the judge: \_\_\_\_\_

*per count to be served concurrently,*  
29 months, Victim Penalty Assessment, court costs,  
recoupment of attorney fees, no contact order  
with victims Estella Kim, Christina Schaller, and Alice Thai,  
restitution. State will dismiss Court III at sentencing.

*SC* (g) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(h) The crime of \_\_\_\_\_ has a mandatory minimum sentence of at least \_\_\_\_\_ years of total confinement. The law does not allow any reduction of this sentence. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

The crime of Robbery 2<sup>o</sup> is a most serious offense as defined by RCW 9.94A.030(23), and if the judge determines that I have at least two prior convictions on separate occasions whether in this state, in federal court, or elsewhere, of most serious crimes, I may be found to be a Persistent Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody.

RCW 9.94A.120(4). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

The crime of \_\_\_\_\_ is also a "most serious offense" and a "sex offense" as defined in RCW 9.94A.030(23) and (27), and if the judge determines that I have one prior conviction whether in this state, in federal court or elsewhere of a most serious sex offense as defined in that statute, I may also be found to be a persistent offender in which case the judge must impose a mandatory sentence of life without the

possibility of parole. RCW 9.94A.120(4). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

SC (i) The crime charged in Count \_\_\_\_\_ includes a firearm/deadly weapon sentence enhancement of \_\_\_\_\_ months. KA

This additional confinement time is mandatory and must be served consecutively to any other sentence I have already received or will receive in this or any other cause. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge SC KA.]

(j) The sentences imposed on counts I and II, except for any weapons enhancement, will run concurrently unless the judge finds substantial and compelling reason to do otherwise or unless there is a special weapons finding. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

(k) In addition to confinement, the judge will sentence me to community placement for at least one year. During the period of community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

(l) If this offense is a sex offense committed after 6/5/96 and I am either sentenced to the custody of the Department of Corrections or if I am sentenced under the special sexual offender sentence alternative, the court will, in addition to the confinement, impose not less than 3 years of community custody which will commence upon my release from jail or prison. Failure to comply with community custody may result in my return to confinement. In addition the court may extend the period of community custody in the interest of public safety for a period up to the maximum term which is \_\_\_\_\_.

[If not applicable this paragraph should be stricken and initialed by the defendant and judge SC KA.]

(m) The judge may sentence me as a first time offender instead of giving a sentence within the standard range

if I qualify under RCW 9.94A.030(20). This sentence could include as much as 90 days' confinement plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge S.C.H.]

(n) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge S.C.H.]

(o) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge S.C.H.]

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

(q) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

(r) Because this crime involves a sex offense, I will be required to register with the sheriff of the county of the state of Washington where I reside. I must register immediately upon being sentenced unless I am in custody, in which case I must register within 24 hours of my release.

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

If I change my residence within a county, I must send written notice of my change of residence to the sheriff

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

[If not applicable, these three paragraphs should be stricken and initialed by the defendant and the judge SEC  
HC.]

(s) This plea of guilty will result in the revocation of my right to possess any firearm. Possession of any firearm after this plea is prohibited by law until my right to possess a firearm is restored by a court of record.

7. I plead guilty to the crime(s) of Robbery in the Second Degree - Counts I  
and II

as charged in the original ~~amended~~ Information. I have received a copy of that information.

- 8. I make this plea freely and voluntarily.
- 9. No one has threatened harm of any kind to me or to any other person to cause me to make this pleas.
- 10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.
- 11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this (these) crime(s).

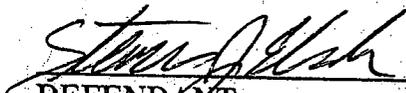
This is my statement:

Ct. I On October 29, 1997 in King County WA., I unlawfully and  
with intent to commit theft / take personal property of another  
to wit: U.S. currency from the person and in the presence of  
Estella Kim, against her will, by the use or threatened use of  
immediate force, violence or fear of injury to such person;

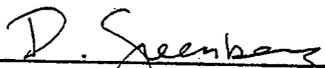
Ct #

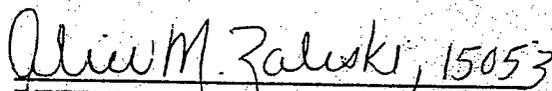
On November 3, 1997, I did unlawfully and with intent to commit theft / take personal property in King Co. WA of another, to wit: U.S. currency from the person and in the presence of Cristina Schaller, against her will, by the use or threatened use of immediate ~~force~~ violence, or fear of injury to such person.

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

  
DEFENDANT

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

  
PROSECUTING ATTORNEY

  
DEFENDANT'S LAWYER

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read; or
- (b) The defendant's lawyer had previously read to him or her; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

DATED this 20<sup>th</sup> day of January, 1998.

Kenneth Comstock  
JUDGE

Pro Tem.

I am fluent in the \_\_\_\_\_ language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

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

\_\_\_\_\_  
TRANSLATOR

\_\_\_\_\_  
INTERPRETER

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	No. 97-1-09348-8 SEA
	)	
v.	)	
STEVEN JOSEPH CLARK	)	INFORMATION
	)	
	)	
Defendant.	)	

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COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse STEVEN JOSEPH CLARK of the crime of Robbery in the Second Degree, committed as follows:

That the defendant STEVEN JOSEPH CLARK in King County, Washington on or about October 29, 1997, did unlawfully and with intent to commit theft take personal property of another, to-wit: U.S. currency, from the person and in the presence of Estela Kim, against her will, by the use or threatened use of immediate force, violence and fear of injury to such person or her property and the person or property of another;

Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace and dignity of the State of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse STEVEN JOSEPH CLARK of the crime of Robbery in the Second Degree, a crime of the same or similar character as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

1 That the defendant STEVEN JOSEPH CLARK in King County,  
2 Washington on or about November 3, 1997, did unlawfully and with  
3 intent to commit theft take personal property of another, to-wit:  
4 U.S. currency, from the person and in the presence of Christina  
5 Schaller, against her will, by the use or threatened use of  
6 immediate force, violence and fear of injury to such person or her  
7 property and the person or property of another;

8 Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace  
9 and dignity of the State of Washington.

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COUNT III

And I, Norm Maleng, Prosecuting Attorney aforesaid further do  
accuse STEVEN JOSEPH CLARK of the crime of **Robbery in the Second  
Degree**, a crime of the same or similar character as another crime  
charged herein, which crimes were part of a common scheme or plan  
and which crimes were so closely connected in respect to time, place  
and occasion that it would be difficult to separate proof of one  
charge from proof of the other, committed as follows:

That the defendant STEVEN JOSEPH CLARK in King County,  
Washington on or about November 10, 1997, did unlawfully and with  
intent to commit theft take personal property of another, to-wit:  
U.S. currency, from the person and in the presence of Alice Thai,  
against her will, by the use or threatened use of immediate force,  
violence and fear of injury to such person or her property and the  
person or property of another;

Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace  
and dignity of the State of Washington.

NORM MALENG  
Prosecuting Attorney

By: \_\_\_\_\_  
Angela Y. Griffin, WSBA #91002  
Deputy Prosecuting Attorney

3 CERTIFICATION FOR DETERMINATION OF PROBABLE CAUSE

4 That Angela Y. Griffin is a Deputy Prosecuting Attorney for  
5 King County and is familiar with the police report and investigation  
6 conducted in Puget Sound Violent Crimes Task Force case No.  
7 97-478565;

8 That this case contains the following upon which this motion  
9 for the determination of probable cause is made;

10 On October 29, 1997, a man, later identified as the defendant,  
11 Steven Joseph Clark, entered the Wells Fargo Bank located at 1620  
12 Fourth Avenue, Seattle, King County, Washington. The defendant  
13 stood in a waiting line until the teller, Estela Kim, was alone.  
14 The defendant approached Kim and handed her a note. Kim quickly  
15 looked at the note and saw that it said something about stacking  
16 money. The defendant said "Hurry up!" Kim grabbed the money in one  
17 hand and handed it to the defendant. The defendant put the money in  
18 his jacket pocket and walked out of the bank. Bank employees called  
19 911. Sergeant Gary Nelson of the Puget Sound Violent Crimes Task  
20 Force obtained the surveillance tape and printed still photos of the  
21 suspect from the tape.

22 On November 3, 1997, the defendant entered the Pacific  
23 Northwest Bank located at 425 Pike Street, Seattle, King County,  
24 Washington. He approached the teller, Christina Schaller, and held  
25 up a note for her to read. Schaller was unable to read the note  
because it was poorly written, however, she realized he was  
demanding money and she handed him money from her till. The  
defendant said, "I want your hundreds. Open your side drawer."  
Schaller gave the defendant the money from the side drawer. The  
defendant then left the bank.

On November 5, 1997, Sergeant Nelson and Detective Corrigan  
contacted a confidential informant and showed the informant a copy  
of the bank surveillance photo. The informant immediately  
identified the person in the photo as "Steve" and said that he was  
staying at the Seafair Motel. After calling the Seafair Motel,  
Sergeant Nelson learned the identity of the defendant and compiled  
a photographic montage.

On November 6, 1997, Kim was shown a photographic montage. She  
tentatively identified the defendant as the person who robbed her on  
October 29, 1997. On the same date, Sergeant Nelson showed Schaller  
a photographic montage. Immediately and confidently Schaller

1 identified the defendant as the person who robbed her on November 3,  
2 1997.

3 On November 10, 1997, the defendant entered U.S. Bank located  
4 at 1301 Fifth Avenue, Seattle, King County, Washington. The  
5 defendant approached the teller, Alice Thai, with a note that said  
6 "Hurry 20, 50, 100." Thai handed the defendant money. The  
7 defendant took the money and left the bank.

8 On November 19, 1997, Sergeant Nelson learned the whereabouts  
9 of the defendant. The defendant was arrested and advised of his  
10 Miranda rights. He gave a written confession admitting to the three  
11 bank robberies: the robbery of Wells Fargo on October 29, 1997, the  
12 robbery of Pacific Northwest Bank on November 3, 1997 and the  
13 robbery of U.S. Bank on November 10, 1997.

14 The State requests bail in the amount of \$75,000. The  
15 defendant's criminal history includes convictions for Burglary  
16 Second Degree (1987), Assault Second Degree (1989), Attempted Theft  
17 Second Degree (1995) and Escape third Degree (1997). The defendant  
18 has 69 prior failures to appear. The State requests the defendant  
19 be ordered to have no contact with Alice Thai, Christina Schaller  
20 and Estella Kim.

21 Under penalty of perjury under the laws of the State of Washington,  
22 I certify that the foregoing is true and correct. Signed and dated  
23 by me this \_\_\_\_\_ day of November, 1997, at Seattle, Washington.  
24  
25

Angela Y. Griffin, WSBA #91002

Certification for Determination  
of Probable Cause - 2

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

PLEA AGREEMENT /  TRIAL

Defendant: Clark, Steven J.

Date: 12-9-97

On Plea To:  As Charged

Cause No: 97-1-09348-8 SEA

Special Finding/Verdict;  Deadly Weapon (RCW 9.94.125);  School Zone-VUCSA (RCW 69.50) on Count(s) \_\_\_\_\_

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is indicated above and as follows:

1.  DISMISS: Upon disposition of Count(s) I & II, the State moves to dismiss Count(s): III

2.  REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.370, the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows:  
 as set forth in the certification(s) of probable cause filed herein.  
 as set forth in the attached Appendix C.

3.  RESTITUTION: Pursuant to RCW 9.94A.140(2), the defendant agrees to pay restitution as follows:  
 in full to the victim(s) on charged counts.  
 as set forth in attached Appendix C.

4.  OTHER: No contact w/ Estella Kim, Christina Schaller, Alice Thai

5.  SENTENCE RECOMMENDATION:  
a.  The defendant agrees to the foregoing Plea Agreement and that the attached sentencing guidelines scoring form(s) (Appendix A) and the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). The State makes the sentencing recommendation set forth in the State's sentence recommendation.  
b.  The defendant disputes the Prosecutor's Statement of the Defendant's Criminal History, and the State makes no agreement with regards to a sentencing recommendation and may make a sentencing recommendation for the full penalty allowed by law.

Maximum on Count I is not more than 10 years and/or \$ 20,000 fine.  
Maximum on Count II is not more than 10 years and/or \$ 20,000 fine.

Mandatory Minimum Term (RCW 9.94A.120(4) only): \_\_\_\_\_  
 Mandatory license revocation RCW 46.20.285  
Ten years jurisdiction and supervision for monetary payments. RCW 9.94A.120d(9).

The State's recommendation will increase in severity if additional criminal convictions are found or if the defendant commits any new crimes, fails to appear for sentencing or violates the conditions of his release.

[Signature]  
Defendant

[Signature]  
Deputy Prosecuting Attorney

[Signature] 15053  
Attorney for Defendant

[Signature]  
Judge, King County Superior Court

# GENERAL SCORING FORM

## Violent Offenses

CT I

Use this form only for the following offenses: Arson 1; Arson 2; Assault 2; Assault of a Child 2; Bail Jumping with Murder 1; Damaging Building, etc., by Explosion with Threat to Human Being; Endangering Life and Property by Explosives with Threat to Human Being; Explosive Devices Prohibited; Extortion 1; Kidnapping 2; Leading Organized Crime; Manslaughter 1; Manslaughter 2; Robbery 1 and 2.

OFFENDER'S NAME <i>CLARK, STEVEN JOSEPH</i>	OFFENDER'S DOB <i>12/7/67</i>	STATE ID# <i>WA</i> <i>14406779</i>
JUDGE	CAUSE# <i>97-1-09348-8</i>	FBI ID# <i>374445KA9</i>

DOC # 927696

**ADULT HISTORY:** (If the prior offense was committed before 7/1/86, count prior adult offenses served concurrently as one offense; those served consecutively are counted separately. If both current and prior offenses were committed after 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of serious violent and violent felony convictions .....  $\frac{1}{1} \times 2 = 2$   
 Enter number of other nonviolent felony convictions .....  $\frac{1}{1} \times 1 = 1$

**JUVENILE HISTORY:** (Adjudications entered on the same date count as one offense, except for violent offenses with separate victims)

Enter number of serious violent and violent felony adjudications .....  $\times 2 =$   
 Enter number of other nonviolent felony adjudications .....  $\times \frac{1}{2} =$

**OTHER CURRENT OFFENSES:** (Those offenses not encompassing the same criminal conduct)

Enter number of other serious violent and violent felony convictions *CT5 II, II* .....  $\frac{2}{2} \times 2 = 4$   
 Enter number of other nonviolent felony convictions .....  $\times 1 =$

**STATUS AT TIME OF CURRENT OFFENSES:**

If on community placement at time of current offense, add 1 point .....  $+ 1 =$

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

7

### STANDARD RANGE CALCULATION\*

<i>ROBBERY 2° CT, I</i>	<i>IV</i>	<i>5</i>	TO	<i>22</i>	TO	<i>29</i>
CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE		LOW STANDARD SENTENCE RANGE		HIGH STANDARD SENTENCE RANGE

- \* Multiply the range by .75 if the current offense is an attempt, conspiracy, or solicitation.
- \* If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-15 or III-16 to calculate the enhanced sentence.

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	No. 97-1-09348-8 SEA
	)	
v.	)	
STEVEN JOSEPH CLARK	)	INFORMATION
	)	
	)	
Defendant.	)	

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse STEVEN JOSEPH CLARK of the crime of Robbery in the Second Degree, committed as follows:

That the defendant STEVEN JOSEPH CLARK in King County, Washington on or about October 29, 1997, did unlawfully and with intent to commit theft take personal property of another, to-wit: U.S. currency, from the person and in the presence of Estela Kim, against her will, by the use or threatened use of immediate force, violence and fear of injury to such person or her property and the person or property of another;

Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace and dignity of the State of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse STEVEN JOSEPH CLARK of the crime of Robbery in the Second Degree, a crime of the same or similar character as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

1 That the defendant STEVEN JOSEPH CLARK in King County,  
2 Washington on or about November 3, 1997, did unlawfully and with  
3 intent to commit theft take personal property of another, to-wit:  
4 U.S. currency, from the person and in the presence of Christina  
5 Schaller, against her will, by the use or threatened use of  
6 immediate force, violence and fear of injury to such person or her  
7 property and the person or property of another;

8 Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace  
9 and dignity of the State of Washington.

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COUNT III

And I, Norm Maleng, Prosecuting Attorney aforesaid further do  
accuse STEVEN JOSEPH CLARK of the crime of Robbery in the Second  
Degree, a crime of the same or similar character as another crime  
charged herein, which crimes were part of a common scheme or plan  
and which crimes were so closely connected in respect to time, place  
and occasion that it would be difficult to separate proof of one  
charge from proof of the other, committed as follows:

That the defendant STEVEN JOSEPH CLARK in King County,  
Washington on or about November 10, 1997, did unlawfully and with  
intent to commit theft take personal property of another, to-wit:  
U.S. currency, from the person and in the presence of Alice Thai,  
against her will, by the use or threatened use of immediate force,  
violence and fear of injury to such person or her property and the  
person or property of another;

Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace  
and dignity of the State of Washington.

NORM MALENG  
Prosecuting Attorney

By: \_\_\_\_\_  
Angela Y. Griffin, WSBA #91002  
Deputy Prosecuting Attorney

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

**SCORING FORM**  
**Violent Offenses**

Use this form only for the following offenses: Arson 1; Arson 2; Assault 2; Assault of a Child 2; Bail Jumping with Murder 1; Damaging Building, etc., by Explosion with Threat to Human Being; Endangering Life and Property by Explosives with Threat to Human Being; Explosive Devices Prohibited; Extortion 1; Kidnapping 2; Leading Organized Crime; Manslaughter 1; Manslaughter 2; Robbery 1 and 2.

OFFENDER'S NAME <i>CLARK, STEVEN JOSEPH</i>	OFFENDER'S DOB <i>12/7/67</i>	STATE ID# <i>WA</i> <i>14406779</i>
JUDGE	CAUSE# <i>97-1-09348-8</i>	FBI ID# <i>374445KA9</i>

*DOC # 927696*

ADULT HISTORY: (If the prior offense was committed before 7/1/86, count prior adult offenses served concurrently as one offense; those served consecutively are counted separately. If both current and prior offenses were committed after 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of serious violent and violent felony convictions ..... 1 x 2 = 2  
 Enter number of other nonviolent felony convictions ..... 1 x 1 = 1

JUVENILE HISTORY: (Adjudications entered on the same date count as one offense, except for violent offenses with separate victims)

Enter number of serious violent and violent felony adjudications ..... x 2 = \_\_\_\_\_  
 Enter number of other nonviolent felony adjudications ..... x 1/2 = \_\_\_\_\_

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct)

Enter number of other serious violent and violent felony convictions ..... CT ..... II ..... 1 x 2 = 2  
 Enter number of other nonviolent felony convictions ..... x 1 = \_\_\_\_\_

STATUS AT TIME OF CURRENT OFFENSES:

If on community placement at time of current offense, add 1 point ..... + 1 = \_\_\_\_\_

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

**5**

**STANDARD RANGE CALCULATION\***

<i>ROBBERY 2° CT, I</i>	<i>LV</i>	<i>5</i>	<i>22</i>	TO	<i>29</i>
CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	LOW STANDARD SENTENCE RANGE		HIGH

- \* Multiply the range by .75 if the current offense is an attempt, conspiracy, or solicitation.
- \* If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-15 or III-16 to calculate the enhanced sentence.

# GENERAL SCORING FORM

CT II

## Violent Offenses

Use this form only for the following offenses: Arson 1; Arson 2; Assault 2; Assault of a Child 2; Bail Jumping with Murder 1; Damaging Building, etc., by Explosion with Threat to Human Being; Endangering Life and Property by Explosives with Threat to Human Being; Explosive Devices Prohibited; Extortion 1; Kidnapping 2; Leading Organized Crime; Manslaughter 1; Manslaughter 2; Robbery 1 and 2.

OFFENDER'S NAME <i>CLARK, STEVEN JOSEPH</i>	OFFENDER'S DOB <i>12/7/67</i>	STATE ID# <i>WA</i> <i>14406779</i>
JUDGE	CAUSE# <i>97-1-09348-8</i>	FBI ID# <i>374445KA9</i>

*DOC # 927696*

**ADULT HISTORY:** (If the prior offense was committed before 7/1/86, count prior adult offenses served concurrently as one offense; those served consecutively are counted separately. If both current and prior offenses were committed after 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of serious violent and violent felony convictions ..... 1 x 2 = 2  
 Enter number of other nonviolent felony convictions ..... 1 x 1 = 1

**JUVENILE HISTORY:** (Adjudications entered on the same date count as one offense, except for violent offenses with separate victims)

Enter number of serious violent and violent felony adjudications ..... x 2 = \_\_\_\_\_  
 Enter number of other nonviolent felony adjudications ..... x 1/2 = \_\_\_\_\_

**OTHER CURRENT OFFENSES:** (Those offenses not encompassing the same criminal conduct)

Enter number of other serious violent and violent felony convictions ..... CT I x 2 = 2  
 Enter number of other nonviolent felony convictions ..... x 1 = \_\_\_\_\_

**STATUS AT TIME OF CURRENT OFFENSES:**

If on community placement at time of current offense, add 1 point ..... + 1 = \_\_\_\_\_

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

5

### STANDARD RANGE CALCULATION\*

<i>ROBBERY 2° CT II</i>	<i>IV</i>	<i>5</i>	TO	<i>22</i>	<i>29</i>
CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE		LOW STANDARD SENTENCE RANGE	HIGH

- Multiply the range by .75 if the current offense is an attempt, conspiracy, or solicitation.
- If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III- 15 or III-16 to calculate the enhanced sentence.

STATE'S SENTENCE RECOMMENDATION  
(USE FOR NON-SEX OFFENSE SENTENCES OF OVER ONE YEAR ONLY)

Date: 12-9-97

Defendant: Steven Clark

Cause No: 97-1-09348-8 (SEA/KNT)

State recommends that the defendant be sentenced to a term of total confinement in the Department of Corrections as follows:

Count I 29 43 months

Count IV \_\_\_\_\_ months

Count II 29 months

Count V \_\_\_\_\_ months

Count III to be DM at sent. months

Count VI \_\_\_\_\_ months

Terms on each count to run concurrently/~~consecutively~~ with each other.

Terms to be served concurrently/consecutively with: \_\_\_\_\_

Terms to be consecutive to any other terms(s) not specifically referred to in this form.

**WEAPONS ENHANCEMENT - RCW 9.94A.310:** The above recommended term(s) of confinement include the following weapons enhancement time: \_\_\_\_\_ months for Ct. \_\_\_\_\_, \_\_\_\_\_ months for Ct. \_\_\_\_\_, \_\_\_\_\_ months for Ct. \_\_\_\_\_; which is/are mandatory, served without good time and served consecutive to any other term of confinement. The total of all recommended terms of confinement in this cause is: \_\_\_\_\_ months.

**WORK ETHIC CAMP - RCW 9.94A.137:** Defendant is legally eligible (Range is not less than 16 months, not more than 36 months, no current or prior sex or violent offense). Work ethic camp is/is not recommended. If not, why not: \_\_\_\_\_

**DRUG OFFENDER SENTENCE ALTERNATIVE - RCW 9.94a.120(6)(a):** Defendant is legally eligible (no prior felony; no deadly weapon finding; current offense is delivery, possession with intent, or manufacturing of schedule I/II narcotic or attempt/solicitation of same; small quantity). D.O.S.A. sentence is/is not recommended. If not, why not: \_\_\_\_\_

**EXCEPTIONAL SENTENCE:** This is an exceptional sentence, and the substantial and compelling reasons for departing from the presumptive sentence range are set forth on the attached form.

**NO CONTACT:** For the maximum term, defendant have no contact with Estella Kim, Christina Schaller, Alice Thai

**MONETARY PAYMENTS:** Defendant make the following monetary payments under the supervision of the Department of Corrections for up to 10 years pursuant to RCW 9.94A.120(12) and RCW 9.94A.145.

Restitution as set forth in the "Plea Agreement" page and  Appendix C.

Court costs; mandatory \$500 Victim Penalty Assessment, recoupment of cost for appointed counsel.

King County Local Drug Fund \$ \_\_\_\_\_;  \$100 lab fee RCW 43.43.690.

Fine of \$ \_\_\_\_\_;  \$1000, fine for VUCSA;  \$2000, fine for subsequent VUCSA.

Costs of incarceration in K.C. Jail at \$50 per day. RCW 9.94A.145(2).

Emergency response costs, \$ \_\_\_\_\_ RCW 38.52.430

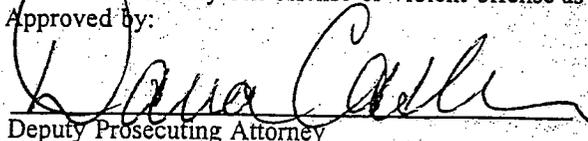
Extradition costs of \$ \_\_\_\_\_

Other \_\_\_\_\_

**COMMUNITY PLACEMENT - RCW 9.94A.120(9):** is mandatory for any offender sentenced to the Department of Corrections for the following offenses: any "serious violent" offense, vehicular homicide, or vehicular assault for a period of two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150(1), whichever is longer; any assault in the second degree or assault of a child second degree, any felony violation of RCW 69.50/52, or any crime against a person with a special deadly weapon finding for a period of one year. Community placement incorporates community custody, in lieu of earned early release, and post release supervision subject to statutory mandatory conditions listed in RCW 9.94A.120(9)(B) and other discretionary conditions set by the court listed in RCW 9.94A.120(9)(C). Discretionary conditions recommended by the state:

**BLOOD TESTING:** HIV blood testing is mandatory under RCW 70.24.340 for any sex offense, prostitution related offense, or drug offense associated with needle use. DNA testing is mandatory under 43.43.754 for any sex offense or violent offense as defined in RCW 9.94A.030.

Approved by:

  
Deputy Prosecuting Attorney

**APPENDIX B TO PLEA AGREEMENT  
PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY  
(SENTENCING REFORM ACT)**

Defendant: CLARK, STEVEN JOSEPH Date: 12/25/97

CRIME	DATE OF CONVICTION	PLACE OF CONVICTION	DISPOSITION (Probation and/or incarceration and length) SRA — Counts as Prior
-------	--------------------	---------------------	--

**ADULT FELONIES:**

4-9-87 - BURG 2° - KC 86-1-07670-1 - 30 days jail - 12 mos. SUP by Doc  
 8-18-89 - ASSAULT 2° - KC 89-1-01436-6 - 6 mos jail - 12 mos SUP by Doc

**ADULT MISDEMEANORS:**

8/28/88 - RESISTING ARREST - KC NED - 2733  
 8/28/88 - Assault 4° - KC NED - 2741  
 11/1/88 - Disturbing Peace - KC NED - 3426  
 10/25/90 - Reckless Driving - KC NED - 4624  
 12/1/90 - Theft 3° - KC NED 3398

**JUVENILE FELONIES:**

1/25/92 - Poss. Marijuana - KC SDC - 5200  
 3/21/92 - Public Indecency - Snoho Co. EVD - 156204  
 7/31/95 - Theft 3° - KC - NED - CR 0011304  
 9/11/95 - Theft 2° MISD - KC - 95-1-07556-4  
 7/5/96 - Theft - KC BEL BC 0104837

**JUVENILE MISDEMEANORS:**

7/10/96 - ASSAULT 4° / Theft 3° - KC ISQ C00001004  
 4/8/97 - Theft 3° - KC ISQ C00002977  
 5/16/97 - Escape 3° - KC SDC - 103501  
 6/21/97 - Theft / Obstructing Public Officer - KC BEL - BC0112474

ZG/DOC  
Deputy Prosecuting Attorney

**APPENDIX C--  
EX PARTE ORDER MODIFYING JUDGMENT**

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RECEIVED  
MAR 16 1998

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

WCC RECORDS

1 STATE OF WASHINGTON, )  
2 )  
3 Plaintiff, )  
4 )  
5 vs. )  
6 Steven J. CLARK, )  
7 Defendant. )

NO. 97-1-09348-8 SEA  
ORDER MODIFYING JUDGMENT  
AND SENTENCE

8 D.O.C. # 927646

9 THIS MATTER having come on regularly before the undersigned  
10 judge of the above-entitled court upon the motion pursuant to CrR  
11 7.8(a) of the State of Washington, plaintiff, for an order  
12 modifying judgment and sentence to correct a clerical error or  
failure on the written judgment and to correspond with the actual  
sentence imposed by the court in the above-entitled cause, and the  
court being fully advised in the premises; now, therefore,

13 IT IS HEREBY ORDERED, ADJUDGED and DECREED that the Judgment  
14 and Sentence filed herein is modified as follows:

- 15 ( ) Community Supervision is ordered for a period of 12 months as  
written in section 4.4(b) of the Judgment and Sentence  
16 ( ) Other Community Placement, at page 3 & 4.7 and  
17 Appendix H, is vacated.  
18 \_\_\_\_\_  
19 \_\_\_\_\_

20 All other terms of the Judgment remain in full force and effect.

21 DONE IN OPEN COURT this 12th day of March, 1998.

22 Anthony P. Warthick  
23 Superior Court Judge

24 Presented by:

25 Michael [Signature]  
Deputy Prosecuting Attorney

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

ORDER MODIFYING JUDGMENT AND SENTENCE