

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
2009 FEB -1 A 10:58

No. 81522-4

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

hjh
CLERK
IN RE THE PERSONAL RESTRAINT PETITION OF:

STEVEN J. CLARK,

PETITIONER.

**SUPPLEMENTAL BRIEF IN SUPPORT OF
PERSONAL RESTRAINT PETITION**

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A. INTRODUCTION

Steven Clark's 1997 judgment unlawfully imposes a term of community placement for two counts of Robbery in the Second Degree. This error, plain on the face of the judgment, makes Clark's PRP timely. Clark's guilty plea form contains the same error. Because Clark was given misinformation about a direct consequence, his guilty plea is invalid.

Recognizing the obvious merit of Clark's arguments, the State attempts to change the focus by pointing to an *ex parte* order amending the judgment and striking community placement. However, this order is void because it was entered without even the most rudimentary due process protections—notice (both before and *after* the hearing) and an opportunity to appear, not to mention the right to counsel. Striking community placement was not the only choice once the State discovered this error. Instead, Clark had the option of withdrawing his guilty plea—an option he now chooses. Because the order amending the judgment is void, Clark's judgment remains facially invalid. He should now be permitted to withdraw his guilty plea.

B. FACTS

On January 20, 1998, Steven Clark pled guilty to two counts of robbery in the second degree committed on October 29th and November 3,

1997. Neither crime included a deadly weapon allegation. *See Appendix A, Judgment and Sentence.*

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.* When Clark was sentenced, 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.”

On March 12, 1998, the State made and the Court granted an *ex parte* motion to modify the *Judgment* by vacating community placement. *See Appendix C, D.* As Clark’s uncontested declaration provides (consistent with the *Order* itself), the State did not provide the defendant notice, an opportunity to appear, or an opportunity to choose to withdraw his guilty pleas. *See Appendix E.* Further, Clark did not have counsel at the time.

Prior to completion of his sentence, the State charged and convicted Clark of a drug offense that pre-dated this offense. *See Appendix F.* Subsequently, Clark was found to be a persistent offender and is currently serving a life without parole sentence. *See Appendix G.* The conviction under attack in this petition is a necessary predicate to a persistent offender finding.

C. ARGUMENT

1. FACIAL INVALIDITY

Clark's original judgment is indisputably facially invalid. 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 imposes community placement, which 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). For this same reason, Clark's sentence also exceeds the Court's jurisdiction. RCW 10.73.100(5).

As a result, Clark's petition is timely. This conclusion is consistent with a long-line of decisions—caselaw that the State does not ask this Court to overrule. Thus, this Court should easily conclude that Clark's petition is timely.

2. CLARK'S INVOLUNTARY PLEA

Because Clark's petition is timely, he can now attack the validity 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). Community placement is a direct consequence of a guilty plea. *Id.*

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), this 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.

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 (emphasis supplied).

Clark was not informed of the misinformation in his guilty plea before sentencing. Instead, he only learned of the misinformation years after sentencing—after being provided by current counsel with the order amending the judgment. Thus, the *Mendoza* exception is inapplicable.

3. THE EX PARTE ORDER IS VOID

The crux of this case is the validity of the *ex parte* order amending Clark’s judgment. Because Clark’s possible remedies included not only correction of the judgment, but also withdrawal his guilty plea, the State violated due process by failing to provide him with notice and an opportunity to appear, as well as the right to counsel (which standing alone

renders the order facially invalid). Clearly, if the State had followed that procedure and Clark had chosen to amend the judgment, Clark could not now seek withdrawal of his guilty plea. However, the State instead chose to make Clark's choice for him, failing to inform him of his options or even the decision after it was entered. Due process is flexible. However, it cannot be dispensed with entirely.

Due process guarantees that “[n]o person shall be deprived of life, liberty, or property, without due process of law.” Wash. Const. art. I, § 3; U.S. Const. Amend. XIV; *In re Det. of Albrecht*, 147 Wash.2d 1, 7, 51 P.3d 73 (2002). It requires that citizens be granted a hearing “at a meaningful time and in a meaningful manner” before they are deprived of a protected interest. *Armstrong v. Manzo*, 380 U.S. 545, 552, 85 S.Ct. 1187, 14 L.Ed.2d 62 (1965). Due process of law protects citizens from fundamentally unfair treatment caused by an “arbitrary exercise of government powers.” *In re Det. of Ross*, 114 Wn.App. 113, 121, 56 P.3d 602 (2002), *review denied*, 149 Wn.2d 1015, 69 P.3d 875 (2003).

In *Olympic Forest Prods., Inc. v. Chaussee Corp.*, 82 Wn.2d 418, 422, 511 P.2d 1002, 1005 (1973), this Court held that due process requires, “at a minimum, that absent a countervailing state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard.” Implicit in this standard is the mandate for notice reasonably calculated to

apprise an individual of the pendency of the action. This Court's role is to determine whether the State's conduct violates "fundamental conceptions of justice" which lie at the base of our civil and political institutions. *State v. Cantrell*, 111 Wn.2d 385, 389, 758 P.2d 1 (1988).

An order entered in violation of the right to due process is void. *State v. Dolson*, 138 Wn.2d 773, 982 P.2d 100 (1999); *Esmieu v. Schrag*, 88 Wn.2d 490, 563 P.2d 203 (1977).

Frankly, no one could argue that amending a judgment without notice to a defendant—thereby depriving him of a meaningful choice—complies with due process.

Further, there is no real dispute about the facts. The order itself does not indicate notice to Clark. There is no signature line for Clark or his attorney. No certificate of service, either before or after entry of the order, accompanies the document. To the contrary, the order itself indicates that the State acted unilaterally.

In addition, Clark wrote a declaration, appended to his PRP, indicating that he did not receive notice of the State's contemplated action or the resulting order until years later. The State did not respond to these extra-record facts with a single contesting declaration—from counsel or any of the participants. Thus, the State has failed to properly dispute the facts.

This Court held in *Restraint Petition of Rice*, 118 Wn.2d 876, 886-7, 828 P.2d 1086 (1992), that the State's response must answer the allegations

of the petition and identify all material disputed questions of fact. RAP 16.9. “In order to define disputed questions of fact, the State must meet the petitioner's evidence with its own competent evidence. If the parties' materials establish the existence of material disputed issues of fact, then the superior court will be directed to hold a reference hearing in order to resolve the factual questions.” *Id.*

Consequently, the facts are settled. Application of the law to these facts can only result in the conclusion that the order amending the judgment is void.

4. CLARK CHOOSES WITHDRAWAL OF HIS PLEA

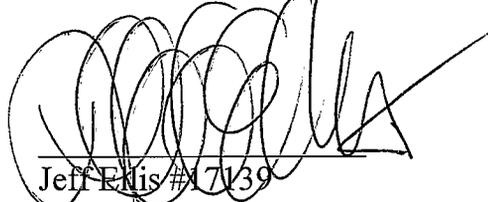
As he expressly stated in his PRP filed over a year ago, Clark seeks withdrawal of his plea. Where a plea agreement is based on misinformation, the defendant may choose specific enforcement of the agreement or withdrawal of the guilty plea.” *See In re Pers. Restraint of Hoisington*, 99 Wn. App. 423, 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. The State has never objected to Clark's choice. Nor has the State submitted any reason not to allow that remedy. Thus, this Court should direct that Clark be permitted to withdraw his guilty plea.

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 1st day of December, 2008. .

Respectfully Submitted:

A handwritten signature in black ink, appearing to read 'Jeff Ellis', written over a horizontal line.

Jeff Ellis #17139
Attorney for Mr. Clark

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(206) 262-0335 (fax)

Appendix A ~
Judgment and Sentence

3
6
SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

FILED

MAR 2 1998

STATE OF WASHINGTON

No. 97-1-09348-8 SEA

90 MAR -2 AM 7:58

Plaintiff,

JUDGMENT AND SENTENCE

v.

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

STEVEN J CLARK

Defendant.

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): _____
- 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): _____

JUDGMENT NUMBER 98 9 03121 8

CPRO	
CUST(c)	
CASH(d)	
JUDG(e)	
DRB(f)	
CRW	
EXR	

20
POSTED

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.

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); interest + trust fees waived
 (f) \$ _____ Incarceration costs; Incarceration costs waived (9.94A.145(2));
 (g) \$ _____ Other cost for: _____

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 3,173⁰⁰. 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).

4.5 NO CONTACT: For the maximum term of 10 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, 1993

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 Zaleski

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: X 3253 V. KIE. ST.
Carnation WA, 98014

DOC

ATTESTED BY:
M. JANICE MICHELS, SUPERIOR COURT CLERK
BY: Patricia A. Kuehn
DEPUTY CLERK

CERTIFICATE

OFFENDER IDENTIFICATION

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: _____

S.I.D. NO. WA14406779
DATE OF BIRTH: DECEMBER 7, 1967
SEX: M
RACE: WHITE

CLERK

BY: _____
DEPUTY CLERK

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. Warkink
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

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,)

3273.00

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

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

10 Christina Schaller
11 c/o Wells Fargo Bank
12 1620 Fourth Ave.
13 Seattle, WA 98101

AMOUNT: \$56.00

14 Estela Kim
15 c/o Washington Federal Savings and Loan
16 425 Pike St.
17 Seattle, WA 98101

AMOUNT: \$30.00

18 Wells Fargo Bank
19 1620 Fourth Ave.
20 Seattle, WA 98101
21 RE: 10/29/97 robbery

AMOUNT: \$1,797.00

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

AMOUNT: \$1,390.00

DONE IN OPEN COURT this 25th day of February, 1998.

Anthony P. Wartnik
JUDGE ANTHONY P WARTNIK

TITLE - 1

Norm Maleng, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000
FAX (206) 296-0955

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
LA.]

(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 ~~Attended~~ 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:

C. 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;

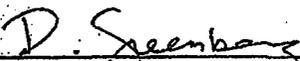
Ct #

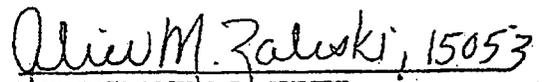
On November 3, 1997, I did unlawfully and with intent to commit theft / take personal property in King Co. WA of another, to wit: U.S. currency from the person and in the presence of Christina Schaller, against her will, by the use or threatened use of immediate ~~force~~ ^{force} violence, or fear of 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 20th 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

Appendix C ~
Letter from DOC to Prosecutor re: Judgment



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

WASHINGTON CORRECTIONS CENTER
P.O. Box 900 • Shelton, Washington 98584

March 6, 1998

Honorable Anthony Wartnik
King County Superior Court
516 Third Ave.
Seattle, WA 98104

RE: CLARK, Steven J.
DOC#927696
CSE#97-1-09348-8

Dear Judge Wartnik:

RCW 9.94A.120(9)(a)(b) states, "Community Placement is to be ordered for offenses categorized as a sex offense, a serious violent offense, assault in the second degree, assault of a child 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. The above named inmate does not appear to meet that criteria.

We would appreciate clarification on this matter. Thank you very much for your assistance.

Sincerely,

Wendy Stigall
Correctional Records Manager 2

Enclosures

cc: Prosecuting Attorney
Central File

**Appendix D ~
Order Amending Judgment**

FILED

98 MAR 12 AM 9:03
SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.
STATE OF WASHINGTON,

Plaintiff,

NO. 97-1-09348-8 SEA

vs.

ORDER MODIFYING JUDGMENT
AND SENTENCE

STEVEN J. CLARK,

Defendant.

D.O.C. # 927646

THIS MATTER having come on regularly before the undersigned judge of the above-entitled court upon the motion pursuant to CrR 7.8(a) of the State of Washington, plaintiff, for an order 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,

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

- () Community Supervision is ordered for a period of 12 months as written in section 4.4(b) of the Judgment and Sentence
- () Other Community Placement, at page 3 § 4.7 and Appendix H, is vacated.

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

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

Anthony P. Wartnik
Superior Court Judge

Presented by:

Michael J. Jones
Deputy Prosecuting Attorney

ORDER MODIFYING JUDGMENT AND SENTENCE

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

28
POSTED

MAR 13 1998
FDOC
CERTIFIED COPY TO COUNTY JAIL

**Appendix E ~
Declaration of Clark**

DECLARATION OF STEVEN CLARK

I, Steven Clark, declare:

- S.C. (1) I am over 18 years old and competent to make this declaration.
- S.C. (2) I am the Petitioner in this PRP which attacks my *Judgment* in King County Case No. 97-1-09348-8 SEA.
- S.C. (3) When I pled guilty in that case I was told, after I finished my sentence, I would have to do at least one year of community placement. I was told this by my attorney and then again by the judge who took my guilty plea.
- S.C. (4) When I was sentenced, the judge ordered me to serve a term of community placement.
- S.C. (5) I was not present and had no knowledge of the hearing on March 12, 1998, when the court entered an order modifying my *Judgment*. I did not receive notice prior to that date that any legal proceedings were taking place. I was not given an opportunity to consult with counsel.
- S.C. (6) In addition, I ~~do not remember~~ ^{did not receive} receiving a copy of the order modifying my *Judgment* until just prior to the time that I filed this PRP. ~~To the best of my~~ ^{S.C.} ~~knowledge~~, my current attorney was the first person to discuss that order with me and provide me with a copy of it.
- S.C. (7) I never sought or agreed to modify my *Judgment*.
- S.C. (8) I do not seek specific performance of my plea agreement. Instead, I wish to withdraw my plea.

I declare under the penalty of perjury that the above is true and correct.

8-22-'07
Date and Place


Steven Clark

**Appendix F ~
Subsequent VUCSA Judgment**

COVER 21

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

FILED

MAY 17 1999

99 MAY 17 AM 10:00
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

STATE OF WASHINGTON

Plaintiff,

No. 99-C-02058-4 SEA

JUDGMENT AND SENTENCE

v.

STEVEN J CLARK

Defendant.

COMMITMENT ISSUED

COPY TO SENTENCING GUIDELINES COMMISSION MAY 17 1999
PRESENTING STATEMENT OF INFORMATION

I. HEARING

1.1 The defendant, the defendant's lawyer, CARY VIRTUE (ACA), 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) _____

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): 05-10-99 by plea of: see plea

Count No.: 1 Crime: VUCSA- DELIVERY OF CLONAZEPAM
RCW 69.50.401 A 1 I Crime Code 27319
Date of Crime 02-05-97 Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code _____
Date of Crime _____ 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 offender score are (list offense and cause number): _____

EXH

JUDGMENT NUMBER 99-9-07079-3

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 CO
(b) ASLT 2	08-18-89	ADULT	891014366	KING CO
(c) 2CTS ROBB 2	02-27-98	ADULT	971093488	KING CO

- (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	4	IV	15 TO 20 MO	*.75	11.25 TO 15 MONTHS	5 YRS AND/OR \$10,000
Count						
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) _____

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: _____

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 500. 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: Trust fees and interest waived. 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.

JRF

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.

12 + 1 day months on Count 1 _____ 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) _____ are concurrent/consecutive.
The sentence herein shall run concurrently consecutively with the sentence in cause number(s) 97-1-09348-B SEA
but consecutive to any other cause not referred to in this Judgment.

Credit is given for 53 days days served 12 months + 1 day days as determined by the King County Jail solely for conviction under this cause number pursuant to RCW 9.94A.120(15). (For concurrent time)

4.5 NO CONTACT: For the maximum term of _____ years, defendant shall have no contact with _____
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: 5-14-97

Judge: [Signature]

Print Name: CAROL SCHAPRA

Presented by: [Signature]

Approved as to form: [Signature]

Deputy Prosecuting Attorney, Office WSBA ID #91002
Print Name: Foster G. Meyers

Attorney for Defendant, WSBA # 17100
Print Name: CARY VIVINE

CMS

FINGERPRINTS



RIGHT HAND
FINGERPRINTS OF:

STEVEN JOSEPH CLARK

DEFENDANT'S SIGNATURE:
DEFENDANT'S ADDRESS:

Steven J. Clark
3281 NE 8th St Camas WA 98014

DATED: MAY 14 1999

Carol A. Schapira
JUDGE, KING COUNTY SUPERIOR COURT

ATTESTED BY:
PAUL L. SHERFEY, SUPERIOR COURT CLERK
BY: *Joseph M. Mason*
DEPUTY CLERK

CAROL A. SCHAPIRA

CERTIFICATE

OFFENDER IDENTIFICATION

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: _____

S.I.D. NO. WA14406779
DATE OF BIRTH: DECEMBER 7, 1967
SEX: M
RACE: W

CLERK

BY: _____
DEPUTY CLERK

**Appendix G ~
Current Judgment and Life Sentence**

Flora

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

STEVEN J. CLARK

Defendant.

No. 99-1-09431-6SEA

JUDGMENT AND SENTENCE

COPY RECEIVED
MAY 25 2000
KENT SOCIETY OF COUNSEL REPRESENTING ACCUSED PERSONS

I. HEARING

1.1 The defendant, the defendant's lawyer, MARK FLORA, 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)

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): 4-12-00 by jury verdict of:

Count No.: I Crime: ROBBERY IN THE 2ND DEGREE
RCW 9a.56.210 Crime Code 02924
Date of Crime 10/5/99 Incident No.

Count No.: II Crime: ROBBERY IN THE SECOND DEGREE
RCW 9A.56.210 Crime Code 02924
Date of Crime 10/26/99 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):

The court further finds: that count(s) I + II constitute a most serious offense as defined by RCW 9.94A.030(25)(a)-(v)(ii); that before the commission of the current most serious offense, the defendant was convicted on at least two separate occasions of felonies that under the laws of this state are most serious offenses and are included in the offender score under RCW 9.94A.360; and, that at least one of the prior convictions for a most serious offense occurred before the commission of any of the other most serious offenses for which the offender was previously convicted. Therefore, this court finds that the defendant is a persistent offender as defined by RCW 9.94.030(29)(a)(i) and (ii).

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):

COPY RECEIVED
MAY 22 2000
SOCIETY OF COUNSEL REPRESENTING ACCUSED PERSONS

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

STEVEN J. CLARK

Defendant.

No. 99-1-094316 SEA

APPENDIX B
 JUDGMENT AND SENTENCE -
 (FELONY) - ADDITIONAL CRIMINAL HISTORY

2.3 The defendant has the following additional criminal history used in calculating the offender score (RCW 9.94A.360):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
VUCSA	5/14/99	ADULT	991020584	KING CO

The following prior convictions were counted as one offense in determining the offender score (RCW 9.94A.360(II)):

Date:

5/19/2000

Joan Ruben
 JUDGE, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

STEVEN J. CLARK

Defendant.

No. 99-1-094316 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:

May 19, 2000

JUDGE, King County Superior Court

Joan Ruben

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

STEVEN J. CLARK

Defendant.

No. 99-1-094316 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:

May 19, 2003

[Signature]
JUDGE, King County Superior Court

FINGERPRINTS



RIGHT HAND
FINGERPRINTS OF:

STEVEN JOSEPH CLARK

DATED:

MAY 19 2000

JUDGE KING COUNTY SUPERIOR COURT

JOAN E. DUBUQUE

DEFENDANT'S SIGNATURE:
DEFENDANT'S ADDRESS:

Steven Clark
1500 1st Ave S.O.C.

ATTESTED BY:

PAUL L. SHERREY, SUPERIOR COURT CLERK

BY:

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

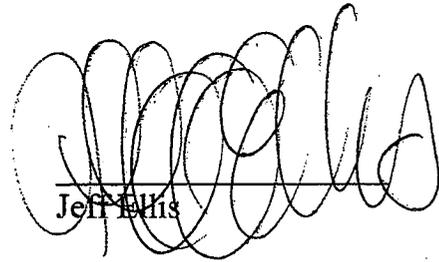
RACE: W

CERTIFICATE OF SERVICE

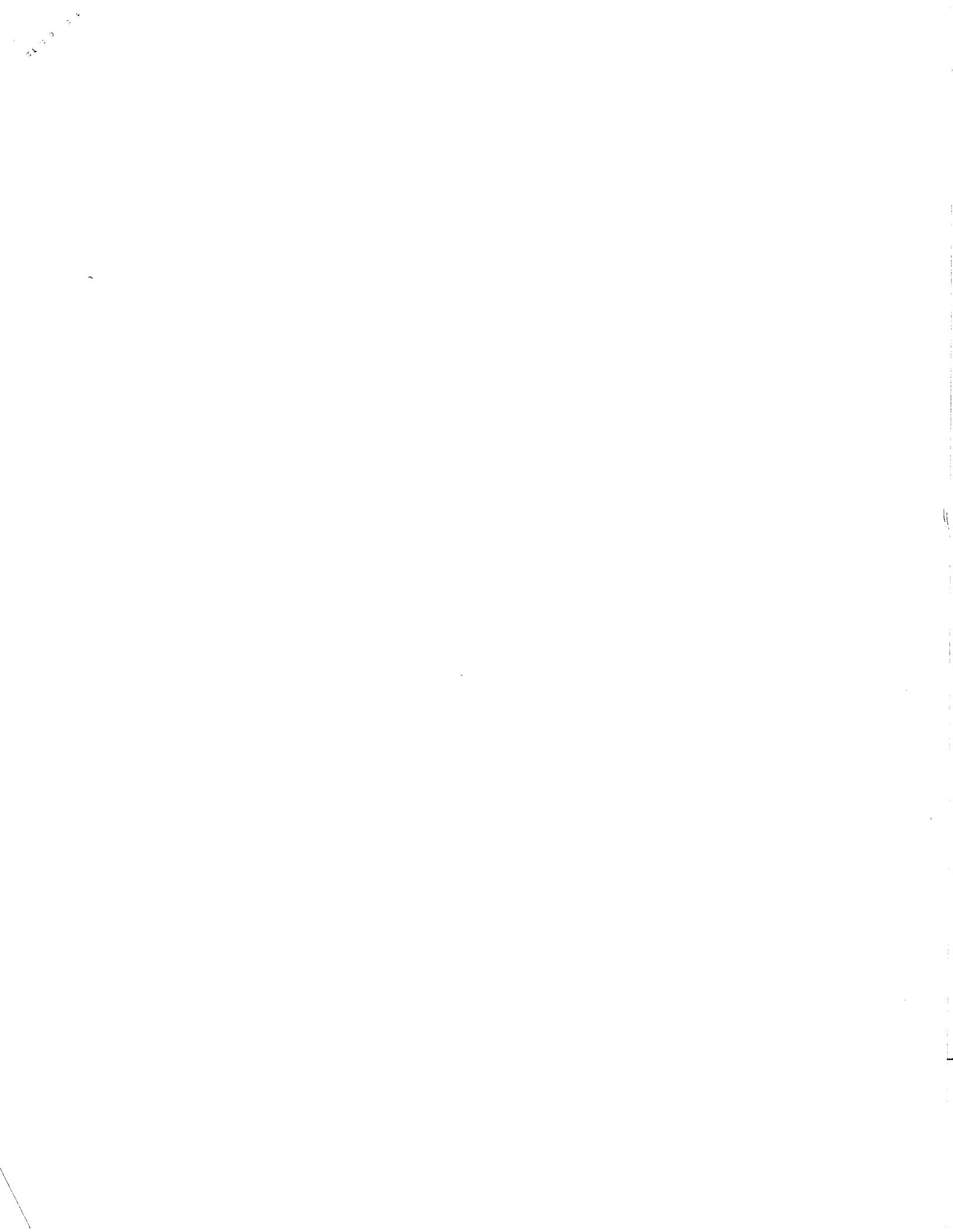
I, Jeff Ellis, certify that on December 1, 2008, I served the party listed below with a copy of the attached *Supplemental Brief* by mailing a copy, postage pre-paid, to:

Ann Summers
Sr. Deputy Prosecuting Attorney
King County Prosecuting Attorney
516 Third Ave., 5th Floor
Seattle, WA 98104

12/1/08 Seattle, WA
Date and Place



Jeff Ellis



1
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22

Presented by:

S. Anden

Shanna Anden
Deputy Prosecuting Attorney

Copy received; Notice
Presentation waived:

Alice M Zaleski 15053

Alice Zaleski/PDA
Attorney for Defendant

Order Setting Restitution
CCN# 1239567
MA

REF# 97111118

TITLE - 2

Norm Maleng, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000
FAX (206) 296-0955

**Appendix B ~
Guilty Plea Statement**

FILED

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

93 JAN 14 11 41 AM '97
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~~th~~ 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 ~~attached~~ 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;

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(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 ^{per count} 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

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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 court 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,
restoration. State will dismiss Court III at sentencing,

(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^o 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 KC~~ (i) The crime charged in Count _____ includes a firearm/deadly weapon sentence enhancement of _____ months. KC

~~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 KC.]~~

(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 KC.]~~

(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 So 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 So 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 So 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

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