

No. 38894-4-#

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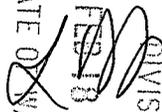
IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION II

IN RE THE PERSONAL RESTRAINT PETITION OF:

JEFFREY COATS,

PETITIONER.

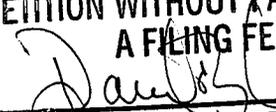
PERSONAL RESTRAINT PETITION

FILED
COURT OF APPEALS
DIVISION II
09 FEB 10 PM 12:49
STATE OF WASHINGTON
BY 
DEPUTY

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PETITIONER MAY FILE THE
PETITION WITHOUT PAYMENT OF
A FILING FEE


COURT CLERK 3/11/09

A. STATUS OF PETITIONER

Jeffrey Coats (hereinafter “Coats”) challenges his 1994 Pierce County convictions for Robbery in the First Degree, Conspiracy to Commit Robbery in the First Degree, and Conspiracy to Commit Murder in the First Degree (94-1-04849-~~1~~). *See Judgment and Sentence* attached as Appendix

A. Coats remains in custody on this case serving a 20-year sentence.

This is his first collateral attack on this judgment. Coats previously filed a PRP (No. 20851-2-II) attacking a sanction imposed as a result of a prison disciplinary hearing. This Court’s order dismissing that petition specifically noted that Coats “does not challenge his judgment and sentence.” *Order*, p. 1.

B. FACTS

On March 17, 1995, Jeffrey Coats pleaded guilty to one count of Robbery in the First Degree, one count of Conspiracy to Commit Robbery in the First Degree, and one count of Conspiracy to Commit Murder in the First Degree committed when Coats was 14 years old. *See Statement of Defendant on Plea of Guilty* attached as Appendix B. All three charges were contained in a single amended information. Coats entered guilty pleas to all three charges in one proceeding—on one plea form.

Coats’s *Judgment* indicates that the maximum punishment for all three crimes, including the conspiracy to commit robbery count, is “LIFE.”

In fact, the maximum term for conspiracy to commit first-degree robbery was 10 years in prison. *See* RCW 9A.20.021; 9A.28.040 (3)(b).

Like his judgment, Coats's written plea statement also contains misinformation about the maximum sentence for conspiracy to commit robbery, although that form incorrectly lists the maximum as "20 yr/\$50,000." Both maximums on the plea form (the maximum term of imprisonment and the fine) are incorrect. Instead, the correct maximum was 10 years and/or a \$20,000 fine.

C. ARGUMENT

1. INTRODUCTION

Coats's *Judgment* is facially invalid because it contains an obvious error. The "face" of Coats's judgment reveals that the sentencing court set a maximum penalty of "life" for a crime with a maximum of ten years. This penalty also exceeds the jurisdiction of the court. Thus, Coats's petition is not time barred.

Because Coats is not time barred, he can attack the validity of his guilty plea. Because Coats's plea was based on misinformation about a direct consequence, it was neither knowing nor voluntary. Coats 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, Coats should be entitled to withdraw his plea, unless the State can make a

sufficient showing of prejudice in which case this Court should remand this case for a hearing on Coats's choice of remedy.

2. EXCEPTIONS TO THE TIME BAR

Since Coats's conviction has been final for more than one year, he must address the time bar issue—arguing first that his *Judgment* is either facially invalid or exceeds the jurisdiction of the court. Either type of error creates an exception to the time bar, permitting the Court to consider the merits of Coats's petition. In other words, a “facially invalid” judgment provides a gateway for a Court reviewing a post-conviction petition to consider underlying errors.

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 to a judgment invalid on its face. RCW 10.73.090; *In re Restraint of Goodwin*, 146 Wn.2d 861, 866, 50 P.3d 618 (2002).

A judgment and sentence is invalid on its face if it evinces the invalidity “without further elaboration.” *Goodwin*, 146 Wn.2d at 866. The phrase “on its face” includes the documents signed as part of a plea agreement. *Id.* at 866 n. 2 (citing *In re Restraint of Stoudmire*, 141 Wn.2d 342, 354, 5 P.3d 1240 (2000); *In re Restraint of Thompson*, 141 Wn.2d 712, 719, 10 P.3d 380 (2000)).

As our Supreme Court has explained: “[T]he relevant question in a criminal case is whether the judgment and sentence is valid on its face, not whether related documents, such as plea agreements, are valid on their face. Such documents may be relevant to the question whether a judgment is valid on its face, but only if they disclose facial invalidity in the judgment and sentence itself.” *In re Restraint of Turay*, 150 Wn.2d 71, 82, 74 P.3d 1194 (2003).

In the case at bar, the maximum penalty on the *Judgment* is clearly erroneous. Robbery in the First Degree is a Class A offense. RCW 9A.56.200. However, conspiracy to commit robbery drops the crime to a Class B offense, with a corresponding maximum sentence of 10 years and/or \$20, 000. RCW 9A.28.040.

Coats’s *Judgment* lists the dates of the crime (“8/30/94 to 9/6/94”) and name (Conspiracy to Commit Robbery in the First Degree) of Coats’s crime of conviction and then states that the maximum term is “LIFE.” From this information alone, it is obvious that the maximum sentence is erroneous. The face of Coats’s *Judgment* reveals the error without further elaboration.

Further, the maximum stated on the judgment exceeds the jurisdiction of the court. This is a separate exception. RCW 10.73.100(5).

Thus, the question then becomes whether this error in the *Judgment* identifies a defect in the guilty plea that merits relief. Here, it does.

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)).

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); 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 *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.

The maximum possible sentence is a “direct” consequence of a guilty plea. *State v. Vensel*, 88 Wn.2d 552, 555, 564 P.2d 326 (1977) (“We believe it is important at the time a plea of guilty is entered, whether in justice or superior court, that the record show on its face the plea was entered voluntarily and intelligently, and affirmatively show the defendant understands the maximum term which may be imposed.”). *See also State v. Weyrich*, 163 Wn.2d 554, 182 P.3d 965 (2008) (Defendant misinformed about maximum punishment permitted to withdraw his plea because maximum term is direct consequence of plea, notwithstanding imposition of sentence within correct standard range).

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).

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 (both at the time of the plea and sentencing) mutual mistake about the maximum sentence. When Coats pled guilty he was told the maximum for conspiracy to commit first-degree robbery was 20 years. The mistake was amplified, not corrected at the time of sentencing when Coats was told the maximum was life. In fact, the maximum is 10 years.

5. WITHDRAWAL OF PLEA

Coats must first give notice in this PRP of his choice of remedy. 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, Coats chooses withdrawal of his plea.

Further, because both guilty pleas were part of one plea agreement, a mistake as to one justifies withdrawal of both. *State v. Turley*, 149 Wn.2d 395, 400, 69 P.3d 338 (2003) (where guilty pleas are part of a package deal, they are indivisible and an error as to one justifies withdrawal of both). *See also State v. Ermels*, 156 Wn.2d 528, 541, 131 P.3d 299 (2006); *State v. Bisson*, 156 Wn.2d 507, 519, 130 P.3d 820 (2006). For example, in *Turley*, the State incorrectly represented to the defendant that no mandatory community placement would be required on one of two charges to which the defendant pleaded guilty. When Turley discovered the error, he requested to withdraw his entire plea agreement. The Supreme Court allowed Turley to do so because it reasoned that a plea agreement is essentially a contract made between a defendant and the State; and, under normal contract principles, it is dependent upon the intent of the parties whether a contract is considered separable or indivisible. Because Turley negotiated and pleaded guilty to two charges contemporaneously, *i.e.*, both pleas were accepted in a single proceeding, Turley could withdraw both pleas. *Turley*, 149 Wn.2d at 400. *See also In re Shale*, 160 Wn.2d 489, 158 P.3d 588 (2007) (rejecting defendant's attempt to split the pleas and reaffirming the indivisibility rule).

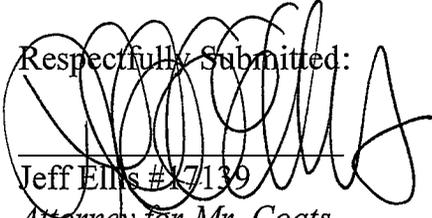
If the State objects to this remedy, they must provide competent proof of prejudice to this Court. If the State does so, then this Court should remand for an evidentiary hearing on the choice of remedy. Otherwise, this Court should remand with directions to permit Coats to withdraw his pleas.

D. CONCLUSION AND PRAYER FOR RELIEF

Based on the above, this Court should vacate all three of Coats's convictions and remand this case to Pierce County Superior Court to permit him to withdraw his guilty pleas.

DATED this 16th day of February, 2009.

Respectfully Submitted:


Jeff Ellis #17139

Attorney for Mr. Coats

Law Offices of Ellis, Holmes
& Witchley, PLLC
705 Second Ave., Ste. 401
Seattle, WA 98104
(206) 262-0300 (ph)
(206) 262-0335 (fax)

APPENDIX A ~
JUDGMENT AND SENTENCE



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

STATE OF WASHINGTON,
Plaintiff,
vs.
JEFFREY COATS,
Defendant.

CAUSE NO. 94-1-04849-1
JUDGMENT AND SENTENCE
(FELONY)

APR 19 1995

DOB: 5/8/80
SID NO.: WA17139518
LOCAL ID:

I. HEARING

- 1.1 A sentencing hearing in this case was held on 19 April 1995.
- 1.2 The defendant, the defendant's lawyer, JOHN MESKE, and the deputy prosecuting attorney, KATHLEEN PROCTOR, were present.
SAMES DENSLEY

II. FINDINGS

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

2.1 CURRENT OFFENSES(S): The defendant was found guilty on MARCH 17,
1995 by

plea jury-verdict bench trial of:

Count No.: I
 Crime: CONSPIRACY TO COMMIT MURDER IN THE FIRST DEGREE
 RCW: 9A.28.040 and 9A.32.030(1)(a)
 Date of Crime: 8/30/94 to 9/6/94
 Incident No.: TPD 94 249 0645

Count No.: II
 Crime: CONSPIRACY TO COMMIT ROBBERY IN THE FIRST DEGREE
 RCW: 9A.28.040 and 9A.56.190 and 9A.56.200(1)(a)(b)
 Date of Crime: 8/30/94 to 9/6/94
 Incident No.: SAME

JUDGMENT AND SENTENCE
(FELONY) - 1

ENTERED

Office of Prosecuting Attorney
946 County-City Building

94-1-04849-1

Count No.: III
 Crime: ROBBERY IN THE FIRST DEGREE
 RCW: 9A.56.190 and 9A.56.200(1)(a)(b), 9A.08.020, 9.94A.125, 9.94A.370
 Date of Crime: 9/6/94
 Incident No.: SAME

- Additional current offenses are attached in Appendix 2.1.
- A special verdict/finding for use of deadly weapon was returned on Count(s).
- A special verdict/finding of sexual motivation was returned on Count(s).
- A special verdict/finding of a RCW 69.50.401(a) violation in a school bus, public transit vehicle, public park, public transit shelter or within 1000 feet of a school bus route stop or the perimeter of a school grounds (RCW 69.50.435).
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

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

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

<u>Crime</u>	<u>Sentencing Date</u>	<u>Adult or Juv. Crime</u>	<u>Date of Crime</u>	<u>Crime Type</u>
INCEST	6/9/92	JUVI	10/22/91	NV

- Additional criminal history is attached in Appendix 2.2.
- Prior convictions served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(11)):

2.3 SENTENCING DATA:

Offender Seriousness Range Maximum

JUDGMENT AND SENTENCE
 (FELONY) - 2

	Score	Level	Months	Years
Count No. I:	4	XIV	210.75 - 270 mos	LIFE
Count No. II:	4	IX	38.25 - 51 mos	LIFE
Count No. III:	4	IX	51-69 mos	LIFE

Additional current offense sentencing data is attached in Appendix 2.3.

2.4 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 2.4.

2.5 RESTITUTION:

Restitution will not be ordered because the felony did not result in injury to any person or damage to or loss of property.
 Restitution should be ordered. A hearing is set for _____.
 Extraordinary circumstances exist that make restitution inappropriate. The extraordinary circumstances are set forth in Appendix 2.5.

2.6 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS: The court has considered the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court specifically finds that the defendant has the ability to pay:

- no legal financial obligations.
- the following legal financial obligations:
 - crime victim's compensation fees.
 - court costs (filing fee, jury demand fee, witness costs, sheriff services fees, etc.)
 - county or interlocal drug funds.
 - court appointed attorney's fees and cost of defense.
 - fines.
 - other financial obligations assessed as a result of the felony conviction.

A notice of payroll deduction may be issued or other income-

withholding action may be taken, without further notice to the offender, if a monthly court-ordered legal financial obligation payment is not paid when due and an amount equal to or greater than the amount payable for one month is owed.

2.7 SPECIAL FINDINGS PURSUANT TO RCW 9.94A.120:

- The defendant is a first time offender (RCW 9.94A.030(20)) who shall be sentenced under the waiver of the presumptive sentence range pursuant to RCW 9.94A.120(5).
- The defendant is a sex offender who is eligible for the special sentencing alternative under RCW 9.94A.120(7)(a). The court has determined, pursuant to RCW 9.94A.120(7)(a)(ii), that the special sex offender sentencing alternative is appropriate.

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 The court DISMISSES.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 LEGAL FINANCIAL OBLIGATIONS. Defendant shall pay to the Clerk of this Court:

\$ 2438.72

Restitution to:

USAA CASUALTY

P.O. Box 34544

Seattle WA 98124-1544

\$ _____

Court costs (filing fee, jury demand fee, witness costs, sheriff service fees, etc.);

\$ 100

Victim assessment;

\$ _____

Fine; VUCSA additional fine waived due to indigency (RCW 69.50.430);

JUDGMENT AND SENTENCE
(FELONY) - 4

1
2
3
4 \$ _____, Fees for court appointed attorney;
5 \$ _____, Washington State Patrol Crime Lab costs;
6 \$ _____, Drug enforcement fund of _____;
7 \$ _____, Other costs for: _____;
8 \$ 2538.72, TOTAL legal financial obligations including
restitution [] not including restitution.

9 Payments shall not be less than \$ _____ per month. Payments shall
10 commence on _____. AS DIRECTED BY CCO

11 Restitution ordered above shall be paid jointly and severally with:

12	<u>Anthony Pugh</u>	<u>94-1-03753-8</u>
	<small>Name</small>	<small>Cause Number</small>
13	<u>Gene Anderson</u>	

14 The defendant shall remain under the court's jurisdiction and the
15 supervision of the Department of Corrections for a period up to ten
16 years from the date of sentence or release from confinement to assure
17 payment of the above monetary obligations.

18 Any period of supervision shall be tolled during any period of time the
19 offender is in confinement for any reason.

20 Defendant must contact the Department of Corrections at 755 Tacoma
21 Avenue South, Tacoma upon release or by _____.

22 [] Bond is hereby exonerated.

23
24
25
26
27
28 JUDGMENT AND SENTENCE
(FELONY) - 5

4.2 CONFINEMENT OVER ONE YEAR: The court imposes the following sentence:

(a) CONFINEMENT: Defendant is sentenced to following term of total confinement in the custody of the Department of Corrections commencing TODAY.

240 months on Count No. (concurrent consecutive
51 months on Count No. concurrent consecutive
109 months on Count No. concurrent consecutive

Actual number of days of total confinement ordered is:

This sentence shall be concurrent consecutive with the sentence in

Credit is given for 227 days served;

(b) COMMUNITY PLACEMENT (RCW 9.94A.120(B)(b)). The defendant is sentenced to community placement for one year two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150(1) and (2), whichever is longer. The terms of community placement shall include the following conditions:

- (i) The defendant shall report to and be available for contact with the assigned community corrections officer as directed.
- (ii) The defendant shall work at Department of Corrections-approved education, employment and/or community service.
- (iii) The defendant shall not consume controlled substances except pursuant to lawfully issued prescriptions.
- (iv) The defendant shall not unlawfully possess controlled substances while in community custody.
- (v) The defendant shall pay supervision fees as determined by the Department of Corrections.

OTHER SPECIAL CONDITIONS AND CRIME RELATED PROHIBITIONS:

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

(d) [X] DNA TESTING. The defendant shall have a blood sample drawn for purpose of DNA identification analysis. The Department of Corrections shall be responsible for obtaining the sample prior to the defendant's release from confinement. (RCW 43.43.754)

[] PURSUANT TO 1993 LAWS OF WASHINGTON, CHAPTER 419, IF THIS OFFENDER IS FOUND TO BE A CRIMINAL ALIEN ELIGIBLE FOR RELEASE AND DEPORTATION BY THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, SUBJECT TO ARREST AND REINCARCERATION IN ACCORDANCE WITH THIS LAW, THEN THE UNDERSIGNED JUDGE AND PROSECUTOR CONSENT TO SUCH RELEASE AND DEPORTATION PRIOR TO THE EXPIRATION OF THE SENTENCE.

EACH VIOLATION OF THIS JUDGMENT AND SENTENCE IS PUNISHABLE BY UP TO 60 DAYS OF CONFINEMENT. (RCW 9.94A.200(2)).

ANY DEFENDANT CONVICTED OF A SEX OFFENSE MUST REGISTER WITH THE COUNTY SHERIFF FOR THE COUNTY OF THE DEFENDANT'S RESIDENCE WITHIN 24 HOURS OF DEFENDANT'S RELEASE FROM CUSTODY. RCW 9A.44.130.

PURSUANT TO RCW 10.73.090 AND 10.73.100, THE DEFENDANT'S RIGHT TO FILE ANY KIND OF POST SENTENCE CHALLENGE TO THE CONVICTION OR THE SENTENCE MAY BE LIMITED TO ONE YEAR.

Date: 19 April 1995

[Signature]
JUDGE

Presented by:

[Signature]
Deputy Prosecuting Attorney
WSB # 6789

Approved as to form:

[Signature]
Lawyer for Defendant
WSB # 17400

FILED
IN OF 15
COURT
APR 19 1995
B; [Signature]
Office of Prosecuting Attorney
946 County-City Building

SENTENCE OVER ONE YEAR - 2

FINGERPRINTS

Right Hand
Fingerprint(s) of: JEFFREY COATS, Cause #94-1-04849-1

Attested by: Ted Rutt CLERK

By: DEPUTY CLERK Judith E. Whitmer Date: 4-19-95

CERTIFICATE

OFFENDER IDENTIFICATION

I, _____
Clerk of this Court, certify that
the above is a true copy of the
Judgment and Sentence in this
action on record in my office.

State I.D. #WA17139518

Date of Birth 5/8/80

Sex MALE

Dated: _____

Race WHITE

CLERK

ORI _____

By: _____

OCA _____

DEPUTY CLERK

OIN _____

DOA _____



FINGERPRINTS

APPENDIX B ~
GUILTY PLEA STATEMENT

FOR COURT OF WASHINGTON,
FOR PIERCE COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

vs.

NO. 94-1-04849-1

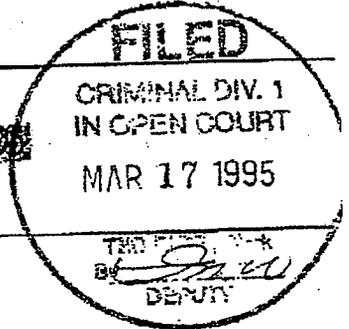
STATEMENT OF DEFENDANT ON
PLEA OF GUILTY

PN _____

Jeffrey Coates

Defendant.

20 1994



1. My true name is Jeffrey Coates

2. My age is 14

3. I went through the 8th grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:
I have the right to be represented 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 JOHN J. MESKE

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 trial and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (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. I am charged with the following: Robbery 1st

Count III THREE IN THE AMENDED INFORMATION

Elements: Unlawfully and feloniously, with the intent to commit theft, take personal property from another person against such person's will by use or threatened use of force AND WAS ARMED WITH A DEADLY WEAPON OR WHAT APPEARED TO BE A DEADLY WEAPON

Maximum Penalty Life

Standard Range 51-68 mos

Count II Conspiracy to Commit Robbery 1^o
Elements: Unlawfully and feloniously agree with another person to engage in or cause the performance of conduct constituting the crime of first degree robbery.

Maximum Penalty 20 yr / \$50,000⁰⁰ Standard Range 38.25 mos TO 51.00 mos

Count III Conspiracy to Commit Murder 1^o
Elements: Unlawfully and feloniously agree with another person to engage in or cause the performance of conduct constituting the crime of first degree murder

Maximum Penalty Life Standard Range 210²⁵ 270.

7. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- (a) The standard sentencing range is based on the crime I am pleading guilty to and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also includes juvenile court convictions as follows: convictions for sex offenses, any class A juvenile felony only if I was 15 or older at the time the juvenile offense was committed, any class B and C juvenile felony convictions only if I was 15 or older at the time the juvenile offense was committed and I was less than 23 years old when I committed the crime to which I am now pleading guilty.
- (b) The prosecuting attorney's statement of my criminal history for sentencing is as follows:

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

Unless I attach 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.

- (c) If I am convicted of any new crimes before sentencing, 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 crime is binding on me. I cannot change my mind even if additional criminal history is discovered and even though the standard sentencing range and the prosecuting attorney's recommendation increase.

II Conspiracy to Commit Robbery 1^o
Unlawfully and feloniously agree with another person to engage in or cause the performance of conduct constituting crime of first degree robbery.

num Penalty 20 yr / \$50,000⁰⁰ Standard Range 38.25 mos TO 51.00 mos

III Conspiracy to Commit Murder 1^o
Unlawfully and feloniously agree with another person to engage in or cause the performance of conduct constituting the crime of first degree murder

num Penalty Life Standard Range 210²⁵ 270.

IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

(a) The standard sentencing range is based on the crime I am pleading guilty to and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also includes juvenile court convictions as follows: convictions for sex offenses, any class A juvenile felony only if I was 15 or older at the time the juvenile offense was committed, any class B and C juvenile felony convictions only if I was 15 or older at the time the juvenile offense was committed and I was less than 23 years old when I committed the crime to which I am now pleading guilty.

(b) The prosecuting attorney's statement of my criminal history for sentencing is as follows:

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

Unless I attach 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.

(c) If I am convicted of any new crimes before sentencing, 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 crime is binding on me. I cannot change my mind even if additional criminal history is discovered and even though the standard sentencing range and the prosecuting attorney's recommendation increase.

In addition to sentencing me to confinement in the standard range, the judge will order me to pay \$100 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage 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, attorney fees and the costs of incarceration up to \$50 per day. Furthermore, the judge may place me on community supervision, impose restrictions on my activities, and order me to perform community service.

The prosecuting attorney will make the following recommendations to the judge:

240 months confinement, credit for time saved, 24^{months} community placement, \$100 CVPA
Restitution

The prosecuting attorney will make the recommendations set forth in the plea agreement which is incorporated herein by reference.

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

I understand that 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.

IF ANY OF THE FOLLOWING BOXED PARAGRAPHS DO NOT APPLY THEY SHOULD BE STRICKEN AND INITIALED BY THE DEFENDANT AND THE JUDGE.

<p>(a) 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, and to maintain law abiding behavior.</p>	<p>Per</p>
<p>(b) I am being sentenced for two or more violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.</p>	<p>Per</p>
<p>(c) 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.</p>	<p>Per</p>

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- d) 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. PK
- e) In addition to confinement, the judge will sentence me to community placement for at least ~~one year~~ ^{two years}. 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.
- f) Because 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.
- g) Because 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. PK
- h) 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 within 10 days of establishing my new residence. If I change my residence to a new county within this state, I must register with the sheriff of the new county and notify the sheriff of the county where I last registered, both within 10 days of establishing my new residence. PK

PK

PK
→

I plead guilty to the crime(s) of Conspiracy to Commit Murder 1^o, Robbery 1^o, Conspiracy to Commit Robbery 1^o
 as charged in the Amended information. I have received a copy of the information.

I make this plea freely and voluntarily.

No one has threatened any harm to me or to any other person to cause me to enter this plea.

No person has made any promises of any kind to cause me to enter this plea except as set forth in this statement.

The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement:

On or about September 6, 1994, in Pierce County, WA, I
conspired with two (2) other persons to commit a Robbery
and completed the Robbery by forcibly taking money from
a person of David Grenier. We planned to take a Black BMW.
to the Conspiracy to Commit Murder 1^o I believe that I am innocent
but I am pleading guilty because I believe there is a
strong likelihood that I would be found guilty if I went
to trial and I wish to take advantage of the state's
offer. At the time of the Robbery we had a pipe in a bag
which we said was a gun. Jeff Cook

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to RCW 10.73.090 and 10.73.100, I understand that my right to file any kind of post sentence challenge to the conviction
sentence may be limited to one year.
er has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been
copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask of the judge.

Greg Carr
Defendant

and discussed this statement with the
and believe that the defendant is
and fully understands this statement.

[Signature]
Attorney for Defendant

Kathleen Proctor 1481
Deputy Prosecuting Attorney

ing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned
defendant asserted that:

The defendant had previously read; or

The defendant's lawyer had previously read to him or her; or

An interpreter had previously read the entire statement above and that the defendant understood it in full.

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

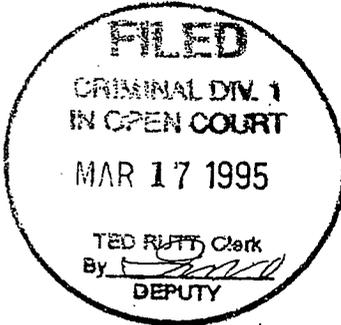
3-17-95

[Signature]
Judge

certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language
and defendant understands, 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
oath of perjury under the laws of the State of Washington that the foregoing is true and correct.

this _____ day of _____, 19____.

Interpreter



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APPENDIX C ~
ORDER DISMISSING PRIOR PRP

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

FILED
COURT OF APPEALS
DIVISION II
96 SEP 23 AM 9:55
STATE OF WASHINGTON
BY _____
DEPUTY

In re the
Personal Restraint Petition Of

JEFFERY COATS

No. 20851-2-II

ORDER DISMISSING PETITION

Jeffery Coats seeks relief from personal restraint imposed pursuant to his convictions of conspiracy to commit murder in the first degree, conspiracy to commit robbery in the first degree, and robbery in the first degree. He does not challenge his judgment and sentence, but rather complains that he was improperly deprived of 40 days good conduct time and placed in segregation for 20 days following a prison disciplinary hearing. Petitioner was found guilty of two serious infractions, threatening another with bodily harm, WAC 137-28-260(506), and engaging in an organized work stoppage, WAC 137-28-260 (682).

In *In re Burton*, 82 Wn. App. 573, 585, 910 P.2d 1295 (1996), the court set out the standard of review to be applied when reviewing a prison disciplinary proceedings:

Before a PRP alleging constitutional error arising from a prison disciplinary hearing will be granted, the petitioner must demonstrate both that he is presently restrained due to constitutional error and that the error worked to his actual and substantial prejudice. *Reismiller*, 101 Wn.2d at 293 (citing *In re Lile*, 100 Wn.2d 224, 225, 668 P.2d 581 (1983)). A prison disciplinary action is reviewable only if it was so arbitrary and capricious that it denied the inmate a fundamentally fair hearing. *Anderson*, 112 Wn.2d at 549 (citing *Reismiller*, 101 Wn.2d at 294). It is not arbitrary and capricious if the petitioner was afforded the minimum due process protections applicable in prison disciplinary proceedings. *See Reismiller*, 101 Wn.2d at 294. Those due process requirements are met when the inmate: (1) receives notice of the alleged violation; (2) is provided an

opportunity to present documentary evidence and call witnesses when not unduly hazardous to institutional safety and correctional goals; and (3) receives a written statement of the evidence relied on and the reasons for the disciplinary action. *Dawson*, 92 Wn.2d at 397 (citing *Wolff v. McDonnell*, 418 U.S. 539, 563-66, 94 S.Ct. 2963, 41 L.Ed. 2d 935 (1974)). Judicial review of mere procedural irregularities is inappropriate and disrupts the prison disciplinary process because it would have a "substantial adverse effect on the rehabilitative function" and "tend to be counterproductive and disruptive of the institutions' goals." *Dawson*, 92 Wn.2d at 397; *In re Plunkett*, 57 Wn. App. 230, 236-37, 788 P.2d 1090 (1990) (whether prison disciplinary action is arbitrary and capricious depends not on whether a hearing officer followed technical hearing procedures but rather on whether the petitioner was afforded the minimum due process protections applicable in prison disciplinary proceedings).

Id. at 585 (holding of *In re Cashaw*, 123 Wn.2d 138, 866 P.2d 8 (1994), and *In re Shepard*, 127 Wn.2d 185, 898 P.2d 828 (1995), inapplicable to review of prison disciplinary proceedings).

Further, "[a] prison disciplinary proceeding is arbitrary and capricious only if no evidence supports the action taken." *Id.* at 588 (citing *Anderson*, 112 Wn.2d at 549).

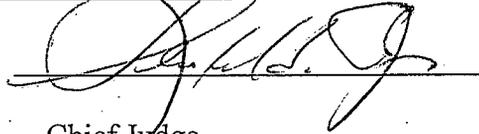
Here, petitioner (1) received notice (Resp. Ex. 3); (2) had an opportunity to present evidence (Resp. Ex. 3 and 4); and (3) received a written statement of the evidence relied on and the reasons for the disciplinary action (Resp. Ex. 5). Further, evidence in the record supports the disciplinary finding: Corrections Officer Scroggins overheard a conversation between Coats and another inmate in which inmate Coats said "we hadn't called the media yet because it was a peaceful riot we won't call it in and state our demands." After overhearing a radio broadcast to Officer Scroggins, Coats said, "last call break away, we are gonna bust them when we get out of this." Officer Scroggins authored an incident report, which documented these events, that was before Lt. McPherson at the disciplinary hearing. Petitioner presented no witnesses at the hearing and his only statement was, "I didn't have a job. I laugh at this infraction." Officer Scroggins's report provides some evidence in support of the disciplinary action. Petitioner has

failed to demonstrate actual and substantial prejudice and his petition must be dismissed.

Accordingly it is hereby

ORDERED that this petition is dismissed.

DATED this 23rd day of September, 1996.

A handwritten signature in black ink, appearing to be "S. H. J.", written over a horizontal line.

Chief Judge

cc: Jeffery Coats
Department Of Corrections
Martin E. Wyckoff

VERIFICATION BY PETITIONER

I, Jeffrey Coats, declare that I have received a copy of the petition prepared by my attorney and that I consent to the petition being filed on my behalf.

1-28-2009 Marion Washington
Date and Place Prison


Jeffrey Coats

FILED
COURT OF APPEALS
DIVISION II

09 FEB 18 PM 12:49

STATE OF WASHINGTON
BY  DEPUTY

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

In re Personal Restraint Petition of
JEFFREY COATS,

Petitioner.

NO. **38894-4**

PETITIONER'S MOTION TO
PROCEED IN FORMA PAUPERIS

I. IDENTITY OF MOVING PARTY

Jeffrey Coats, Petitioner, seeks the relief designated in Part II.

II. STATEMENT OF RELIEF SOUGHT

Waive the filing fee and any costs associated with Petitioner's *Personal Restraint*
Petition. A copy of Petitioner's *Statement of Finances* is attached.

III. FACTS

Petitioner is an indigent defendant who seeks to file the attached PRP. Due to his
indigence, Petitioner seeks to have the filing fee and any costs associated with the PRP
waived.

1 III. ARGUMENT

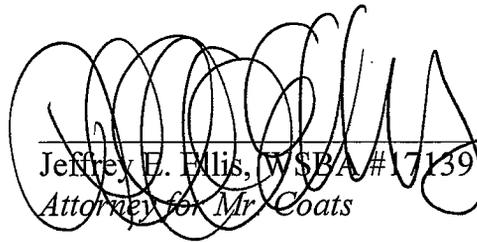
2 Pursuant to RAP 16.8, Petitioner respectfully requests that this Court waive the
3 filing fee and any and all costs associated with his *Personal Restraint Petition*.
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5 IV. CONCLUSION

6 This Court should waive the filing fee and any costs in this case.
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8 DATED this 16th day of February, 2009.

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Jeffrey E. Ellis, WSEA #17139
Attorney for Mr. Coats

Law Offices of Ellis, Holmes
& Witchley, PLLC
705 Second Avenue, Suite 401
Seattle, WA 98104
(206) 262-0300
(206) 262-0335 (fax)
ellis_jeff@hotmail.com

CERTIFICATE SUPPORTING MOTION TO PROCEED IN FORMA PAUPERIS

I, Jeffrey Coats, certify as follows:

1. That I am the petitioner and I wish to file a PRP in the above-entitled cause.
2. That I own:
 - a. No real property
 - b. Real property valued at \$_____.
3. That I own:
 - a. No personal property other than my personal effects
 - b. Personal property (automobile, money, inmate account, motors, tools, etc.) valued at \$_____.
4. That I have the following income:
 - a. No income from any source.
 - b. Income from employment, disability payments, SSI, insurance, annuities, stocks, bonds, interests, etc., in the amount of \$_____ on an average monthly basis. I received \$_____ after taxes over the past year.
5. That I have:
 - a. Undischarged debts in the amount of \$ 6,360.44
 - b. No debts.
6. That I am without other means to prosecute said PRP and desire that public funds be expended for that purpose.
7. That I can contribute the following amount toward the expense of review:
\$_____.
8. The following is a brief statement of the nature of the case and the issues sought to be reviewed: See attached brief.
9. I ask the court to provide the following at public expense, the following: all filing fees, preparation, reproduction, and distribution of briefs, preparation of verbatim report of proceedings, and preparation of necessary clerk's papers.
10. I authorize the court to obtain verification information regarding my financial status from banks, employers, or other individuals or institutions, if appropriate.
11. I certify that I will immediately report any change in my financial status to the court.
12. I certify that this PRP is being filed in good faith.

I, Jeffrey Coats, certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

7-28-2009 Monroe Washington
Date and Place Prison

Jeff Coats
Signature of Petitioner

DB33 0 733808 AD1 000000
IBSB033

01/28/09 08.45.35
PAGE 001

INMATE BANK ACCOUNT

AD1 - D01,D02,D03,D04,D05

INMATE: 733808 COATS, JEFFREY LOCATION: D02C4122 STATUS: ACTIVE
SPENDABLE BAL.: .25 SAVINGS FUND : 446.76 CURR BAL.: 494.06
WORK TR REL SAV: .00 EDUCATION BAL.: 18.80 HOLD AMT.: .00
MEDICAL BALANCE: .00 POSTAGE BAL.: 28.25 DEBT BAL.: .00
COMM SER REV FD: .00

DEBT SUMMARY: ----- (F7) ---
TYPE AMOUNT TYPE AMOUNT
DEND DENTAL COPAY DEBT .00 HYGA STORE HYGIENE DEBT .00
MEDD MEDICAL COPAY DEBT .00 POSD POSTAGE DEBT .00
SPHD STORE PERSONAL HYGIENE D .00 TVD TV FEE DEBT .00

TRANSACTION DETAIL: ----- (F8) ---
DATE TRAN T DESCRIPTION REC/CHK # REMITTER/PAYEE AMOUNT SPD.BAL.
07/12/05 LFO W LFO PAYMENT (10.00) 10.00-
07/14/05 LFO R GL#8154506 SEQ#26 - REG 10.00 .00
10/05/05 LFO W LFO PAYMENT (20.00) 20.00-
01/26/06 LFO W LFO PAYMENT (20.00) 40.00-
12/28/06 LFO W LFO PAYMENT (20.00) 60.00-
07/19/07 LFO W LFO PAYMENT (8.00) 68.00-

PF KEYS CAN BE USED TO DO THE FOLLOWING:

PF1=TO MENU PF2=REFRESH PF3=SCROLL SIMULTANEOUSLY PF7/8= SCROLL INDIVIDUALLY