

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re Personal Restraint)
Petition of)
)
)
)
)
CHARLES WEBER,)
)
)
Petitioner.)
_____)

No. 85992-2

STATE'S RESPONSE TO
PERSONAL RESTRAINT
PETITION

2011 JUL 18 AM 8:09
SUPERIOR COURT
CLERK

A. AUTHORITY FOR RESTRAINT OF PETITIONER.

Charles Weber is restrained pursuant to Judgment and Sentence in King County Superior Court No. 03-1-05510-3 SEA. Appendix A.

B. ISSUES PRESENTED.

Whether this personal restraint petition should be dismissed where it is an untimely mixed petition.

C. STATEMENT OF THE CASE.

1. Procedural facts.

Charles Weber was found guilty by jury verdict of the crime of attempted murder in the second degree, assault in the first

degree and unlawful possession of a firearm in the first degree. Appendix A. He pled guilty to possession with intent to deliver cocaine. Appendix A. The assault in the first degree conviction was vacated based on double jeopardy principles, and Weber was sentenced to 290 months of total confinement. Appendix A. His conviction was affirmed by the Court of Appeals and by this Court, but remanded for resentencing. State v. Weber, 159 Wn.2d 252, 149 P.3d 646 (2006). At resentencing, Weber received a sentence of 320 months of total confinement. Appendix B. The judgment and sentence was filed with the clerk of the trial court on March 27, 2007. Appendix B.

Weber filed a previous personal restraint petition alleging insufficient evidence, improper amendment of the information, erroneous jury instructions, prosecutorial misconduct and ineffective assistance of appellate counsel. Appendix C. That petition was dismissed in 2008, and this Court denied review. Appendix C.

2. Facts of the crime.

In the early morning hours of March 18, 2003, Gabriel Manzo-Vasquez ("Manzo") was at his friend Rhonda Encina's apartment, located above the Soapbox Laundromat, hanging out

and drinking beer. RP 6/18/03 118, 123. Nick Renion, an active member of the "Barrios Locos" or "Varrio Locos" street gang, and a man later identified as Charles Weber, were also at Encina's apartment. RP 6/10/03 22, 88-92; RP 6/18/03 129, 132. Manzo knew Weber only as "Guero Loco," which translates as "crazy white guy" in English. RP 6/17/03 40-41; RP 6/18/03 131. Manzo had met "Guero Loco" on one prior occasion at Encina's apartment. RP 6/18/03 129.

Weber initially arrived with friends and then left the party alone. RP 6/18/03 128. Weber returned to the party an hour later. RP 6/18/03 136-37. After Weber returned, Manzo got into an argument with Renion. RP 6/18/03 140. Renion was pressuring Manzo to go outside so they could fight. RP 6/18/03 141. Manzo refused and Weber threatened him by pointing a gun at Manzo's stomach. RP 6/18/03 143. At the time of this altercation, seven people were present in the apartment: Manzo, Weber, Renion, Rhonda Encinas, Victor Garcia-Rodriguez, and Weber's two friends who were not identified. RP 6/18/03 137.

Manzo ran into one of the bedrooms and held the door shut. RP 6/18/03 145-46. Manzo then escaped the apartment by jumping out of the bedroom window. RP 6/18/03 147. As Manzo

ran to his car, he saw "Guero Loco" chasing after him and shooting at him. RP 6/19/03 15-17.

Numerous bullets entered Manzo's Chevy Blazer as he drove away. RP 6/19/03 19. One bullet grazed Manzo's stomach, injuring him slightly. RP 6/19/03 20. The security guard at Manzo's apartment complex noticed the bullet damage to Manzo's car and called the police. RP 6/19/03 21.

Manzo initially told the police that his car was shot up in the parking lot. RP 6/19/03 22. However, the physical evidence did not support this version, so the police confronted Manzo and asked him to tell them what really happened. RP 6/17/03 29-31. Manzo admitted that he lied about what happened because he was scared of retaliation and because he had a warrant for failing to appear at his drunk driving sentencing. RP 6/19/03 22. Manzo then told the police how he was shot at by "Guero Loco." RP 6/17/03 31.

Manzo provided the police with a physical description of "Guero Loco" that matches Charles Weber's physical description, including, most significantly, a large, distinctive "206" tattoo on the back of his neck. RP 6/17/03 39. Manzo later identified Weber and Nick Renion from photo montages. RP 6/17/03 50; RP 6/25/03 98. Manzo identified Weber in the montage with 80% certainty,

indicating that he needed to see the "206" tattoo on the back of his neck to be 100% certain. RP 6/17/03 50.

Victor Garcia-Rodriguez gave a statement to the police and also identified Weber from a photo montage as the person with Nick Renion when the altercation occurred. Appendix D and E. He did not testify at trial.

Jennifer Martini, who was not associated with any of the other witnesses, lived near Rhonda Encinas and was out on her balcony smoking a cigarette on the night of the shooting when she heard eight gun shots and saw two cars drive out of the parking lot of Encinas' apartment. RP 6/17/03 139-42; RP 6/18/03 8-17. The first car she identified as the victim's dark SUV. RP 6/18/03 14. The second car she described as a four-door light-colored sedan. RP 6/18/03 9. She believed the car was white, beige or silver. RP 6/18/03 9.

The next day, Charles Weber was arrested during a traffic stop. RP 6/18/03 83-88. Weber was driving a gray 1987 Dodge Diplomat, which was registered to him. RP 6/18/03 85, 94. Inside the car, the police found a piece of paper with the name "Rhonda" and Rhonda Encinas' phone number on it. RP 6/25/03 112. At trial, Martini identified a picture of Weber's car as similar to and

consistent with the style and color of the car she saw leaving the parking lot after hearing the gunshots. RP 6/18/03 15-16.

Rhonda Encinas was uncooperative when contacted by the police on March 20, 2003. Appendix E. She reported that she was afraid for her safety and had received three threatening phone calls after Weber was placed under arrest the day before. Appendix E. She did not testify at trial because the police were unable to locate her. RP 6/25/03 85.

At trial, Manzo identified Weber as the shooter and confirmed that Weber had the same tattoos he had seen before. RP 6/18/03 129; RP 6/19/03 39. Weber has the letters "LOCO" tattooed across his knuckles, a large "206" tattoo on the back of his neck, and "Wedo Loco" written in cursive on his neck. RP 6/17/03 83; RP 6/18/03 86.

Physical evidence corroborated Manzo's account of the shooting. There were seven shots to Manzo's car and one that entered Delta Electric across the street from the Soapbox. RP 6/26/03 39. Further, Manzo suffered a bullet wound to his stomach where a bullet grazed him. RP 6/19/03 20.

At trial, Weber presented the testimony of Stephanie Fisher, a witness disclosed just prior to trial who is Weber's cousin. RP

6/6/03 69,.93. Fisher claimed to have been with Weber all night the evening of the shooting, watching movies at home. RP 6/26/03 92-94. However, Fisher admitted that Weber had left two times during the evening. RP 6/26/03 96, 105. At trial, she claimed that Weber left briefly to get milk for her baby and then to get beer. RP 6/26/03 95-96. The prosecutor impeached her testimony by showing that she initially told the detective she did not know where Weber went when he left twice after midnight. RP 6/26/03 107. Fisher had a 2001 conviction for criminal impersonation and was living with Weber's mother at the time of her testimony. RP 6/26/03 92. The defense presented no other witnesses, but questioned the detective in the case about his failure to locate Nick Renion or "Andreas." RP 6/26/03 61-63.

D. ARGUMENT.

1. THIS PETITION SHOULD BE DISMISSED AS AN UNTIMELY MIXED PETITION.

No petition collaterally attacking a judgment and sentence may be filed more than one year after the judgment becomes final, if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction. RCW 10.73.090(1); see In re

Personal Restraint of Runyan, 121 Wn.2d 432, 444, 449, 853 P.2d 424 (1993). A judgment becomes final on the date that the judgment and sentence is filed with the clerk of the trial court, or the date that an appellate court issues its mandate disposing of a timely direct appeal from the conviction, whichever is later. RCW 10.73.090(3).

The judgment in this case became final on March 27, 2007, when the amended judgment and sentence was filed with clerk of the trial court. Appendix B. This petition was filed more than four years later.

In In re Personal Restraint of Stoudmire, 141 Wn.2d 342, 5 P.3d 1240 (2000) (hereinafter "Stoudmire I"), this Court explained the unmixed petition requirement of RCW 10.73.100. RCW 10.73.100 provides specific exceptions to the one-year time bar contained in RCW 10.73.090; it provides that the time limit "does not apply to a petition or motion that is based solely on one or more of the following grounds," and enumerates six grounds. In Stoudmire I, this Court gave effect to the legislature's use of the term "solely," concluding that in order for a petition to be exempt from the one-year time limit, assuming that the judgment and sentence is valid on its face and rendered by a court of competent

jurisdiction, all grounds for relief that are asserted must fall within the exceptions set forth in RCW 10.73.100. If some of the grounds asserted do not fall within those six exceptions, the petition is "mixed," because it is not based "solely" on the enumerated exceptions. Stoudmire I, 141 Wn.2d at 349. A "mixed" petition must be dismissed in its entirety. Id. A mixed petition must be dismissed without analyzing claims that may not be time-barred. In re Personal Restraint of Hankerson, 149 Wn.2d 695, 703, 72 P.3d 703 (2003). RAP 16.4(d) does not bar a petitioner from filing a future petition based solely on claims that fall with the exceptions to the time bar. Id. at 703-04.

In the present case, Weber makes two claims: ineffective assistance of counsel and newly discovered evidence. The claim of ineffective assistance of counsel does not fall within the exceptions to the time bar provided in RCW 10.73.100. As such, Weber's petition must be dismissed in its entirety as an untimely mixed petition. In order to obtain review of his claim of newly discovered evidence, Weber must file a petition that raises only that claim and does not include claims that are time-barred.

2. WEBER HAS FAILED TO ESTABLISH THAT NEWLY DISCOVERED EVIDENCE WOULD PROBABLY CHANGE THE RESULT OF THE TRIAL.

Even if this Court could review Weber's claim of newly discovered evidence, he is not entitled to relief, or a reference hearing. Weber contends that the affidavits of constitute newly discovered evidence that entitle him to relief.

A defendant who seeks a new trial based on newly discovered evidence must show that the evidence: (1) will probably change the result of the trial; (2) was discovered since the trial; (3) could not have been discovered before trial by the exercise of due diligence; (4) is material; and (5) is not merely cumulative or impeaching. State v. Macon, 128 Wn.2d 784, 799-800, 911 P.2d 1004 (1996). See also In re Personal Restraint of Stenson, 150 Wn.2d 207, 217, 76 P.3d 241 (2003) (applying Macon standard to PRP claim). The absence of any one of the five factors is sufficient to dismiss the claim. In re Personal Restraint of Brown, 143 Wn.2d 431, 453, 21 P.3d 687 (2001).

Weber has provided declarations from five individuals. Two of these declarations, by Dr. Loftus regarding eyewitness identification testimony, and by Marty Hayes, a firearms expert,

could have been presented at trial with the exercise of due diligence and thus fail to meet the Macon standard.

The other three declarations are from individuals who claim to have been at the scene of the shooting. These three individuals are presumably fellow "Barrios Locos" gang members. In judging the sufficiency of the three declarations, the circumstances of those declarations is an important consideration. Post trial affidavits casting blame on third parties, particularly unidentified third parties, must be viewed with a "fair degree of skepticism." State v. Riofta, 166 Wn.2d 358, 372-73, 209 P.3d 467 (2009) (quoting Herrera v. Collins, 506 U.S. 390, 399, 113 S.Ct. 853, 122 L.Ed.2d 203 (1993)). As this Court has previously explained, allegations that are not meritless on their face do not entitle petitioner to a reference hearing. In re Personal Restraint of Rice, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992). Bald assertions and conclusory allegations will not entitle petitioner to a hearing. Id.

The gist of the declarations submitted in this case is that the State has prosecuted the wrong person and the person who actually committed the crime is someone that (1) matches the physical description of Charles Weber; (2) shares a gang moniker, "Guero Loco" with Charles Weber; (3) has the same distinctive

large "206" tattoo on the back of his neck as Charles Weber; and (4) is also a friend of Nick Renion. Significantly, none of these three declarants are able to identify this mysterious person, except as "Boxer." None of these declarants give any details as to the incident that would make their claims appear credible.

The farfetched assertion that there exists an unidentified person who looks just like Weber, has the same friends as Weber and the same distinctive tattoo as Weber, (and apparently drives a very similar car) is insufficient to warrant a reference hearing, even if this petition was not an untimely mixed petition.

3. PETITIONER HAS NOT ESTABLISHED "ACTUAL INNOCENCE" AND THERE IS NO SUCH EXCEPTION TO THE ONE-YEAR TIME BAR IN WASHINGTON.

Weber contends that this Court should grant his petition because he has made a showing of "actual innocence." This claim should be rejected. For the reasons set forth above, the new evidence presented by Weber does not credibly establish his innocence. In order to obtain relief under Washington law, Weber must meet the standard for newly discovered evidence set forth in

RCW 10.73.100(1).¹ There is no basis in Washington law for granting Weber relief if he falls short of meeting this standard.

In federal collateral attacks, petitioners have attempted to utilize claims of actual innocence in two different ways. Petitioners have asserted what has been termed a "freestanding" claim of innocence to support what the Supreme Court has termed "a novel substantive constitutional claim . . . that the execution of an innocent person would violate the Eighth Amendment." Schlup v. Delo, 513 U.S. 298, 314, 115 S.Ct. 851, 130 L.Ed.2d 808 (1995).

However, in Herrera v. Collins, 506 U.S. 390, 404, 113 S.Ct. 853, 122 L.Ed.2d 203 (1993), a majority of the Court rejected such a claim, holding that a claim of actual innocence is not in itself a cognizable constitutional claim. The Court then went on to surmise that, assuming such a claim were cognizable in a capital case, the threshold showing would be "extraordinarily high." Id. at 417. See also District Attorney's Office v. Osborne, ___ U.S. ___, 129 S.Ct. 2308, 2321, 174 L.Ed.2d 38 (2009) (noting that the existence of federal constitutional right to be released upon proof of actual innocence remains "open to question").

¹ RCW 10.73.100(1) provides that the time limit specified in RCW 10.73.090 does not apply to newly discovered evidence, "[i]f the defendant acted with reasonable diligence in discovering the evidence and filing the petition...."

Any "freestanding" claim of actual innocence by Weber must be rejected for three reasons. First, the Supreme Court has never recognized such a claim as valid. Second, Weber is not facing execution. And third, for the reasons outlined in the preceding section, Weber has fallen far short of meeting the extraordinarily high burden of proving his actual innocence. Like the petitioner in Herrera, the proof of guilt presented at trial, "even when considered alongside petitioner's belated affidavits, points overwhelmingly to petitioner's guilt." 506 U.S. at 418. Weber has fallen far short of meeting the extraordinarily high burden of proving his innocence. Carriger v. Stewart, 132 F.3d 463, 477 (9th Cir. 1997).

The second type of innocence claim asserted in federal habeas cases is one in which the petitioner is allowed to obtain review of his constitutional claims of error despite procedural bars if he falls within the "narrow class of cases . . . implicating a fundamental miscarriage of justice." Schlup v. Delo, 513 U.S. at 314. In this type of case, the claim of innocence operates as a "gateway" to allow review of the claims of constitutional error at trial.

The "actual innocence" gateway is based on the Supreme Court's interpretation of federal habeas statutes. As such, there is

no basis for applying it to personal restraint petitions filed in Washington state courts.² For this reason, other states have concluded that the standard set forth in Schlup has no application to collateral attacks litigated in the state courts. See Bates v. Commonwealth, 751 N.E.2d 843 (Mass. 2001) (stating that Schlup "does not permit a petitioner to disregard a State's established postconviction procedures"); Beach v. Day, 913 P.2d 622 (Mont. 1996) (holding that Schlup has no application to state petition for postconviction relief). Weber has failed to explain why the Supreme Court's interpretation of federal habeas statutes requires this Court to disregard the clear procedural bars set forth in RCW 10.73.090 and 10.73.100.

In In re Personal Restraint of Turay, 153 Wn.2d 44, 54-55, 101 P.3d 854 (2004), this Court discussed the "'actual innocence' exception" that applies as an exception to the successive petition bar under federal habeas law. This Court then contrasted the federal framework with state law, in which a successive petition is

² As Justice Rehnquist explained in Sawyer v. Whitley, 505 U.S. 333, 339, 112 S.Ct. 2514, 120 L.Ed.2d 269 (1992), the "actual innocence" exception "developed from the language of the federal habeas statute." See also Kuhlmann v. Wilson, 477 U.S. 436, 448-52, 106 S.Ct. 2616, 91 L.Ed.2d 364 (1986) (tracing the origins of the "ends of justice" standard for habeas petitions to former 28 U.S.C. sec. 2244).

not barred if based on newly discovered evidence or an intervening change in the law. Id. at 55. This Court has never adopted "actual innocence" as an exception to the time bar that exists separately from the newly discovered evidence exception provided by RCW 10.73.100(1). The only Washington case to employ actual innocence as an exception to the time bar is In re Personal Restraint of Carter, 154 Wn. App. 907, 924, 230 P.3d 181, review granted, 170 Wn.2d 1001 (2010). In that decision, there is no analysis of the court's wholesale adoption of an exception based on federal law.

In sum, Weber has made no credible showing of actual innocence. But even if he had, there is no "actual innocence" exception to the procedural bars provided in Washington law.

E. CONCLUSION.

Petitioner has submitted an untimely mixed petition. Moreover, he has presented no credible evidence that could be found to meet the standard for "newly discovered evidence." His petition must be dismissed as untimely.

DATED this 15th day of July, 2011.

Respectfully Submitted,

DAN SATTERBERG
King County Prosecuting
Attorney

by 
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Senior Deputy Prosecuting
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APPENDIX A

FILED

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WARRANT OF TRANSFER ISSUED
AUG 15 2003

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
	)	No. 03-1-05510-3 SEA
Plaintiff,)	
)	
Vs.	)	JUDGMENT AND SENTENCE
	)	FELONY
CHARLES WALTER WEBER)	
)	
Defendant,)	

I. HEARING

I.1 The defendant, the defendant's lawyer, RANDALL HALL, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: _____

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 07/01/2003 by jury verdict (Counts I - III) and on 06/11/2003 by guilty plea (Count IV) of:

Count No.: I Crime: ATTEMPTED MURDER IN THE SECOND DEGREE *
 RCW 9A.28.020 & 9A.32.050 (1)(a) Crime Code: 10142
 Date of Crime: 03/18/2003 Incident No. _____

Count No.: II Crime: ASSAULT IN THE FIRST DEGREE *
 RCW 9A.36.011 (1)(a) Crime Code: 01010
 Date of Crime: 03/18/2003 Incident No. _____

Count No.: III Crime: UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE
 RCW 9A.41.040 (1)(a)(2)(a) Crime Code: 00531
 Date of Crime: 03/18/2003 Incident No. _____

Count No.: IV Crime: VIOLATION OF THE UNIFORM CONTROLLED SUBSTANCES ACT:
 POSSESS WITH INTENT TO MANUFACTURE OR DELIVER COCAINE
 RCW 69.50.401 (a) (1) (I) Crime Code: 07320
 Date of Crime: 03/18/2003 Incident No. _____

[] Additional current offenses are attached in Appendix A

* Pursuant to double jeopardy principles count II is vacated.

PRESENTENCING STATEMENT & INFORMATION ATTACHED

SPECIAL VERDICT or FINDING(S):

- (a) While armed with a **firearm** in count(s) I & II RCW 9.94A.510(3).
- (b) While armed with a **deadly weapon** other than a firearm in count(s) _____ RCW 9.94A.510(4).
- (c) With a **sexual motivation** in count(s) _____ RCW 9.94A.835.
- (d) A V.U.C.S.A. offense committed in a **protected zone** in count(s) _____ RCW 69.50.435.
- (e) **Vehicle homicide** Violent traffic offense DUI Reckless Disregard.
- (f) **Vehicle homicide** by DUI with _____ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.510(7).
- (g) **Non-parental kidnapping** or unlawful imprisonment with a minor victim. RCW 9A.44.130.
- (h) **Domestic violence** offense as defined in RCW 10.99.020 for count(s) _____.
- (i) Current offenses **encompassing the same criminal conduct** in this cause are count(s) _____ RCW 9.94A.589(1)(a).

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

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

- Criminal history is attached in **Appendix B**.
- One point added for offense(s) committed while under community placement for count(s) I, III, IV

2.4 SENTENCING DATA:

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count II I	8 8	XII	240 TO 318 400 TO 500 <u>192.75 - 267.75</u>	+60 MONTHS	300 TO 378 <u>252.75 to 327.75</u>	LIFE AND/OR \$50,000
Count III	6 7	VII	67 TO 89 51 TO 67 <u>67 TO 89</u>		67 TO 89 <u>67 TO 89</u>	10 YRS AND/OR \$20,000
Count IV	6 7	VII	67 TO 89 51 TO 67 <u>67 TO 89</u>		67 TO 89 <u>67 TO 89</u>	10 YRS AND/OR \$25,000
Count						

Additional current offense sentencing data is attached in **Appendix C**.

2.5 EXCEPTIONAL SENTENCE (RCW 9.94A.535):

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~~ **vacates** Count(s) II pursuant to double jeopardy principles.

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.753(2), sets forth those circumstances in attached Appendix E.
 - Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
 - Date to be set.
 - Defendant waives presence at future restitution hearing(s).
 - Restitution is not ordered.
- Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500

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; (RCW 9.94A.030, 10.01.160)
- (b) \$100 DNA collection fee; DNA fee waived (RCW 43.43.754)(crimes committed after 7/1/02);
- (c) \$_____, Recoupment for attorney's fees to King County Public Defense Programs; Recoupment is waived (RCW 9.94A.030);
- (d) \$_____, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA; VUCSA fine waived (RCW 69.50.430);
- (e) \$_____, King County Interlocal Drug Fund; Drug Fund payment is waived; (RCW 9.94A.030)
- (f) \$_____, State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);
- (g) \$_____, Incarceration costs; Incarceration costs waived (RCW 9.94A.760(2));
- (h) \$_____, Other costs for: _____

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 500 + Rest. 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. Financial obligations shall bear interest pursuant to RCW 10.82.090. **The Defendant shall remain under the Court's jurisdiction and the supervision of the Department of Corrections for up to ten years from the date of sentence or release from confinement to assure payment of financial obligations.**

- Court Clerk's trust fees are waived.
- Interest is waived except with respect to restitution.

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.

230 months/~~days~~ on count I; 89 months/~~days~~ on count IV; _____ months/day on count _____

89 months/~~days~~ on count III; _____ months/days on count _____; _____ months/day on count _____

The above terms for counts I, III, IV are ~~consecutive~~/concurrent.

The above terms shall run [] CONSECUTIVE [] CONCURRENT to cause No.(s) _____

The above terms shall run [] CONSECUTIVE [] CONCURRENT to any previously imposed sentence not referred to in this order.

In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special **WEAPON** finding(s) in section 2.1: 60 months for count I

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (Use this section only for crimes committed after 6-10-98)

[] The enhancement term(s) for any special **WEAPON** findings in section 2.1 is/are included within the term(s) imposed above. (Use this section when appropriate, but for crimes before 6-11-98 only, per In Re Charles)

The **TOTAL** of all terms imposed in this cause is 290 months.

Credit is given for 143 days served [] days as determined by the King County Jail, solely for confinement under this cause number pursuant to RCW 9.94A505(6).

4.5 **NO CONTACT:** For the maximum term of Life years, defendant shall have no contact with Gabriel Manzo Vasquez

4.6 **DNA TESTING:** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing, as ordered in **APPENDIX G**.

[] **HIV TESTING:** For sex offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in **APPENDIX G**.

4.7 (a) [] **COMMUNITY PLACEMENT** pursuant to RCW 9.94A.700, for **qualifying crimes committed before 7-1-2000**, is ordered for _____ months or for the period of earned early release awarded pursuant to RCW 9.94A.728, whichever is longer. [24 months for any serious violent offense, vehicular homicide, vehicular assault, or sex offense prior to 6-6-96; 12 months for any assault 2°, assault of a child 2°, felony violation of RCW 69.50/52, any crime against person defined in RCW 9.94A.411 not otherwise described above.] **APPENDIX H** for Community Placement conditions is attached and incorporated herein.

(b) [] **COMMUNITY CUSTODY** pursuant to RCW 9.94.710 for any **SEX OFFENSE committed after 6-5-96 but before 7-1-2000**, is ordered for a period of 36 months or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. **APPENDIX H** for Community Custody Conditions and **APPENDIX J** for sex offender registration is attached and incorporated herein.

- (c) **COMMUNITY CUSTODY** - pursuant to RCW 9.94A.715 for qualifying crimes committed after 6-30-2000 is ordered for the following established range:
- Sex Offense, RCW 9.94A.030(38) - 36 to 48 months ~~when not sentenced under RCW 9.94A.712~~
 - Serious Violent Offense, RCW 9.94A.030(37) - 24 to 48 months
 - Violent Offense, RCW 9.94A.030(45) - 18 to 36 months
 - Crime Against Person, RCW 9.94A.411 - 9 to 18 months
 - Felony Violation of RCW 69.50/52 - 9 to 12 months
- or for the entire period of earned early release awarded under RCW 9.94A.728, whichever is longer.
 Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.737.
- APPENDIX H** for Community Custody conditions is attached and incorporated herein.
 APPENDIX J for sex offender registration is attached and incorporated herein.

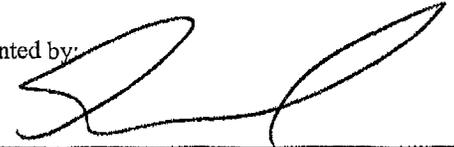
4.8 **WORK ETHIC CAMP:** The court finds that the defendant is eligible for work ethic camp, is likely to qualify under RCW 9.94A.690 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the defendant shall be released to community custody 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.700. **Appendix H** for Community Custody Conditions is attached and incorporated herein.

4.9 **ARMED CRIME COMPLIANCE, RCW 9.94A.475, 480.** 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: 8/8/03


 JUDGE
 Print Name: MICHAEL S. SPEARMAN

Presented by: 
 Deputy Prosecuting Attorney, WSBA# 27449
 Print Name: C. Andrew Colvard

Approved as to form:

 Attorney for Defendant, WSBA # 62161
 Print Name: TRAVIS R. HILL

FINGERPRINTS

BEST AVAILABLE IMAGE POSSIBLE



RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE: Charles Weber
DEFENDANT'S ADDRESS: C10 DOC

CHARLES WALTER WEBER

DATED: 8/8/03
[Signature]
JUDGE, KING COUNTY SUPERIOR COURT

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK
BY: [Signature]
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.
DOB: OCTOBER 26, 1978
SEX: M
RACE: W

CLERK

BY: _____
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
	Plaintiff,	No. 03-1-05510-3 SEA
)	
vs.	)	JUDGMENT AND SENTENCE,
	)	(FELONY) - APPENDIX B,
CHARLES WALTER WEBER	)	CRIMINAL HISTORY
)	
	Defendant,	
)	

2.2 The defendant has the following criminal history used in calculating the offender score (RCW 9.94A.525):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
VUCSA: POSSESS METH	03/22/2002	ADULT	011112275	KING CO
ESCAPE FROM COMMUNITY CUSTODY	03/22/2002	ADULT	011090140	KING CO
ASSAULT 2	03/18/1999	ADULT	981099671	KING CO
HARASSMENT	11/07/1997	ADULT	971071531	KING CO
TAKING MOTOR VEHICLE WITHOUT PERMISSION	04/12/1996	JUVENILE	968013449	KING CO
ATTEMPTED ROBBERY 1 <i>(Struck did not count)</i>	06/05/1992	JUVENILE	928000255	KING CO

The following prior convictions were counted as one offense in determining the offender score (RCW 9.94A.525(S)):

Date: 0/8/03



 JUDGE, KING COUNTY SUPERIOR COURT

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

CHARLES WALTER WEBER

Defendant,

No. 03-1-05510-3 SEA

APPENDIX G
ORDER FOR BIOLOGICAL TESTING
AND COUNSELING

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological 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 arrangements for the test to be conducted within 15 days.

(2) HIV TESTING AND COUNSELING (RCW 70.24.340):

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

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 205-7837 to make arrangements for the test to be conducted within 30 days.

If (2) is checked, two independent biological samples shall be taken.

Date: 8/8/03



JUDGE, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
Plaintiff,	)	No. 03-1-05510-3 SEA
)	
vs.	)	JUDGMENT AND SENTENCE
	)	APPENDIX H
CHARLES WALTER WEBER	)	COMMUNITY PLACEMENT OR
	)	COMMUNITY CUSTODY
Defendant,)	

The Defendant shall comply with the following conditions of community placement or community custody pursuant to RCW 9.94A.700(4), (5):

- 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 possess or consume controlled substances except pursuant to lawfully issued prescriptions;
- 4) Pay supervision fees as determined by the Department of Corrections;
- 5) Receive prior approval for living arrangements and residence location;
- 6) Not own, use, or possess a firearm or ammunition. (RCW 9.94A.720(2));
- 7) Notify community corrections officer of any change in address or employment; and
- 8) Remain within geographic boundary, as set forth in writing by the Department of Corrections Officer or as set forth with SODA order.

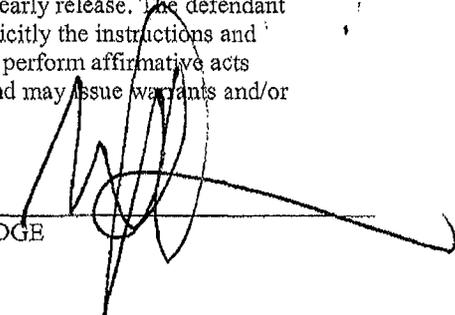
OTHER SPECIAL CONDITIONS:

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

Other conditions may be imposed by the court or Department during community custody.

Community Placement or Community Custody shall begin upon completion of the term(s) of confinement imposed herein or when the defendant is transferred to Community Custody in lieu of earned early release. The defendant shall remain under the supervision of the Department of Corrections and follow explicitly the instructions and conditions established by that agency. The Department may require the defendant to perform affirmative acts deemed appropriate to monitor compliance with the conditions [RCW 9.94A.720] and may issue warrants and/or detain defendants who violate a condition [RCW 9.94A.740].

Date: 8/8/03

JUDGE 

APPENDIX B

FILED

2007 MAR 27 PM 2: 43

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

VUCSA OVER 21

CERTIFIED COPY TO COUNTY JAIL ~~MAR 27 2007~~

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 03-1-05510-3 SEA

Vs.

Charles Walter Weber

JUDGMENT AND SENTENCE
FELONY (Amended)
post-Appeal

Defendant,

I. HEARING

I.1 The defendant, the defendant's lawyer, Randall Hall, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: _____

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 7-1-03 by jury * of:

Count No.: I Crime: Attempted Murder in the Second Degree
RCW 9A.28.020 & 9A.32.050(1)(a) Crime Code: 10142
Date of Crime: 3-18-03 Incident No. _____

Count No.: II Crime: Assault in the First Degree
RCW 9A.36.011(1)(a) Crime Code: 01010
Date of Crime: 3-18-03 Incident No. _____

Count No.: III Crime: Unlawful Possession of a Firearm in the First Degree
RCW 9A.41.040(1)(a)(2)(A) Crime Code: 00531
Date of Crime: 3-18-03 Incident No. _____

Count No.: IV Crime: VUCSA: Possession w/ Intent to Deliver Cocaine
RCW 69.50.401(a)(1)(I) Crime Code: 07320
Date of Crime: 3-18-03 Incident No. _____

[] Additional current offenses are attached in Appendix A

* Defendant pleaded guilty to count IV on 6-11-03.

SPECIAL VERDICT or FINDING(S):

- (a) While armed with a firearm in count(s) I, II RCW 9.94A.510(3).
- (b) While armed with a deadly weapon other than a firearm in count(s) _____ RCW 9.94A.510(4).
- (c) With a sexual motivation in count(s) _____ RCW 9.94A.835.
- (d) A V.U.C.S.A. offense committed in a protected zone in count(s) _____ RCW 69.50.435.
- (e) Vehicular homicide Violent traffic offense DUI Reckless Disregard.
- (f) Vehicular homicide by DUI with _____ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.510(7).
- (g) Non-parental kidnapping or unlawful imprisonment with a minor victim. RCW 9A.44.130.
- (h) Domestic violence offense as defined in RCW 10.99.020 for count(s) _____
- (i) Current offenses encompassing the same criminal conduct in this cause are count(s) _____ RCW 9.94A.589(1)(a).

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

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

- Criminal history is attached in Appendix B.
- One point added for offense(s) committed while under community placement for count(s) I, III, IV

2.4 SENTENCING DATA:

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count <u>II</u>	<u>9</u>	<u>XII</u>	<u>240-318</u>	<u>+60</u>	<u>300-378</u>	<u>Life and/or \$ 50,000</u>
Count <u>III</u>	<u>7</u>	<u>VII</u>	<u>67-89</u>		<u>67-89</u>	<u>10 yrs and/or \$ 25,000</u>
Count <u>IV</u>	<u>7</u>	<u>VIII</u>	<u>77-102</u>		<u>77-102</u>	<u>10 yrs and/or \$ 25,000</u>
Count						

Additional current offense sentencing data is attached in Appendix C.

2.5 EXCEPTIONAL SENTENCE (RCW 9.94A.535):

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) I → Pursuant to double jeopardy principles Count I (Att. Murder in the Second Degree) is vacated because count II (Assault in the First Degree) is the more serious crime.
vacates

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.753(2), sets forth those circumstances in attached Appendix E.
- Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
- Date to be set.
- Defendant waives presence at future restitution hearing(s).
- Restitution is not ordered.

Handwritten initials or mark.

Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500.

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; (RCW 9.94A.030, 10.01.160)
- (b) \$100 DNA collection fee; DNA fee waived (RCW 43.43.754)(crimes committed after 7/1/02);
- (c) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs; Recoupment is waived (RCW 9.94A.030);
- (d) \$ _____, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA; VUCSA fine waived (RCW 69.50.430);
- (e) \$ _____, King County Interlocal Drug Fund; Drug Fund payment is waived; (RCW 9.94A.030)
- (f) \$ _____, State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);
- (g) \$ _____, Incarceration costs; Incarceration costs waived (RCW 9.94A.760(2));
- (h) \$ _____, Other costs 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 or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied. Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

- Court Clerk's trust fees are waived.
- Interest is waived except with respect to restitution.

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.

260 months/~~days~~ on count II; 102 months/~~days~~ on count IV; _____ months/day on count _____

89 months/~~days~~ on count III; _____ months/days on count _____; _____ months/day on count _____

The above terms for counts II, III, IV are ~~consecutive~~ / concurrent.

The above terms shall run [] CONSECUTIVE [] CONCURRENT to cause No.(s) _____

The above terms shall run [] CONSECUTIVE [] CONCURRENT to any previously imposed sentence not referred to in this order.

In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special WEAPON finding(s) in section 2.1: 60 months for count II

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (Use this section only for crimes committed after 6-10-98)

[] The enhancement term(s) for any special WEAPON findings in section 2.1 is/are included within the term(s) imposed above. (Use this section when appropriate, but for crimes before 6-10-98 only, per In Re Charles)

The TOTAL of all terms imposed in this cause is 320 months. (260 + 60)

Credit is given for ~~XXXXXXXXXX~~ days served days as determined by the King County Jail, solely for confinement under this cause number pursuant to RCW 9.94A505(6). Department of Corrections

4.5 NO CONTACT: For the maximum term of Life years, defendant shall have no contact with Gabriel Manzo-Vasquez

4.6 DNA TESTING. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing, as ordered in APPENDIX G.
[] HIV TESTING: For sex offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in APPENDIX G.

4.7 (a) [] COMMUNITY PLACEMENT pursuant to RCW 9.94A.700, for qualifying crimes committed before 7-1-2000, is ordered for _____ months or for the period of earned early release awarded pursuant to RCW 9.94A.728, whichever is longer, [24 months for any serious violent offense, vehicular homicide, vehicular assault, or sex offense prior to 6-6-96; 12 months for any assault 2°, assault of a child 2°, felony violation of RCW 69.50/52, any crime against person defined in RCW 9.94A.411 not otherwise described above.] APPENDIX H for Community Placement conditions is attached and incorporated herein.

(b) [] COMMUNITY CUSTODY pursuant to RCW 9.94.710 for any SEX OFFENSE committed after 6-5-96 but before 7-1-2000, is ordered for a period of 36 months or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. APPENDIX H for Community Custody Conditions and APPENDIX J for sex offender registration is attached and incorporated herein.

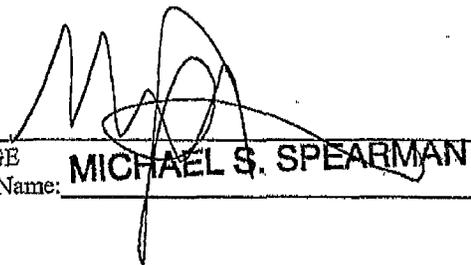
- (c) **COMMUNITY CUSTODY** - pursuant to RCW 9.94A.715 for qualifying crimes committed after 6-30-2000 is ordered for the following established range:
- Sex Offense, RCW 9.94A.030(38) - 36 to 48 months—when not sentenced under RCW 9.94A.712
 - Serious Violent Offense, RCW 9.94A.030(37) - 24 to 48 months
 - Violent Offense, RCW 9.94A.030(45) - 18 to 36 months
 - Crime Against Person, RCW 9.94A.411 - 9 to 18 months
 - Felony Violation of RCW 69.50/52 - 9 to 12 months
- or for the entire period of earned early release awarded under RCW 9.94A.728, whichever is longer. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.737.
- APPENDIX H for Community Custody conditions is attached and incorporated herein.
- APPENDIX J for sex offender registration is attached and incorporated herein.

4.8 **WORK ETHIC CAMP:** The court finds that the defendant is eligible for work ethic camp, is likely to qualify under RCW 9.94A.690 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, 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.700. Appendix H for Community Custody Conditions is attached and incorporated herein.

4.9 **ARMED CRIME COMPLIANCE, RCW 9.94A.475, 480.** 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: 3-27-07



JUDGE
Print Name: MICHAEL S. SPEARMAN

Presented by: 

Deputy Prosecuting Attorney, WSBA# 27449
Print Name: C. Andrew Colasurdo

Approved as to form: 

Attorney for Defendant, WSBA # 6161
Print Name: Randall Hall

FINGERPRINTS

BEST AVAILABLE IMAGE POSSIBLE



RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE: +
DEFENDANT'S ADDRESS: 610 Dec

DATED: 3/23/07
[Signature]
JUDGE, KING COUNTY SUPERIOR COURT
MICHAEL S. SPEARMAN

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK
BY: [Signature]
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.
DOB:
SEX:
RACE:

CLERK

BY: _____
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

CHARLES WALTER WEBER

Defendant,

No. 03-1-05510-3 SEA

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

2.2 The defendant has the following criminal history used in calculating the offender score (RCW 9.94A.525):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
VUCSA: POSSESS METH	03/22/2002	ADULT	011112275	KING CO
ESCAPE FROM COMMUNITY CUSTODY	03/22/2002	ADULT	011090140	KING CO
ASSAULT 2	03/18/1999	ADULT	981099671	KING CO
HARASSMENT	11/07/1997	ADULT	971071531	KING CO
TAKING MOTOR VEHICLE WITHOUT PERMISSION	04/12/1996	JUVENILE	968013449	KING CO
ATTEMPTED ROBBERY 1 COMMUNITY CUSTODY	06/05/1992	JUVENILE	928000255	KING CO

The following prior convictions were counted as one offense in determining the offender score (RCW 9.94A.525(5)):

Date: 0/8/03


 JUDGE, KING COUNTY SUPERIOR COURT
MICHAEL S. SPEARMAN

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

Charles Walter Weber

Defendant.

No. 03-1-05510-3 SEA

APPENDIX G
ORDER FOR BIOLOGICAL TESTING
AND COUNSELING

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological 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 arrangements for the test to be conducted within 15 days.

(2) HIV TESTING AND COUNSELING (RCW 70.24.340):

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

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 205-7837 to make arrangements for the test to be conducted within 30 days.

If (2) is checked, two independent biological samples shall be taken.

Date: 3-27-07

JUDGE, King County Superior Court

MICHAEL S. SPEARMAN

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

Charles Walter Weber

Defendant,

No. 03-1-05510-3 SEA

JUDGMENT AND SENTENCE
APPENDIX H
COMMUNITY PLACEMENT OR
COMMUNITY CUSTODY

The Defendant shall comply with the following conditions of community placement or community custody pursuant to RCW 9.94A.700(4), (5):

- 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 possess or consume controlled substances except pursuant to lawfully issued prescriptions;
- 4) Pay supervision fees as determined by the Department of Corrections;
- 5) Receive prior approval for living arrangements and residence location;
- 6) Not own, use, or possess a firearm or ammunition. (RCW 9.94A.720(2));
- 7) Notify community corrections officer of any change in address or employment; and
- 8) Remain within geographic boundary, as set forth in writing by the Department of Corrections Officer or as set forth with SODA order.

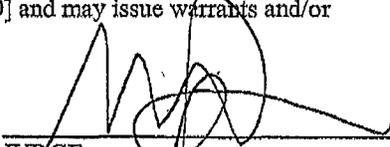
OTHER SPECIAL CONDITIONS:

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

Other conditions may be imposed by the court or Department during community custody.

Community Placement or Community Custody shall begin upon completion of the term(s) of confinement imposed herein or when the defendant is transferred to Community Custody in lieu of earned early release. The defendant shall remain under the supervision of the Department of Corrections and follow explicitly the instructions and conditions established by that agency. The Department may require the defendant to perform affirmative acts deemed appropriate to monitor compliance with the conditions [RCW 9.94A.720] and may issue warrants and/or detain defendants who violate a condition [RCW 9.94A.740].

Date: 3-27-03


JUDGE
MICHAEL S. SPEARMAN

APPENDIX C

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

FILED
KING COUNTY, WASHINGTON

DEC 17 2008

SUPERIOR COURT CLERK

IN THE MATTER OF THE
PERSONAL RESTRAINT OF:

No. 60449-0-1

CERTIFICATE OF FINALITY

CHARLES WALTER WEBER,

King County

Petitioner.

Superior Court No. 03-1-05510-3.SEA

THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington in and for King County.

This is to certify that the order of the Court of Appeals of the State of Washington, Division I, filed on March 21, 2008, became final on December 12, 2008. A ruling denying a motion for discretionary review was entered in the Supreme Court on September 29, 2008.

c: Charles Weber
Ann Summers

IN TESTIMONY WHEREOF, I
have hereunto set my hand
and affixed the seal of
said Court at Seattle, this 12th
day of December, 2008.



Richard D. Johnson
Court Administrator/Clerk of the
Court of Appeals, State of
Washington Division I.

RICHARD D. JOHNSON,
Court Administrator/Clerk

The Court of Appeals
of the
State of Washington
Seattle
98101-4170

DIVISION I
One Union Square
600 University Street
(206) 464-7750
TDD: (206) 587-5505

March 21, 2008

Ann Marie Summers
King County Prosecutor's Office
516 3rd Ave Ste W554
Seattle, WA, 98104-2362

Charles Walter Weber
#772708
Stafford Creek Correction Center
191 Constantine Way
Aberdeen, WA, 98520

CASE #: 60449-0-1
Personal Restraint Petition of Charles Walter Weber

Counsel:

Enclosed please find a copy of the Order Dismissing Personal Restraint Petition entered by this court in the above case today.

Pursuant to RAP 16.14(c), "the decision is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in Rule 13.5(a), (b) and (c)."

This court's file in the above matter has been closed.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

law.

enclosure

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

IN THE MATTER OF THE)	
PERSONAL RESTRAINT OF:	)	No. 60449-0-1
)	
CHARLES WALTER WEBER,	)	ORDER OF DISMISSAL
)	
_____ Petitioner.)	

Petitioner Charles Weber seeks relief from his judgment and sentence for first degree assault with a firearm and first degree unlawful possession of a firearm in King County Superior Court No. 03-1-05510-3 SEA. To prevail here, however, petitioner must establish either (1) actual and substantial prejudice arising from constitutional error, or (2) nonconstitutional error that inherently results in a "complete miscarriage of justice."¹ Bare assertions and conclusory allegations are not sufficient to command judicial consideration and discussion in a personal restraint proceeding.² For the reasons set forth below, the petition is without merit and is therefore dismissed.

After trial, a jury convicted Weber of second degree attempted murder and first degree assault, both while armed with a firearm, and first degree unlawful possession of a firearm. On direct appeal, this court rejected his arguments for reversal based on the use of juvenile adjudications in sentencing, prosecutorial misconduct, ineffective assistance of counsel, violation of his fourth amendment rights, and jury instructional error. State v. Weber, 127 Wn. App. 879, 112 P.3d 1287 (2005). This court also

¹ In re Pers. Restraint of Cook, 114 Wn.2d 802, 813, 792 P.2d 506 (1990); In re Pers. Restraint of Hews, 99 Wn.2d 80, 88, 660 P.2d 263 (1983).

² In re Pers. Restraint of Rice, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992).

reversed the trial court's vacation of the assault conviction on double jeopardy grounds and vacated the attempted murder conviction and remanded for resentencing including a prior juvenile adjudication excluded from his original offender score. Id. The Supreme Court affirmed in State v. Weber, 159 Wn.2d 252, 149 P.3d 646 (2006).

Weber now contends that he entitled to relief based on 1) insufficiency of the evidence supporting the convictions; 2) improper amendment of information; 3) erroneous and prejudicial jury instruction; 4) prosecutorial misconduct; and 5) ineffective assistance of appellate counsel.

In his claim of insufficient evidence, Weber lists the following circumstances: 1) the State only presented testimony of the victim, despite the victim's claim that others were present and witnessed the incident; 2) Weber presented an alibi witness; 3) the police failed to collect fingerprints, search any residence associated with the incident or those involved, contact or interview material witnesses, or conduct gun powder residue tests; 4) the State failed to present any physical evidence at trial; 5) the State called a gun expert to gratuitously show to the jury a gun unrelated to the incident; 6) the prosecutor assumed facts not in evidence by stating what the physical evidence would have shown if collected; and 7) the prosecutor relied on inferences only and stated his opinion about the credibility of the victim and weigh of the evidence.

Evidence is sufficient to support a conviction if, after viewing the evidence in the light most favorable to the State, it allows any rational trier of fact to find all of the

elements of the crime charged beyond a reasonable doubt.³ A claim of insufficiency admits the truth of the State's evidence and all inferences that can reasonably be drawn from it.⁴

Here, the State was required to prove that 1) Weber, with intent to inflict great bodily harm, assaulted another with a firearm; and 2) Weber had in his possession or control any firearm after having been convicted of any serious offense.⁵ Gabriel Manzo-Vasquez testified that while he was at Rhonda's apartment with Rhonda, Nick, Victor and Weber, an argument began and Weber pulled a gun. Manzo ran into the bedroom and then jumped out the window and ran to his truck. As he was backing out of the parking lot, he saw Weber come out of the stairwell and began shooting at him. As Manzo turned onto the street Weber continued shooting. He later realized that a bullet had grazed his side, causing a burning sensation and bleeding. At trial, Manzo identified Weber as the shooter. Weber admitted by stipulation that he had previously been convicted of a serious offense. In spite of all the circumstances listed in Weber's petition, when viewed in the light most favorable to the State, this evidence would allow a reasonable trier of fact to find all the elements of the charged crimes beyond a reasonable doubt.

³ State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

⁴ State v. Green, 94 Wn.2d 216, 222, 616 P.2d 628 (1980).

⁵ RCW 9A.36.011(1)(a); RCW 9.41.040(1)(a).

Weber next argues that in violation of his due process rights, the prosecutor attempted to prevent him from exercising his right to a trial by sending a letter to his attorney advising him that the State would amend the charges and recommend a higher sentence if he failed to plead guilty. But "a prosecutor may increase an initial charge when a fully informed and represented defendant refuses to plead guilty to a lesser charge."⁶ Weber presents no argument or evidence to suggest that the prosecutor's charging decision was motivated by vindictiveness.⁷

He also argues that the jury instruction regarding his prior serious offenses for the purposes of the unlawful possession of a firearm charge was unduly repetitive and prejudicial because it listed two serious offenses and described them as one juvenile adjudication and one criminal conviction. The parties' stipulation listed two serious offenses occurring on particular dates of but did not specify whether either was juvenile or adult. Defense counsel objected to the instruction indicating that one was a juvenile offense and one an adult offense. The trial court gave the instruction anyway, because the description was factually correct. Weber claims he was particularly prejudiced when the instruction informed the jury that he had two prior convictions, specifically including one juvenile and one adult incident serious offense. He contends that the general instruction indicating that prior offenses were not to be used to establish guilt was insufficient to address the prejudice.

⁶ State v. Bonisisio, 92 Wn. App. 783, 790, 964 P.2d 1222 (1998).

⁷ Bonisisio, 92 Wn. App. at 790-91.

Although it is not all clear why defense counsel originally entered a stipulation listing dates for two serious offenses rather than the one required to establish first degree unlawful possession of a firearm, Weber fails to establish prejudice in the description of the crimes as adult or juvenile. The instruction did not advise the jury of the nature of the crime, and the prejudice resulting from the unnecessary introduction of a second conviction would be lessened to some extent by the fact that it was a juvenile offense. Moreover, nothing in the record indicates that the jury would not follow the general instruction limiting use of prior convictions.

As in his direct appeal, Weber again argues that prosecutorial misconduct deprived him of a fair trial. The Supreme Court rejected his previous claims of prosecutorial misconduct and Weber's allegation of different facts in this petition does not justify reconsideration.⁸ Moreover, his claims are frivolous. In particular, he claims the prosecutor stated his personal opinion by stating that the alibi testimony was "ridiculous" and that the witness "lied." But a review of the record demonstrates that the prosecutor argued that the content and circumstances of her testimony should lead the jury to question her credibility. He also argues that the prosecutor misstated the facts and law by stating that the physical evidence, if it had been produced, would have shown Weber's guilt. But the prosecutor actually argued that if the State had recovered physical evidence tying Weber to the crime it would have helped its case but that such evidence was not necessary to meet the State's burden because the victim testified

⁸ In re Pers. Restraint of Lord, 123 Wn.2d 296, 329, 868 P.2d 835 (1994).

credibly that Weber shot him. Such argument is not improper.

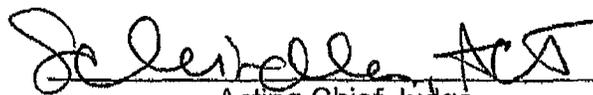
Finally, Weber claims that he received ineffective assistance from his appellate counsel. To establish a claim of ineffective assistance of appellate counsel, Weber must demonstrate the merits of the issues counsel failed to argue or argued inadequately and show actual prejudice.⁹ Weber contends his appellate counsel failed to 1) include in the petition for review incidents of prosecutorial misconduct and other police misconduct raised in this petition; and 2) raise claims of ineffective assistance of trial counsel for failure to object to two incidents of prosecutorial misconduct addressed on appeal. But Weber fails to establish the merits of his additional claims of prosecutorial misconduct. Regarding the ineffective assistance claims, the Supreme Court held that Weber failed to prove misconduct even if it did not hold counsel's failure to object on two occasions against him.¹⁰

Accordingly, Weber has not stated grounds upon which relief can be granted by way of a personal restraint petition.

Now, therefore, it is hereby

ORDERED that the personal restraint petition is dismissed under RAP 16.11(b).

Done this 21st day of March, 2008.


Acting Chief Judge

⁹ In re Pers. Restraint of Lord, 123 Wn.2d 296, 314, 868 P.2d 835 (1994).

¹⁰ Weber, 159 Wn.2d at 274, 276.

FILED
COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
2008 MAR 21 AM 10:02

APPENDIX D

King County Sheriff's Office
Witness Statement of
VICTOR GARCIA-RODRIGUEZ
Case #03-082341

DET: This is a tape-recorded conversation between Detective SCOTT TOMPKINS of the King County Sheriff's Office and VICTOR GARCIA-RODRIGUEZ. This statement's taking place in King County Washington, it's in reference to Sheriff's Office case number 03-082341. Today's date is 03/19/2003, the time is 1405 hours. VICTOR are you aware that this statement's being tape-recorded?

WIT: Yeah.

DET: And you said I had your permission to do that?

WIT: Yes sir.

DET: VICTOR um, you live above the Laundromat here with your friend RHONDA, is that correct?

WIT: That's correct.

DET: Okay. And I'm investigating a shooting that occurred there on the 18th, late-night uh, last night right?

WIT: Yeah.

DET: Okay. Um, you told me that you were home for that, can you tell me what happened?

WIT: Yeah, actually like I said, I just get home at like uh, it was like 1:00 in the morning, there was a couple of guys were here drinking and then I decided to go to our room to watch our movies, and then like two hours before, two hours after that, I hear some, you know, guys uh, driving by, screaming over there.

DET: Okay. Let me stop you right there. When you came home at 1:00, who was in the house? Was RHONDA there?

WIT: Uh, that was RHONDA there, and actually there was a GABRIEL there too.

DET: GABE?

WIT: And three guys, three more guys, they were Russian guys.

DET: Okay.

WIT: But uh, they left like at 2:00 in the morning.

DET: Okay, were the Russians here when the shooting started?

WIT: No.

DET: Okay.

WIT: They wasn't here.

DET: Were you here when NICK and the other guys showed up?

WIT: Yeah, that's why uh, those guys, the Russians, they decide to leave.

DET: Because of NICK and his friends?

WIT: Yeah, they left and then after that, I passed out and when I, I wake up they was um, GABE in the room asking me for help I know that.

DET: GABE was?

WIT: Yeah.

DET: What was...

WIT: He was...

DET: ...what was he saying?

WIT: Uh, he was you know, speaking Spanish.

DET: Mm hm.

WIT: (unintelligible)...in Spanish?

DET: Uh, just tell me what he said in English and you can translate it.

WIT: I mean, you know he was asking me for help, to hold the door so he can jump out, jump out of the window, and I said, all right go ahead and, but RHONDA he didn't let, (unintelligible)...go inside the room I know that.

DET: RHONDA didn't let her cousins go in the room?

WIT: Yeah.

DET: Who is her cousin?

WIT: Uh, it's I think uh, CASPER.

DET: Okay that's his nickname?

WIT: That's his nickname, I don't...

DET: Do you know his real name?

WIT: I think that his name is NICK.

DET: Okay. Do you know if it's NICK RENION?

WIT: No, I don't know his last name.

DET: Would you recognize NICK if I showed you a photo of him?

WIT: Yeah.

DET: Just show a photo, on the bottom of this page, there's a number, 44925, is NICK positioned in, in number five?

WIT: Yeah, that's him.

DET: That's the person you know as NICK?

WIT: Yeah, that's uh, his nickname is uh, CASPER.

DET: Is CASPER?

WIT: Yeah.

DET: Do you know if his last name is RENION?

WIT: Actually don't know.

DET: Okay. Who was uh, NICK with?

WIT: Uh, this guy that they call him, WETO LOCO.

DET: Okay, what does that mean?

WIT: Uh, crazy white....no...

DET: Crazy white guy?

WIT: Yeah, crazy white guy, that's what it means.

DET: When you heard these guys yelling or fighting, what were they saying? You said you heard some gang talk?

WIT: Yeah they was talking about some BL or something like that, I don't even know what that mean.

DET: VL?

WIT: BL, something like that. That's why they start fighting and all that.

DET: Okay.

WIT: And they was trying to shoot em.

DET: Have you...have you....(cross talk)....have you ever heard of a gang called uh, Barrio Loco?

WIT: That's the same.

DET: It's the same?

WIT: That's the same BL, yeah that what it means.

DET: Okay. Uh, who was, who was claiming BL?

WIT: Uh, actually I didn't recognize the voice.

DET: Okay, but you could hear that being said?

WIT: Yeah. He was tellin about that, he was trying to shoot him and like I said, RHONDA, he was jumping between those guys.

DET: Okay. So RHONDA's cousin is NICK.

WIT: Yeah.

DET: And when GABE goes into the bedroom where you're at, tries to go out the window, RHONDA's blocking the door for him.

WIT: Yeah.

DET: Okay. Did you see anyone with a handgun that night?

WIT: No, cuz I was in bed.

DET: Okay. Um, I showed you some photos is that correct?

WIT: Yeah.

DET: And at the bottom of this page is number 45095 correct?

WIT: Yeah.

DET: Okay, you identified the person in position number three.

WIT: Yeah.

DET: As having been at the house that night.

WIT: Yep.

DET: Who is that person?

WIT: That's WETO LOCO.

DET: Okay, and is he a friend of NICK's?

WIT: Uh, I think that, I'm not sure if they're cousins, I'm not sure.

DET: Okay, but he was there that night with NICK?

WIT: Yeah he was there.

DET: Do you know who the third person was that was with him?

WIT: No.

DET: Do you know his nickname or anything?

WIT: No, I don't even know him.

DET: Okay. You told me earlier that you think uh, this uh, what's the name, WETO LOCO?

WIT: WETO LOCO yeah.

DET: Is the guy that was shooting, why do you think that?

WIT: I think uh, cuz uh, I think that RHONDA told me that. He get uh, they got him on tape, you know these laundries, they got taped, video camera.

DET: (unintelligible)...taped? (cross talk)...

WIT: Yeah and that's what she told me that, because he's in jail, I think all ready.

DET: Okay.

WIT: He get busted. Um...

DET: And you never saw him with a gun?

WIT: No.

DET: Did, did RHONDA see him with a gun?

WIT: She didn't told me about that. The only thing that I know is I think that she said uh, he was the one who was shooting.

DET: That's what RHONDA told you?

WIT: Yeah.

DET: Okay. Okay, did you see anything else that night?

WIT: No.

DET: Did you see GABE have any weapons?

WIT: No, he never carries a weapon.

DET: Okay. And you've known him for, for a little bit?

WIT: Just like a few weeks.

DET: Okay. Okay VICTOR, is there anything else you can tell me about this incident?

WIT: No.

DET: What did, after, after uh, GABE jumped out the window, what did the other three guys do?

WIT: Uh, they run out of the door...

DET: Out the front door?

WIT: ...they was chasing him, yeah.

DET: Okay.

WIT: And when they, when they uh, they was outside, that's why they start shooting and all that.

DET: How many shots did you hear?

WIT: Actually there was like nine shots.

DET: Okay.

WIT: I think, eight or nine shots.

DET: Did you look out your window to see what was happening?

WIT: Yeah.

DET: What did you see?

WIT: I see these three guys running, you know chasing him and they decide to go uh, to get the car to chase him.

DET: Was, was WETO LOCO one of the guys you saw chasing him?

WIT: Yeah.

DET: The victim?

WIT: NICK too.

DET: Okay. So, NICK, WETO LOCO...

WIT: Yeah and all the guy...

DET: ...and his, and his friend?

WIT: Yeah they jump in the car and they start chasing.

DET: What kind of car did they have?

WIT: Actually, I'm not sure, but uh, it was like a um....I'm not sure what kind was, it was a gray car.

DET: Gray car?

WIT: Yeah, that's what I think.

DET: Okay. And they were chasing GABE in his car?

WIT: I think, yeah because I'm not sure which way that he left, because they jump in the car and they start chasing.

DET: Okay. When, when they were shooting were they on the street?

WIT: Yeah they was outside over there.

DET: And did you see who was shooting?

WIT: No, I didn't see that.

DET: Okay. And after, after they left in their car did they come back?

WIT: No they didn't come back.

DET: Okay. VICTOR, is there anything else you can add?

WIT: No.

DET: Okay, is this statement true and correct to the best of your knowledge?

WIT: It is, yep.

DET: Okay, time is 1412 hours.

APPENDIX E

DO NOT DISCLOSE: <input type="checkbox"/>	SHERIFF KING COUNTY	FOLLOW-UP REF	03-082341	Page 3
Domestic Violence: <input type="checkbox"/>			103-M-2	District: K-7

PROPERTY SECTION

Status EVIDENCE	Article MONTAGE	Brand	Model	Serial #
Qty	Unit of Meas:	Description VICTIMS SELECTION OF WEBER / RENION		Value
Status EVIDENCE	Article MONTAGE	Brand	Model	Serial #
Qty	Unit of Meas:	Description GARCIA SELECTION OF WEBER		Value

MO

Suspect Trademarks:

Instrument:

Entry Point:

Entry Method:

Premises Type	Locked <input type="checkbox"/>	Occupied <input type="checkbox"/>	Total Property Cost: \$0.00
<input type="checkbox"/> Ald Req <input type="checkbox"/> Weapons <input type="checkbox"/> Injury <input type="checkbox"/> Alcohol <input type="checkbox"/> Computer <input type="checkbox"/> Dom Viol <input type="checkbox"/> Drug <input type="checkbox"/> Juvenile <input type="checkbox"/> Gang			

Reporting Officers Entries Associated with this Case Follow-up Report:

Tuesday 03/18/03 15:00

I RECEIVED THIS CASE FOR FOLLOW UP.

Wednesday 03/19/03 8:00

I ARRIVED AT THE RJC. THE NIGHT PRIOR PCT #4 DEPUTIES AND DETECTIVES DEVELOPED LEADS IN THIS CASE AND HAD THE SHOOTER IN CUSTODY.

I PROCESSED THE CASE AS AN IN-CUSTODY FOLLOW UP.

Wednesday 03/19/03 12:02

I REQUESTED THE 911 TAPE(S) FOR THIS INCIDENT AND THE SUSPECT CRIMINAL HISTORY REPORT.

Wednesday 03/19/03 12:25

I CALLED THE VICTIM. THERE WAS NO ANSWER.

Wednesday 03/19/03 13:39

I ARRIVED AT THE VICTIMS HOUSE. THERE WAS NO ANSWER AT THE DOOR OR ON THE PHONE WHEN I TRIED TO CALL INSIDE. I LEFT A BUSINESS CARD ASKING FOR CONTACT.

Wednesday 03/19/03 14:00

I ARRIVED AT THE LOCATION OF THE ASSAULT. THERE ARE TWO APARTMENTS ABOVE THE LAUNDRY MAT. I FIRST CONTACTED THE NORTHERN MOST UNIT. I SPOKE WITH A MAN NAMED VICTOR GARCIA-RODRIGUEZ. HE SAID THAT "RHONDA" WAS RHONDA ENCINAS AND THAT SHE WAS CURRENTLY AT A COURT APPEARANCE. HE PROVIDED ME WITH HER CELLULAR PHONE NUMBER TO CONTACT HER, -779-1956.

I ASKED VICTOR IF HE WAS PRESENT AT THE TIME OF THE ASSAULT. HE WAS HE WAS HOME, AND SAW SOME OF THE INCIDENT. VICTOR SAID HE WAS AT THE APARTMENT WITH RHONDA, GABE, NICK, "GUERO LOCO", AND AN UNKNOWN MALE. HE SAID THEY WERE ALL DRINKING AND HE WENT TO BED. LATER IN THE EVENING HE HEAR A DISTURBANCE AND SOMEONE YELLING ABOUT GANGS. THE VICTIM GABE THEN

DO NOT DISCLOSE:

Domestic Violence:



FOLLOW-UP REP

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103-M-2

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QUICKLY ENTERED HIS ROOM AND TOLD HIM TO BLOCK THE DOOR WHILE HE ESCAPED OUT THE WINDOW. VICTOR SAID THAT NICK, "GUERO LOCO" AND THE OTHER MALE WERE TRYING TO GET INTO THE ROOM. VICTOR BLOCKED THE DOOR FROM THE INSIDE WHILE RHONDA BLOCKED IT FROM THE OUTSIDE. HE SAID GABE LEFT VIA THE WINDOW. SHORTLY AFTER HE HEARD SEVERAL GUNSHOTS AND LOOKED OUT THE WINDOW TO SEE THE THREE SUSPECTS CHASING GABE WHO WAS FLEEING IN HIS CAR. THE THREE SUSPECTS THEN GOT INTO A CAR AND FOLLOWED, NEVER TO RETURN.

VICTOR IDENTIFIED CHARLES WEBER FROM A MONTAGE AT THE PERSON HE KNEW AS "GUERO LOCO". VICTOR PLACED WEBER AT THE APARTMENT, BUT NEVER ACTUALLY SAW HIM WITH THE GUN.

I DID NOT HAVE A MONTAGE OF NICK RENION AT THE TIME I WAS INTERVIEWING VICTOR. I DID HAVE THE MONTAGE USED BY DEPUTIES THE NIGHT PRIOR AND I SHOWED THAT TO VICTOR. I SPECIFICALLY POINTED OUT RENION AND ASKED HIM IF THAT WAS THE PERSON HE KNEW AS NICK. HE SAID IT WAS, - ADDING THAT NICK WAS RHONDA'S COUSIN.

VICTOR ALLOWED ME TO TAKE PHOTOS OF THE INSIDE OF THE APARTMENT AND OF THE WINDOW THAT THE VICTIM JUMPED OUT OF. I ALSO TOOK PHOTOS OF THE OUTSIDE OF THE HOUSE.

DURING THE INTERVIEW OF VICTOR HE HAD MENTIONED THAT THE LAUNDRY MAT HAD SURVEILLANCE CAMERAS. AFTER I LEFT VICTOR I WALKED THROUGH THE BUSINESS. I SAW SIGNS STATING THAT THE BUSINESS HAD SURVEILLANCE BUT I DID NOT ACTUALLY SEE ANY INNER OR OUTER CAMERAS. I ALSO COULD NOT LOCATE ANY CONTACT INFORMATION ON AN OWNER OF MANAGER.

Wednesday 03/19/03

14:28

I CALLED THE KING COUNTY COMMUNICATIONS CENTER AND INQUIRED ABOUT A CONTACT CARD FOR THE SOAP BOX LAUNDRY MAT. I WAS ADVISED THEY SHOW THE OWNER AS A MR. NGUYEN AT 244-3162.

WHEN I CALLED THAT NUMBER I FOUND IT WAS DISCONNECTED.

Wednesday 03/19/03

15:00

I CALLED THE CELL PHONE NUMBER FOR RHONDA ENCINAS. SHE WAS UNABLE TO MET WITH ME IN THE NEXT FEW HOURS, BUT AGREED TO MEET ME IN THE MORNING.

Thursday 03/20/03

8:39

I TRIED CALLING THE VICTIM. THERE WAS NO ANSWER.

Thursday 03/20/03

10:15

I MET WITH WITNESS RHONDA ENCINAS. RHONDA TOLD ME THAT THREE GUYS WERE AT HER HOUSE AND THEY HAD A FIGHT WITH GABE. SHE SAID GABE HAD TO LEAVE OUT THE WINDOW TO ESCAPE THE FIGHT. SHE CLAIMS NOT TO HAVE SEEN A GUN OR HEARD THE SHOTS, BUT ADDED SHE KNOWS GABE WAS SHOT BECAUSE HE CALLED HER THE FOLLOWING DAY AND TOLD HER SO. RHONDA SAID SHE TRIED TO PROTECT GABE BY BLOCKING THE BEDROOM DOOR WHEN HE WENT OUT THE WINDOW AND BLOCKING THE EXIT DOOR WHEN THE SUSPECTS TRIED TO GO OUTSIDE TO GET GABE.

RHONDA WOULD NOT COOPERATE FULLY WITH THE INVESTIGATION. SHE LOOKED AT RENIONS MONTAGE, BUT ONLY WOULD SAY, -"EVERYONE KNOWS THAT'S NICK", BUT I CAN'T SIGN IT.

RHONDA SAID THAT SHE HAD GOTTEN THREE THREATENING PHONE CALLS YESTERDAY RELATING TO THIS INCIDENT. SHE SAID CALLERS STATED WEBER WAS IN JAIL AND THAT SHE WAS THE PERSON WHO LIKELY CALLED THE COPS.

RHONDA TOLD ME THAT EVERYONE KNOWS WHERE SHE LIVES AND WHERE HER PARENTS AND KIDS LIVE. SHE SAID THAT SHE IS VERY CONCERNED FOR HER SAFETY. AT ONE POINT SHE ASKED IF SHE COULD PROVIDED A STATEMENT AFTER SHE MOVED TO A NEW APARTMENT?

DO NOT DISCLOSE: <input type="checkbox"/>	SHERIFF KING COUNTY	FOLLOW-UP REPORT	03-082341	Page 5
Domestic Violence: <input type="checkbox"/>			103-M-2	District: K-7

I SPOKE TO RHONDA FOR SOME TIME ABOUT HER SECURITY AND PROVIDING A STATEMENT IN THIS CASE. ULTIMATELY SHE WOULD NOT ASSIST.

Thursday 03/20/03 10:40

RHONDA ENCINA DID HAVE A MORE ACCURATE PHONE NUMBER FOR GABE, -277-9673. I CALLED THE VICTIM AND HE AGREED TO MEET WITH ME. THE APARTMENT NUMBER LISTED ON THE CASE REPORT WAS WRONG AND GABE PROVIDED THE CORRECT ONE.

Thursday 03/20/03 10:50

I MET WITH THE VICTIM. I SHOWED HIM MONTAGES OF RENION AND WEBER. HE SELECTED RENION FROM THE MONTAGE AS THE PERSON HE KNOWS AS NICK, AND THE PERSON WHO STARTED THE FIGHT WITH HIM.

HE SELECTED WEBERS PHOTO WITH 80% CERTAINTY AT BEING THE PERSON WHO POINTED THE GUN AT HIM INSIDE THE APARTMENT AND SHOT AT HIM OUTSIDE THE APARTMENT. HE SAID IF HE COULD SEE THE SUBJECTS TATTOOS HE COULD BE MORE SURE. (WEBERS TATTOOS HAD BEEN COVERED IN THE MONTAGE).

Thursday 03/20/03 13:14

EARLIER IN THE MORNING I HAVE THE CRIMINAL INTELLIGENCE UNIT CHECK THE BUSINESS RECORDS FOR THE SOAP BOX LAUNDRY MAT. THEY LOCATED A OWNER WITH A NUMBER SIMILAR TO THE ONE GIVEN BY THE COMMUNICATIONS CENTER, 244-3126.

I TRIED CALLING THE NUMBER SEVERAL TIMES THROUGH-OUT THE MORNING. THE LINE WAS ALWAYS BUSY.

AT 1314 HOURS I FINALLY GOT THROUGH AND LEFT A MESSAGE FOR THE OWNERS TO CALL ME.

Thursday 03/20/03 15:03

I REQUESTED A COPY OF ALL THE PHOTOS TAKEN BY PATROL IN THIS CASE.

Summary/Conclusion:

CASE CLOSED, CLEARED BY ARREST.

SUSPECT WEBER CHARGED WITH ASSAULT TWO AND VUCSA.

Additional Attachments/Reports Associated with this Incident/Follow-up Report:

Cert for Determination of Probable Cause	Wednesday 03/19/03	Active
911 Request	Wednesday 03/19/03	Active
Charge Sheet	Wednesday 03/19/03	Active
Triple I	Wednesday 03/19/03	Active
A-102 Master Evidence Report	Thursday 03/20/03	Active

Certification

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

Date and Place: _____ Signature/Agency: _____

END OF REPORT

CERTIFICATION OF SERVICE

Today I deposited in the mails of the United States of America, a properly stamped and addressed envelope directed to Michael Kahrs, at the following address: 5215 Ballard Avenue, NW, Suite 2, Seattle, WA 98107, attorney for the petitioner, containing a copy of the State's Response to Personal Restraint Petition in In re Charles Weber, No. 85992-2, in the Supreme Court of the State of Washington.

I certify under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct.

U Brame
Name
Done in Seattle, Washington

7/15/11
Date

CLERK
2011 JUL 18 AM 8:09
STATE OF WASH
SUPREME COURT