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NO. 86148-0

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

COA NO. 66631-2-I

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CITY OF SEATTLE,

Respondent,

v.

DONALD FULLER,

Petitioner.

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PETITIONER'S BRIEF

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CHRISTINE A. JACKSON  
WSBA NO. 17192  
Attorney for Petitioner

The Defender Association  
810 Third Avenue, Suite 800  
Seattle, WA 98104  
(206) 447-3900, ext 704  
jacksonc@defender.org

ORIGINAL

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**A. ASSIGNMENT OF ERROR**

The Seattle Municipal Court erred in imposing restitution as a term of Fuller's sentence.

**B. ISSUE RELATED TO ASSIGNMENT OF ERROR**

Restitution is a creature of statute. RCW chapter 35.20, the enabling statute for Seattle Municipal Court (SMC), contains no express authority to impose restitution as a condition of a suspended sentence. The Washington Criminal Code, at RCW 9A.20.030, permits restitution only *in lieu of a fine authorized under RCW 9A.20.020*, which is limited to offenses committed before July 1, 1984. Did Seattle Municipal Court have the authority to impose restitution in Fuller's case absent a statutory mandate?

**C. STATEMENT OF THE CASE**

Fuller was charged under RCW 9A.76.020 with obstructing a law enforcement officer (Count I) and assault under Seattle Municipal Code 12A.16.010 (Count II) in Seattle Municipal Court No. 538140 for an incident that occurred on March 6, 2009. CP 59. Both counts were tried to a jury. Fuller was acquitted of assault but convicted of obstructing. At sentencing, the municipal court imposed a suspended fine of \$5000 and ordered Fuller to pay restitution. CP 12-13; Appendices 1 (docket), 2 (restitution order).

Fuller appealed to the King County Superior Court, claiming that the municipal court imposed restitution without authority of law. The superior court found the trial court had authority to order restitution. CP 287-88, 284. This court granted review.

**D. ARGUMENT**

**1. Introduction & Standard of Review**

Statutory interpretation is a question of law to be reviewed *de novo*. *Post v. City of Tacoma*, 167 Wn.2d 300, 308, 217 P.3d 1179 (2009). Under the Washington Constitution, the legislature has the sole authority to prescribe the jurisdiction and powers of district and municipal courts. *See* Wash. Const. art. IV, § 12; *City of Spokane v. County of Spokane*, 158 Wn.2d 661, 671, 146 P.3d 893, 898 (2006), citing to *Exendine v. City of Sammamish*, 127 Wn.App. 574, 580, 113 P.3d 494 (2005). *See also* *City of Seattle v. Sisley*, 164 Wn.App. 261, 263, 263 P.3d 610 (2011), citing to *City of Medina v. Primm*, 160 Wn.2d 268, 157 P.3d 379 (2007) (“Municipal Courts are courts of limited jurisdiction, and have only those powers affirmatively granted by the legislature.”)

Similarly, restitution is a creature of statute. “The authority to impose restitution is not an inherent power of the court, but is derived from statute.” *State v. Davison*, 116 Wn.2d 917, 919, 809 P.2d 1374 (1991), citing *State v. Eilts*, 94 Wn.2d 489, 495, 617 P.2d 993 (1980).

Because authority for restitution is statutory, care must be exercised in using case precedent. It has been noted: "As the number of statutes authorizing restitution has increased, so have the decisions interpreting those statutes. As a result, restitution has become a complex and often confusing area of criminal sentencing.

*Id.* Petitioner has not located any statutory provision authorizing the imposition of restitution in this case.

**2. RCW Chapter 35.20, Governing Seattle Municipal Court, Does Not Authorize that Court to Impose Restitution.**

a. No Restitution Provision in RCW Chapter 35.20

Washington courts of limited jurisdiction include district courts, municipal departments of district courts, municipal courts for cities with fewer than 400,000 residents, and municipal courts for cities with 400,000 residents or more, each with a different enabling statute. Linda S. Portnoy. *Washington Criminal Practice in Courts of Limited Jurisdiction*, 3rd Ed § 1.01-1.10. LexisNexis 2004.<sup>1</sup>

Seattle Municipal Court is governed by RCW chapter 35.20. *City of Seattle v. Briggs*, 109 Wn.App.484, 488-89, 38 P.3d 349 (2001); *Sisley*,

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<sup>1</sup> Municipal courts for cities with fewer than 400,000 persons are enabled by RCW chapters 3.50 or 3.46. Municipal departments of district courts are enabled by RCW chapter 3.46 (municipal departments) and chapter 3.50 (municipal departments – alternate provisions). Chapter 3.46 was repealed in 2008 (see 2008 Wash. Laws ch. 227 sec. 11; sec 12) but municipal departments created before that date are permitted to continue operation as though the enabling law had not been repealed. *See* RCW 3.46.015.

164 Wn.App.at 264. There is, however, no provision of RCW chapter 35.20 expressly granting those municipal courts the authority to impose restitution.<sup>2</sup>

b. RCW 35.20.255, RCW 35.20.010, and RCW 35.20.250 Do Not Confer Authority to Impose Restitution.

The City and court below claimed that RCW 35.20.255, granting the authority to fix the terms of suspended sentences<sup>3</sup>, RCW 35.20.010, granting “such powers and jurisdiction as is generally conferred in this

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<sup>2</sup> There is, likewise, no provision of RCW Title 3 granting district courts, municipal departments, or municipal courts for cities of fewer than 400,000 persons the authority to impose restitution. While RCW 3.66.120 and 3.66.130 (added in 2001) govern the process for payment and enforcement of restitution orders in those courts, those sections do not explicitly grant the authority to impose restitution. Indeed, the legislative history of 3.66.120 and 3.66.130 demonstrates that the legislature intended those provisions merely to allow district courts and some municipal courts to enforce the restitution orders that they had already been making, pursuant to authority granted by some other statute. *See e.g.* Final House Bill Report to SHB 1117, Wash. C. 115 (2001). While RCW 3.66.130 refers to “any restitution obligation entered pursuant to this title,” there is nothing in Title 3 granting courts the authority to impose restitution.

<sup>3</sup>“Judges of the municipal court, in their discretion, shall have the power in all criminal proceedings within their jurisdiction including violations of city ordinances, to defer imposition of any sentence, suspend all or part of any sentence including installment payment of fines, fix the terms of any such deferral or suspension, and provide for such probation as in their opinion is reasonable and necessary under the circumstances of the case, but in no case shall it extend for more than five years from the date of conviction for a defendant to be sentenced for a domestic violence offense or under RCW 46.61.5055 and two years from the date of conviction for all other offenses...” RCW 35.20.255(1).

state either by common law or statute,”<sup>4</sup> or RCW 35.20.250, granting concurrent jurisdiction with district courts,<sup>5</sup> include the authority to impose restitution. As noted above, the authority of a court to impose restitution must be derived from a statute explicitly granting that power. *State v. Davidson*, 116 Wn.2d at 919. Because restitution is inherently a creature of statute, these provisions--which do not mention restitution--do not confer that authority.

The statutory scheme granting superior courts the authority to set the terms of a suspended sentence illuminates the extent to which that authority, as well as the court’s general authority, does not include the power to impose restitution unless expressly granted elsewhere.

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<sup>4</sup>“There is hereby created and established in each incorporated city of this state having a population of more than four hundred thousand inhabitants, as shown by the federal or state census, whichever is the later, a municipal court, which shall be styled “The Municipal Court of ..... (name of city),” hereinafter designated and referred to as the municipal court, which court shall have jurisdiction and shall exercise all the powers by this chapter declared to be vested in such municipal court, together with such powers and jurisdiction as is generally conferred in this state either by common law or statute.” RCW 35.20.010(1).

<sup>5</sup>“The municipal court shall have concurrent jurisdiction with the superior court and district court in all civil and criminal matters as now provided by law for district judges, and a judge thereof may sit in preliminary hearings as magistrate. Fines, penalties, and forfeitures before the court under the provisions of this section shall be paid to the county treasurer as provided for district court and commitments shall be to the county jail. Appeals from judgment or order of the court in such cases shall be governed by the law pertaining to appeals from judgments or orders of district judges operating under chapter 3.30 RCW.” RCW 35.20.250.

In the superior court context, the legislature has provided those courts the power to “impose such terms [of a suspended sentence] as the court may determine,” RCW 9.92.060(1), and has explicitly granted those courts the authority to impose restitution as a term of that suspended sentence, RCW 9.92.060(2)(b). “[S]tatutes should be construed so that all of the language is given effect, and no part is rendered superfluous.” *State v. Bash*, 130 Wn.2d 594, 602, 925 P.2d 978 (1996). The suspended sentence statute demonstrates that the authority to impose restitution is not found within the general power to set terms of a suspended sentence.

Because the legislature has not granted municipal courts the authority to impose restitution under RCW chapter 35.20, that authority must be sought elsewhere in the RCW.

**3. The Washington Criminal Code, RCW 9A.20.030, Grants the Authority to Impose Restitution *in Lieu of a Fine Authorized by RCW 9A.20.020*, Which is Limited to Crimes Committed Before July 1, 1984.**

Fuller was charged with obstructing a police officer pursuant to RCW 9A.76.020. Because he was charged pursuant to RCW Chapter 9A, the municipal court could have imposed restitution if it were authorized to do so by that chapter.

In fact, RCW 9A.20.030 has included since its original enactment a provision authorizing courts to impose restitution *in lieu of a fine*, if the fine is authorized under RCW 9A.20.020. The statute provides:

If a person has gained money or property or caused a victim to lose money or property through the commission of a crime, upon conviction thereof or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement, the court, *in lieu of imposing the fine authorized for the offense under RCW 9A.20.020*, may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the commission of a crime. Such amount may be used to provide restitution to the victim at the order of the court...

RCW 9A.20.030(1) (Emphasis added). Pursuant to the plain language of this statute, the municipal court could have imposed a fine *or* restitution as part of Fuller's sentence, but not both, and only if the fine was ordered pursuant to RCW 9A.20.020.

RCW 9A.20.030 was enacted as part of the 1975 overhaul of the Washington criminal code undertaken in order to "clean up some antiquated or simply awkward language in the 1909 code as well as to introduce into state law some criminal law concepts developed since that time." Washington Legislative Report to RESSB 2092, 44th Reg. Session, 243-44 (1975). The 1975 law included a sentencing structure at RCW 9A.20.020, delineating the maximum terms of incarceration and fines for

felonies and misdemeanors. Laws of 1975, 1st Ex.Sess. ch. 260. In 1982, however, the legislature limited 9A.20.020 to crimes committed prior to July 1, 1984. Laws of 1982,ch.192, § 9. At that time, the legislature added a new section, RCW 9A.20.021, which is applicable for to all offenses committed on or after July 1, 1984.<sup>6</sup> *Id.* The legislature did not amend RCW 9A.20.030 to include a reference to the new RCW 9A.20.021. The legislature again did not insert a reference to RCW 9A.20.021 when it revisited RCW 9A.20.030, after the bill amending RCW 9A.20.020 and adding 9A.20.021, to expand the scope of cases in which restitution can be ordered.Laws of 1982, 1st Ex.Sess,ch. 47, § 12.<sup>7</sup>

At the time of the 1982 amendments, however, the suspended sentence statute, RCW 9.92.060 authorized courts to impose restitution as a term of a suspended sentence. Thus, it is possible that the legislature's decision not to include a reference to RCW 9A.20.021 in RCW 9A.20.030 was deliberate as courts retained a separate source of restitution authority

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<sup>6</sup> The provisions of RCW 9A.20.020 and RCW 9A.20.021 relating to sentences for misdemeanors and gross misdemeanors under Title 9A are identical. *See* RCW 9A.20.020(2)-(3) and RCW 9A.20.021(2)-(3). The changes between the two statutes relate to terms of incarceration and fines for felony convictions.

<sup>7</sup> The added language permits restitution where:

...the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense which are not prosecuted pursuant to the agreement.

RCW 9A.20.030; Laws of 1982, 1st Ex.Sess, ch. 47, s 12

at that time. RCW 9.92.060 was amended in 1996 to apply only to superior courts. See Laws of 1996, Ch. 298, s 5.

RCW 9A.20.030 cannot be corrected by judicial fiat to permit a restitution order in lieu of a fine entered pursuant to RCW 9A.20.021. “This court has exhibited a long history of restraint in compensating for legislative omissions.” *State v. Taylor*, 97 Wn.2d 724, 728, 649 P.2d 633 (1982). “This court cannot read into a statute that which it may believe the legislature has omitted, be it an intentional or inadvertent omission.” *Id.*, quoting *Jenkins v. Bellingham Municipal Court*, 95 Wn.2d 574, 579 (1981).<sup>8</sup> *Taylor* held that felony flight was decriminalized when the legislature failed to include it in the list of exceptions to RCW 46.63.020 which decriminalized traffic offenses. *Id.* at 725, 726-730. The fact that felony flight was made a class C felony by the same legislature did not change the court’s analysis. *Id.* After *Taylor*’s offense, the Legislature amended the statute to classify felony flight as one of the criminal traffic offenses. *Id.* The *Taylor* court delineated three categories of legislative omissions only one of which permits the court to supply the omitted language. This third category is limited to “omission[s] that rendered the

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<sup>8</sup>See also *In re Detention of Martin*, 163 Wn.2d 501, 511-12, 182 P.3d 951 (2008); *In re Acron*, 122 Wn.App. 886, 891-92, 95 P.3d 1272 (2004); *State v. S.M.H.*, 76 Wn.App. 550, 556-57, 887 P.2d 903 (1995).

statute absurd and undermined its sole purpose.” *Id.* at 730. The statutory omission before the court did not fall into that category. *Id.*

Neither does the 1982 amendment to RCW 9A.20.030. Post-amendment, the statute still provided for restitution and was even expanded to provide for restitution in a greater number of cases. Also, at that time, courts retained authority to impose restitution as a term of a suspended sentence pursuant to RCW 9.92.060 and 9.95.210. Limiting the restitution authority provided in RCW 9A.20.030 to crimes committed before July 1, 1984 did not render that statute absurd or undermine its purpose.<sup>9</sup>

The Court of Appeals, however, ignored this court’s directive to restrain from compensating for legislative errors in *State v. Shannahan*, 69 Wn.App. 512, 849 P.2d 1239 (1993). In a footnote, that court held RCW 9A.20.030 “applies with equal force to fines imposed pursuant to RCW 9A.20.020 and to those imposed pursuant to RCW 9A.20.021” without any analysis or citation to authority. *Id.* at fn. 2. The court failed to apply the *Taylor* analysis and made this leap without any legal basis.

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<sup>9</sup> Compare *State v. Albright*, 144 Wn.App. 566, 183 P.3d 1094 (2008) (Court corrected an inadvertent, unusual numbering error in statute defining “sex offense” which created an absurd result and undermined the law’s sole purpose; if the statute were read literally, kidnapping offenders who fail to register would be sex offenders while sex offenders who fail to register would not be so classified.)

*Shannahan* is wrong and should be disapproved.<sup>10</sup> The court of appeals errs when it fails to follow the controlling directives of this court. *1000 Virginia Ltd. Partnership v. Vertecs Corp.*, 158 Wash.2d 566, 568, 146 P.3d 423 (2006), citing *State v. Gore*, *State v. Gore*, 101 Wash.2d 481, 487, 681 P.2d 227 (1984). The court of appeals decision is not binding on this court. *Bunch v. King County Dept. Youth Services*, 155 Wn.2d 165, 181, 116 P.3d 381 (2005).

Had Fuller been convicted for an offense committed prior to July 1, 1984, the court would have had the authority to impose restitution in lieu of a fine under RCW 9A.20.030. However, because his conviction is for an offense that took place in 2009, and he was therefore, sentenced under RCW 9A.20.021, the court did not have the authority to impose restitution in his case.

This provision is the only statutory source from which the court could have derived the authority to impose restitution as a term of Fuller's sentence. By its plain language, that provision authorizes courts to impose restitution only when it is done *in lieu of a fine authorized under RCW 9A.20.020*, not in lieu of a fine authorized under RCW 9A.20.021. Thus,

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<sup>10</sup> The *Shannahan* court may have been tempted to reach this result because RCW 9.92.060, which authorized restitution as a term of a suspended sentence (see section 4 below), did not apply as negligent driving did not carry a jail term. Laws 1996, ch. 307 sec. 1.

the Seattle Municipal Court imposed restitution in Fuller's case without the authority of law.

Even if this court determines RCW 9A.20.030 applies here, the municipal court exceeded its authority by imposing both a fine and restitution.

**4. The Statutes Relied on in the Lower Courts to Grant Seattle Municipal Court the Authority to Impose Restitution, by their Plain Language, Apply Only to *Superior Courts*.**

Below, the City argued that RCW 9.92.060(2) and RCW 9.95.210(2) empower municipal courts to impose restitution as a condition of a suspended sentence or probation. However, the legislature has limited those statutes to *superior courts*. RCW 9.92.060 provides in relevant part:

As a condition to suspension of a sentence, . . . the *superior court* may require the convicted person to make such monetary payments, on such terms as the *superior court* deems appropriate under the circumstances, as are necessary . . . (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offense which are not prosecuted pursuant to a plea agreement[.]

RCW 9.92.060(2)(b) (Emphasis added). RCW 9.95.210 provides in relevant part:

As a condition of probation, the *superior court* . . . may also require the defendant to make such monetary payments, on such

terms as it deems appropriate under the circumstances, as are necessary . . .to make restitution to a person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement[.]

RCW 9.95.210(2)(b) (Emphasis added). To hold that these statutes empower municipal courts to impose restitution as a term of a suspended sentence, would be to ignore the clear and unambiguous language limiting the applicability of the statutes to superior court.

When construing a statute, courts must ascertain and carry out the intent of the legislature. *State v. Jacobs*, 154 Wn.2d 596, 600, 115 P.3d 281 (2005); *Dep't of Ecology v. Campbell &Gwinn, L.L.C.*, 146 Wn.2d 1, 9, 43 P.3d 4 (2002). “[I]f the statute’s meaning is plain on its face, then the court must give effect to that plain meaning as an expression of legislative intent.” *Dep’t of Ecology v. Campbell &Gwinn L.L.C.*, 146 Wn.2d at 9; *State v. J.M.*, 144 Wn.2d 472, 480, 28 P.3d 720 (2001). Criminal statutes must be given literal and strict interpretation. *State v. Wilson*, 125 Wn.2d 212, 217, 883 P.2d 320 (1994). Courts cannot add words or clauses to an unambiguous statute when the legislature has chosen not to include that language. *Id.* at 220. Courts must assume that the legislature “means exactly what it says”. *Davis v. Dep’t of Licensing*,

137 Wn.2d 957, 964, 977 P.2d 554 (1999). When the plain language of a statute is unambiguous, the legislative intent is apparent. *State v. C.A.E.*, 148 Wn.App. 720, 725, 201 P.3d 361 (2009) (citing *State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318 (2003)).

Both the suspended sentence statute, RCW 9.92.060(2)(b), and the probation statute, RCW 9.95.210(2)(b), are unambiguous. The statutes each refer to “superior courts” to the exclusion of other courts. This fact is particularly significant as both statutes were amended in 1996 to insert “superior” before “court,” limiting the statute’s scope. *See* Laws of 1996, Ch. 298, s 5; Laws of 1996, Ch. 298, § 3. Where a statute is unambiguous, this Court presumes that “subsequent amendments constitute[] a substantive change in the law.” *Sprint Inter. Communications Cor. v. Department of Revenue*, 154 Wn.App. 926, 939, 226 P.3d 253 (2010); *see also In re F.D. Processing, Inc.*, 119 Wn.2d 452, 462, 832 P.2d 1303 (1992).

Several other provisions of RCW Title 9.92, on the other hand, apply only to municipal or district courts. *See e.g.* RCW 9.92.130 (expressly applicable only to those sentenced by municipal or district court judges); RCW 9.92.140 (applicable only to sentences out of district or superior courts); RCW 9.92.070 (explicitly applicable to “any judge of any superior court or a district or municipal court judge”). These provisions

make apparent that RCW Title 9 is not automatically applicable to all courts, but is limited to specific courts in many contexts. The intent of the legislature is clear – RCW 9.92.060 and RCW 9.95.210(2) apply *only* to superior court.

Below the superior court found *State v. Barnett*, 36 Wn.App. 560, 675 P.2d 626 (1984) to be controlling in Fuller's case. However, the *Barnett* case took place in superior court and dealt with a crime committed before July 1, 1984. Both the suspended sentence statute, RCW 9.92.060, and the statute authorizing restitution in lieu of a fine authorized by RCW 9A.20.020 applied to the case and had to be harmonized by that court. As explained above, neither of those provisions apply to Fuller's case.

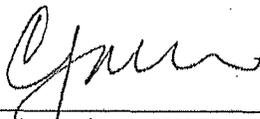
Finally, Seattle Municipal Court is granted concurrent jurisdiction with the superior courts by RCW 35.20.250. That provision has been interpreted to grant municipal courts the authority to hear cases charged under the RCW as well as under municipal code. *City of Seattle v. Briggs*, 109 Wn.App.484, 38 P.3d 349 (2001); *Avlonitis v. City of Seattle*, 97 Wn.2d 131, 641 P.2d 169 (1982). That provision does not, however, convert Seattle Municipal Court into a superior court or render all statutes referring to superior courts applicable to Seattle Municipal Court as well.

## E. CONCLUSION

“Courts have the duty and power to correct an erroneous sentence upon its discovery.” *In re Call*, 144 Wn.2d 315, 322, 28 P.3d 709, 718 (2001).

The Seattle Municipal Court did not have the authority to impose restitution as a term of Fuller’s sentence. Because the court imposed restitution without authority of law, Fuller respectfully requests that the restitution order be reversed. See *City of Walla Walla v. Ashby*, 90 Wn.App. 560, 952 P.2d 201 (1998), abrogated on other grounds by *State v. Enstone*, 137 Wn.2d 675, 974 P.2d 828 (1999) (upholding the reversal of an erroneous restitution order); *State v. Hartwell*, 38 Wn.App. 135, 684 P.2d 778 (1984), overruled on other grounds by *State v. Krall*, 125 Wn.2d 146, 881 P.2d 1040 (1994) (reversing an erroneous restitution order); *State v. Eilts*, 94 Wn.2d 489, 495, 617 P.2d 993 (1980), superseded by statute/rule on other grounds by *State v. Barr*, 99 Wn.2d 75, 658 P.2d 1247 (1983), cited in *In re Goodwin*, 146 Wn.2d 861, 870, 50 P.3d 618 (2002) (striking erroneous restitution order); *In re Carle*, 93 Wn.2d 31, 34, 604 P.2d 1293 (1980), cited in *In re Goodwin, supra* at 871 (striking illegal term of sentence).

Respectfully submitted this 10th day of February, 2012.

A handwritten signature in cursive script, appearing to read 'C. Jackson', written in black ink.

---

Christine A. Jackson WSBA # 17192  
Attorney for Petitioner

## APPENDIX 1

CERTIFIED  
COPY

MUNICIPAL COURT OF SEATTLE  
DOCKET

r295002

Case Status: OPEN Jurisdiction EndDate: 03/02/2012

CITY OF SEATTLE, Plaintiff

\*\* OPEN \*\*

Vs.

FULLER, DONALD EDWARD , Defendant

Address: 223 YESLER WY 1023  
SEATTLE, WA 98104  
206 567/3631 (Home)

Case No: 538140  
File Loc: REC  
Def No: 229696  
Incident No: 9079155  
Custody: OUT  
Rltd Grp No:  
Co-Def's:

DOB: 03/13/1959 Age: 52 Sex: M Race: B Lang:  
DOL: WA/FULLEDE414DL  
Sentencing Judge: MAMIYA, RON  
Prosecutor:  
Defense Attorney: ALLMAN, THERESA  
Interpreter:

TDA /

-----  
\*\* Charges \*\*

Chrg Doc No: Type: CS Viol Date: 03/06/2009 Filing Date: 06/02/2009

Chrg 1: OBSTRUCTING PUBLIC SERVANT  
R9A.76.020 Plea: NG Find: G Status: AF  
Disposition: APPEAL FILED

BAIL BAIL NOT FORFEITABLE JXH  
Start:06/03/2009 Due:06/03/2009 End:06/23/2009 APPEARED IN COURT  
Amt:475 Susp: Curr:

FINE PAY FINE JMM  
Start:03/04/2010 Due:03/04/2010 End:  
Amt:5,000 Susp:5,000 Curr:

JAIL COMPLY WITH JAIL SENTENCE JMM  
Start:03/04/2010 Due:03/02/2012 End:  
Jail:365 Susp:358 Unit:Days Cfts:Y  
Rmks:3/4/2010: CFTS 2 DAYS, BAL OF JAIL TIME CONVERTED TO  
JCRW.

JCRW WORK CREW IN LIEU OF JAIL SLP  
Start:03/04/2010 Due:04/08/2010 End:04/13/2010 OBLIGATION COMPLETED  
Jail:5 Susp: Unit:Days Cfts:N

Chrg 2: ASSAULT  
12A.06.010(A) Plea: NG Find: NG Status: AF  
Disposition: APPEAL FILED

CERTIFIED  
COPY

BAIL	BAIL NOT FORFEITABLE	End:06/23/2009	JXH
	Start:06/03/2009 Due:06/03/2009	APPEARED IN COURT	
	Amt:950 Susp:	Curr:	
Other Case Obligations:			
BALW	BAIL ON A WARRANT	End:09/22/2009	RXA
	Start:09/08/2009 Due:	RELEASE ON PR	
	Amt:500 Susp:	Curr:	
CCFE	CRIMINAL CONVICTION FEE	End:	PAD
	Start:03/04/2010 Due:06/21/2010	Curr:33	
	Amt:43 Susp:		
REST	RESTITUTION	End:	PAD
	Start:03/04/2010 Due:10/15/2010	Curr:370	
	Amt:450 Susp:		
	Vctm:WILLOUGHBY, TAD		
	Rmks:3/4/2010: COURT FINDS NEXCUS TO IMPOSE RESTITUTION		
CADD	REPORT ADDR CHANGE TO COURT IN WRITING W/IN 24HR		JMM
	Start:03/04/2010 Due:03/02/2012	End:	
NCLV	NO CRIMINAL LAW VIOLATIONS		JMM
	Start:03/04/2010 Due:03/02/2012	End:	

-----  
\*\* Scheduled Hearings \*\*

S	Date	Time	Crtrm	Type	Tape	Judge	Prosecutor	Date	Clk
H	06/23/2009	9:05	302	INTAKE		BONNER, F	KIRKPATRI, K	06/03/2009	AXJ
H	07/20/2009	13:30	1003	PTH		MAMIYA, R	GUERRA, R	06/23/2009	JXH
W	09/08/2009	13:30	1003	PTH		EISENBERG, A	GUERRA, R	07/20/2009	JMM
H	10/19/2009	13:30	1003	PTH		MAMIYA, R	GUERRA, R	09/22/2009	RXA
H	12/18/2009	10:00	1003	RDNSS		LEONE, L	AMAN, H	10/19/2009	SAF
H	01/05/2010	9:00	1003	JURY		MAMIYA, R	AMAN, H	10/19/2009	SAF
H	02/19/2010	10:00	1003	RDNSS		MAMIYA, R	HASTING, M	01/05/2010	JMM
H	03/02/2010	9:00	1003	JURY		MAMIYA, R	HASTINGS, M	01/05/2010	JMM
H	03/03/2010	9:00	1003	JURY		MAMIYA, R	HASTINGS, M	03/02/2010	JMM
H	03/04/2010	9:00	1003	JURY		MAMIYA, R	HASTINGS, M	03/03/2010	JMT
H	04/08/2010	13:30	1003	CT RST		MAMIYA, R	HASTINGS, M	03/05/2010	JMM
H	04/15/2010	13:30	1003	REVIEW		MAMIYA, R	HASTINGS, M	04/08/2010	JMM
H	08/19/2010	13:30	1003	OTA		MAMIYA, R	OKADA, D	07/21/2010	JMM
H	10/28/2010	13:30	1003	REVIEW		MAMIYA, R	BROPHY, B	08/19/2010	JMO
C	08/05/2011	9:00	1003	RVKRST				07/11/2011	MXH

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\*\* Events \*\*

Date	Description	
06/02/2009	CHARGE(S) FILED	AXJ
06/03/2009	INTAKE HEARING SCHEDULED FOR 06/23/2009 AT 905 IN COURTROOM 302	AXJ
06/04/2009	INTAKE HEARING NOTICE MAILED TO 1412 SW 102 ST 232 SEATTLE, WA 98146	B
=====		
Def. Name: FULLER, DONALD EDWARD		Page 2
09:28:21 As of 12/22/2011		

06/23/2009 DF: FULLER, DONALD EDWARD (229696) PRESENT JXH  
DL 11:35AM  
DF ARR IN OPEN.

06/23/2009 DEFENDANT SCREENED - ASSIGNED TO TDA JXH

06/23/2009 PR GRANTED BY COURT JXH

06/23/2009 PRE-TRIAL HEARING SCHEDULED FOR 07/20/2009 AT 1330 IN JXH  
COURTROOM 1003

07/01/2009 NOTICE OF APPEARANCE FILED BY DEFENDER ASSOC. ATTY EULA AXR  
GARRISON WSBA 41239 FILED 6/25/09.

07/20/2009 DF: FULLER, DONALD EDWARD (229696) PRESENT JMM

07/20/2009 DA: GARRISON, EULA (1000011164) PRESENT JMM  
CLERK:JMM, DL: 3:53.

07/20/2009 CONTINUANCE REQUESTED BY DEFENSE JMM  
INVESTIGATION & NEGOTIATION - GRANTED.

07/20/2009 SPEEDY TRIAL RULE WAIVER FILED JMM  
NEW COMM DATE: 8/4/2009  
NEW EXP DATE: 11/2/2009

07/20/2009 PRE-TRIAL HEARING SCHEDULED FOR 09/08/2009 AT 1330 IN JMM  
COURTROOM 1003

09/08/2009 DF: FULLER, DONALD EDWARD (229696) DEFENDANT NOT JMT  
PRESENT. DL 14:54 CLK JMT. ATTY GARRISON PRESENT.

09/08/2009 BENCH WARRANT # 990347113 ISSUED 09/08/2009 JMT  
DEF IS NOT CURRENTLY HELD IN KCCS PER BAILF IAM 9-8-09  
FTA PTH

09/22/2009 BENCH WARRANT # 990347113 CLEARED RELEASED ON PERSONAL RXA  
RECOGNIZAN ()

09/22/2009 PR GRANTED BY COURT RXA

09/22/2009 PRE-TRIAL HEARING SCHEDULED FOR 10/19/2009 AT 1330 IN RXA  
COURTROOM 1003

09/23/2009 PTH HEARING NOTICE MAILED TO 1412 SW 102 ST 232 B  
SEATTLE, WA 98146

10/19/2009 DF: FULLER, DONALD EDWARD (229696) PRESENT SAF  
DL 2:30. CLK SAF.

10/19/2009 DA: GARRISON, EULA (1000011164) PRESENT SAF

10/19/2009 TRIAL SETTING: SEE PRE-TRIAL ORDER FOR NOTED MOTIONS SAF  
AND RULINGS. (CS EVENT)

10/19/2009 READINESS HEARING SCHEDULED FOR 12/18/2009 AT 1000 IN SAF  
=====

Def. Name: FULLER, DONALD EDWARD  
09:28:21 As of 12/22/2011

COURTROOM 1003

10/19/2009 JURY TRIAL SCHEDULED FOR 01/05/2010 AT 900 IN SAF  
COURTROOM 1003

12/18/2009 DF: FULLER, DONALD EDWARD (229696) PRESENT SAF  
DL 11:14. CLK. SAF.  
CITY READY FOR TRIAL. DFNS NEEDS ASSISTANCE FROM CITY  
TO INTERVIEW CITY'S WITNESS. DFNS ANSWERS READY FOR TR.

12/18/2009 DA: GARRISON, EULA (1000011164) PRESENT SAF

01/05/2010 DF: FULLER, DONALD EDWARD (229696) PRESENT JMM

01/05/2010 DA: GARRISON, EULA (1000011164) PRESENT JMM  
CLERK:JMM, DL: 9:53.  
DFNS MOTION TO CONTINUE DFNS WAITING FOR RESPONSE FROM  
SPD ON OFFICERS RECORDS - GRANTED.

01/05/2010 SPEEDY TRIAL RULE WAIVED: JMM  
AGREED EXP DATE: 4/1/2010

01/05/2010 READINESS HEARING SCHEDULED FOR 02/19/2010 AT 1000 IN JMM  
COURTROOM 1003

01/05/2010 JURY TRIAL SCHEDULED FOR 03/02/2010 AT 900 IN JMM  
COURTROOM 1003

02/19/2010 DF: FULLER, DONALD EDWARD (229696) DEFENDANT NOT SAF  
PRESENT. DL 9:28. CLK SAF.  
BOTH PARTIES ANSWER READY FOR TRIAL.

02/19/2010 DA: ALLMAN, THERESA (1000005376) PRESENT SAF

03/02/2010 DF: FULLER, DONALD EDWARD (229696) PRESENT JMM

03/02/2010 DA: ALLMAN, THERESA (1000005376) PRESENT JMM  
CLERK:JMM, DL: 9:32.  
CASE PROCEEDING TO JURY TRIAL

03/02/2010 REC'D FROM CITY ATTYORNEY MS. HAISTINGS; PROPOSED JMM  
PROTECTIVE ORDER RELATING TO SEATTLE POLICE DEPT  
DOCUMENTS & RECORDS PROVIDED IN DISCOVERY TO DFNS  
COUNSEL ORDER SIGNED BY JUDGE MAMIYA

03/02/2010 REC'D AND FILED CITY'S TRIAL BEIEF BY CITY ATTORNEY MS. JMM  
HASTINGS.

03/02/2010 JURY TRIAL PROCEEDING JMM

03/02/2010 PRELIMINARY MATTERS / MOTIONS IN-LIMINE JMM  
(P) MOTION TO EXCLUDE WITNESSES (MUTUAL) GRANTED  
(P) MOTION TO EXCLUDE PRIOR STMNTS - DFNS NOT USING  
ANY IN DFNS CASE AND CHIEF.

03/02/2010 PRELIMINARY MATTERS / MOTIONS IN-LIMINE CONT'D. JMM

03/02/2010 PRELIMINARY MATTERS / MOTIONS IN-LIMINE CONT'D. JMM

03/02/2010 VOIR DIRE JMM  
PRE-EMPTORIES  
SWEARING JURORS  
BRIEF OVERVIEW

03/02/2010 OPENING STATEMENTS: CITY JMM  
DEFEMSE  
CITY'S EVIDENCE

03/02/2010 WT: OFFICER CHARSE, MATTHEW (SPD) TESTIFIED JMM  
(DL:2:14 - 2:24)

03/02/2010 WT: OFFICER JOHNSON, DONALD (SPD) TESTIFIED JMM  
(DL:2:25 - 3:08)

03/02/2010 JURORS EXCUSED FOR THE DAY; ADMONISHED BEFORE THERE JMM  
RELEASE. CASE SET OVER ONE DAY TO COMPLETE THE BALANCE  
OF JURY TRIAL.

03/02/2010 JURY TRIAL SCHEDULED FOR 03/03/2010 AT 900 IN JMM  
COURTROOM 1003

03/03/2010 DF: FULLER, DONALD EDWARD (229696) PRESENT JMT  
DL 9:28, 9:32 JURY TRIAL CONTINUED.  
DL 9:34 JURY PANEL SEATED

03/03/2010 WILLOUGHBY, TADD (CITY WT: SPD OFFICER) TESTIFIED JMT

03/03/2010 CITY EXHIBIT# 2 (PHOTO OF OFFICER WILLOUGHBY'S INJURY) JMT  
MARKED, OFFERED, ADMITTED, PUBLISHED TO THE JURY

03/03/2010 CITY EXHIBIT# 4 (OFFICER WILLOUGHBY'S BROKEN GLASSES) JMT  
MARKED, OFFERED, ADMITTED, PUBLISHED TO JURY

03/03/2010 DL 10:00 DFNS CROSS JMT

03/03/2010 DL 10:09 CITY RE-DIRECT JMT

03/03/2010 DL 10:15 WT EXCUSED/CITY RESTS JMT

03/03/2010 KATO, NICK (DFNS WT: TDA INVESTIGATOR) TESTIFIED JMT

03/03/2010 DFNS EXHIBIT# 1 (DIAGRAM MADE BY TDA INVESTIGATOR) JMT  
MARKED, OFFERED

03/03/2010 DL 10:21 WT EXCUSED JMT

03/03/2010 FULLER, DONALD (DFNS WT: DEFENDANT) TESTIFIED JMT  
-DFNS EXHIBIT #1 REFERRED TO

03/03/2010 DFNS EXHIBIT# 5 (DEFENDANTS CELL PHONE) MARKED, OFFERED JMT  
ADMITTED

03/03/2010 DL 11:00 DFNS MOTION TO ALLOW DEFENDANT TO STEP DOWN JMT  
AND SHOW JURY HIS ELBOW SCAR-GRANTED

CERTIFIED  
COPY

03/03/2010 DFNS EXHIBIT# 6 (PHOTO OF DEFENDANT'S LEFT SHIN) MARKED, OFFERED, ADMITTED, PUBLISHED TO JURY JMT

03/03/2010 DFNS EXHIBIT# 7 (PHOTO OF DEFENDANT'S ELBOW/BLOODY SHIRT) MARKED, OFFERED, ADMITTED AND PUBLISHED TO THE JURY JMT

03/03/2010 DFNS EXHIBIT# 8 (PHOTO OF DEFENDANT'S BLOODY SHIRT) MARKED, OFFERED, ADMITTED AND PUBLISHED TO JURY JMT

03/03/2010 DL 11:08 CITY CROSS JMT

03/03/2010 WT STEPPED DOWN-DFNS MOTION TO ADMIT DFNS EXHIBIT #1-GRANTED JMT

03/03/2010 DL 11:15 DFNS RESTS/JURY PANEL EXCUSED FOR DISCUSSION OF JURY INSTRUCTIONS JMT

03/03/2010 DL 13:37 JURY PANEL SEATED. COURT READS JURY INSTRUCTIONS TO THE PANEL JMT

03/03/2010 DL 13:50 CITY CLOSING JMT

03/03/2010 DL 14:06 DFNS CLOSING JMT

03/03/2010 DL 14:24 CITY REBUTTAL JMT

03/03/2010 DL 14:34 JURY EXCUSED TO DELIBERATE JMT

03/03/2010 CASE SET OVER ONE DAY FOR JURY TO RETURN W/VERDICT JMT

03/03/2010 JURY TRIAL SCHEDULED FOR 03/04/2010 AT 900 IN COURTROOM 1003 JMT

03/04/2010 DF: FULLER, DONALD EDWARD (229696) PRESENT JMM

03/04/2010 DA: ALLMAN, THERESA (1000005376) PRESENT JMM  
CLERK:JMM, DL: 10:22.

03/04/2010 JURORS RETURNED WITH VERDICT JMM  
1. GUILTY OF OBSTRUCT, 2. NOT GUILTY OF ASSLT  
JURORS POLLED

03/04/2010 CHARGE # 1 R9A76020 (OBSTRUCT) NOT GUILTY PLEA ENTERED JMM

03/04/2010 CHARGE # 1 R9A76020 (OBSTRUCT) GUILTY FINDING ENTERED JMM

03/04/2010 CHARGE # 1 R9A76020 (OBSTRUCT) SUSPENDED SENTENCE JMM

03/04/2010 CHARGE # 2 12A060100A (ASSAULT) NOT GUILTY PLEA ENTERED JMM

03/04/2010 CHARGE # 2 12A060100A (ASSAULT) NOT GUILTY FINDING ENTERED JMM

03/04/2010 CHARGE # 2 12A060100A (ASSAULT) FINDING ENTERED JMM

CERTIFIED  
COPY

03/04/2010 JURISDICTION END DATE SET TO 03/02/2012 JMM  
03/04/2010 SENTENCE IMPOSED JMM  
03/04/2010 DEFENDANT REFERRED/RELEASED TO TIME PAY OFFICE JMM  
03/04/2010 DEFENDANT REFERRED/RELEASED TO TIME PAY OFFICE JMM  
03/04/2010 TO BE GIVEN CREDIT FOR TIME SERVED JMM  
03/04/2010 DEFENDANT RECEIVED APPELLATE RIGHTS JMM  
03/04/2010 NOTICE OF APPEAL BOND FIXED AT \$250 BY JUDGE RON A  
MAMIYA ; CONDS WHILE CASE ON APPEAR NCLV JMM  
03/04/2010 DEFENSE CONTEST AMNT OF REST - CITY IS ASKING FOR HRG  
TO BE SET - GRANTED. JMM  
DFNS MOTION FOR APPEAL BOND - GRANTED.  
ALL EXHIBITS RETAINED IN FILE EXCEPT PROS. 4 AND  
DEFENSE 1 & 5 WHICH ARE RETAINED IN COURTROOM 1003  
03/05/2010 CONTESTED RESTITUTION HEARING SCHEDULED FOR 04/08/2010 JMM  
AT 1330 IN COURTROOM 1003 & STATUS OF JCRW.  
03/15/2010 NOTICE OF APPEAL FILED ON 03/10/2010, SUPRCT CAUSE#  
101031495 SXP  
03/22/2010 TRANSCRIPT ISSUED SXP  
04/08/2010 DF: FULLER, DONALD EDWARD (229696) DEFENDANT NOT  
PRESENT JMM  
04/08/2010 DA: ALLMAN, THERESA (1000005376) PRESENT JMM  
CLERK:JMM, DL: 2:07.  
(D) MOTION TO CONTINUE DEF COMPLETING JCRW - GRANTED.  
PER DEFENSE REST. AMNT HAS BEEN SETTLED TO BE HANDLED  
AT NEXT HRG.  
04/08/2010 REVIEW HEARING SCHEDULED FOR COMPLETION OF JCRW AND TO  
SIGN ORDER ON RESTITUTION. JMM  
04/08/2010 REVIEW HEARING SCHEDULED FOR 04/15/2010 AT 1330 IN  
COURTROOM 1003 JMM  
04/08/2010 STATUS/REVIEW REPORT RECEIVED FROM SANDRA PANNELL JMM  
04/15/2010 DF: FULLER, DONALD EDWARD (229696) DEFENDANT NOT  
PRESENT JMM  
04/15/2010 DA: ALLMAN, THERESA (1000005376) PRESENT JMM  
CLERK:JMM, DL:1:40.  
JCRW COMPLETED; RESTITUTION AMOUNT AGREED;  
ORDER TO PAY RESTITUTION S/F WITH THE COURT. AMOUNT OF  
REST SET AT \$450.40.  
04/15/2010 DEFENDANT REFERRED/RELEASED TO TIME PAY OFFICE JMM

=====  
Def. Name: FULLER, DONALD EDWARD  
09:28:21 As of 12/22/2011

=====  
Page 7

04/27/2010 NOTICE OF WITHDRAWAL FILED 041610 PUBDEF EULA GARRISON (CS EVENT) SSG

07/20/2010 DEF CALLED REGARDING HAVING NO INCOME AND NOT BEING ABLE TO PAY RESTITUTION FOR THIS CASE. SAYS HE TURNED IN PAPERWORK WITH COURT COMPLIANCE TO BE FORWARDED TO JUDICIAL CHAMBERS. RAA

07/21/2010 STATUS / REVIEW REPORT RECEIVED FROM ELEANOR CHUA, OF COURT COMPLIANCE. REPORT FORWARDED TO JUDGE RON A MAMIYA. ADMINISTRATIVE ACTION TAKEN PER JUDICIAL DIRECTION OTA TO BE SENT TO DEF FOR FTP; NOTICE SENT TO DEF VIA MCIS. JMM

07/21/2010 ORDER TO APPEAR HEARING BY COURT SCHEDULED FOR 08/19/2010 AT 1330 IN COURTROOM 1003 JMM

07/22/2010 OTA HEARING NOTICE MAILED TO 1606 SW 104TH ST #232 SEATTLE, WA 98146 B

08/19/2010 DF: FULLER, DONALD EDWARD (229696) DEFENDANT NOT PRESENT DL: 2:42 ATTY PRUS PRESENT. DEF IN INPATIENT TX REQUEST CONT. WILL ADDRESS CCFE AND REST AT THAT TIME GRANTED. JMO

08/19/2010 REVIEW HEARING SCHEDULED FOR 10/28/2010 AT 1330 IN COURTROOM 1003 JMO

09/01/2010 \*\*\*PLS ADDRESS DEF FTP ON REST\*\*\* (CASE EVENT) UEF

10/28/2010 DF: FULLER, DONALD EDWARD (229696) PRESENT JMM

10/28/2010 DA: ALLMAN, THERESA (1000005376) PRESENT JMM  
CLERK:JMM, DL: 1:46.  
DEF MADE \$10 PAYMENT TOWARDS RESTITUTION; COURT REFERRED DEF BACK TO RRU ON CCFE & RESTITUTION.

10/28/2010 DEFENDANT REFERRED TO REVENUE RECOVERY UNIT JMM

07/11/2011 REVOCATION ON RESTITUTION HEARING SCHEDULED FOR 08/05/2011 AT 900 IN COURTROOM 1003 MXH

07/11/2011 REVOCATION ON RESTITUTION HEARING HRNG SCHDLD FOR 08/05/2011 AT 900 IN DEPT 1003, CANCELLED! MXH

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\*\* Warrants \*\*

Wrnt Nr	Issued	Served	Wrnt/ Clrn Type	Description
990347113	09/08/2009	09/22/2009	BW PR	BENCH WARRANT RELEASED ON PERSONAL RECOGNIZANCE

Reasons: FAIL TO APPEAR FOR PRE-TRIAL HEARING  
Rstrcs: FTA PTH  
Warrant issued by: JUDGE ADAM EISENBERG

-----  
\*\* Accounting Summary \*\*

Chg :	Obl :	Orig Obl :	Obl :	TP :
Sq# :	Type :	Amount :	Bal Due :	Status :
	CCFE	43.00	33.00	
	REST	450.40	370.40	

\*\* Total due on this case: 403.40 \*\*

=====  
Def. Name: FULLER, DONALD EDWARD  
09:28:21 As of 12/22/2011

**APPENDIX 2**

CERTIFIED COPY

IN THE SEATTLE MUNICIPAL COURT  
COUNTY OF KING, STATE OF WASHINGTON

RECEIVED/FILED  
APR 15 2010  
COURT 1003

CITY OF SEATTLE,  
Plaintiff,

vs.

Donald Fuller  
Defendant.

NO: 538140

ORDER TO PAY RESTITUTION

THE DEFENDER ASSOC.

DEC 28 2011

IT IS HEREBY ORDERED that the Defendant shall pay restitution in the above entitled matter to Tad Willoughby in the amount of \$ 450.40 for damages/expenses incurred as a result of this incident. Documentation is attached.

Dated: April 15, 2010.

Judge/Commissioner/Judge Pro Tem

Presented By:

Copy Received, Approved for entry:

Megan Hottinger  
Assistant City Attorney, WSBA # 40452 ~~8367~~

Thomas Allen  
Attorney for Defendant, WSBA # 20878

defense does not waive objection to nexus for Restitution as previously argued at sentencing.

SEATTLE MUNICIPAL COURT  
COUNTY OF KING, STATE OF WASHINGTON  
CLERK OF COURT  
1000 3RD AVENUE, SUITE 1000  
SEATTLE, WA 98101  
PHONE: (206) 465-2000  
FAX: (206) 465-2001  
WWW: www.seattlecourts.org

**APPENDIX 3**

Chapter 9A.20 RCW  
Classification of crimes

RCW Sections

- 9A.20.010 Classification and designation of crimes.
- 9A.20.020 Authorized sentences for crimes committed before July 1, 1984.
- 9A.20.021 Maximum sentences for crimes committed July 1, 1984, and after.
- 9A.20.030 Alternative to a fine -- Restitution.
- 9A.20.040 Prosecutions related to felonies defined outside Title 9A RCW.

Notes:

Assessments required of convicted persons  
offender supervision: RCW 9.94A.780.  
parolees: RCW 72.04A.120.  
probationers: RCW 10.64.120.

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**9A.20.010**  
**Classification and designation of crimes.**

(1) Classified Felonies. (a) The particular classification of each felony defined in Title 9A RCW is expressly designated in the section defining it.

(b) For purposes of sentencing, classified felonies are designated as one of three classes, as follows:

- (i) Class A felony; or
- (ii) Class B felony; or
- (iii) Class C felony.

(2) Misdemeanors and Gross Misdemeanors. (a) Any crime punishable by a fine of not more than one thousand dollars, or by imprisonment in a county jail for not more than ninety days, or by both such fine and imprisonment is a misdemeanor. Whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor.

(b) All crimes other than felonies and misdemeanors are gross misdemeanors.

[1984 c 258 § 808; 1975 1st ex.s. c 260 § 9A.20.010.]

Notes:

**Court Improvement Act of 1984 -- Effective dates -- Severability -- Short title -- 1984 c 258:** See notes following RCW 3.30.010.

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**9A.20.020**  
**Authorized sentences for crimes committed before July 1, 1984.**

(1) Felony. Every person convicted of a classified felony shall be punished as follows:

(a) For a class A felony, by imprisonment in a state correctional institution for a maximum term fixed by the court of not less than twenty years, or by a fine in an amount fixed by the court of not more than fifty thousand dollars, or by both such imprisonment and fine;

(b) For a class B felony, by imprisonment in a state correctional institution for a maximum term of not more than ten years, or by a fine in an amount fixed by the court of not more than twenty thousand dollars, or by both such imprisonment and fine;

(c) For a class C felony, by imprisonment in a state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than ten thousand dollars, or by both such imprisonment and fine.

(2) Gross Misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed prior to July 1, 1984.

[2011 c 96 § 12; 1982 c 192 § 9; 1981 c 137 § 37; 1975-'76 2nd ex.s. c 38 § 2; 1975 1st ex.s. c 260 §9A.20.020.]

**Notes:**

**Findings -- Intent -- 2011 c 96:** See note following RCW 9A.20.021.

**Severability -- 1981 c 137:** See RCW 9.94A.910.

**Effective date -- Severability -- 1975-'76 2nd ex.s. c 38:** See notes following RCW 9A.08.020.

Penalty assessments in addition to fine or bail forfeiture -- Crime victim and witness programs in county: RCW 7.68.035.

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**9A.20.021**

**Maximum sentences for crimes committed July 1, 1984, and after.**

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

[2011 c 96 § 13. Prior: 2003 c 288 § 7; 2003 c 53 § 63; 1982 c 192 § 10.]

**Notes:**

**Findings--Intent -- 2011 c 96:** "The legislature finds that a maximum sentence by a court in the state of Washington for a gross misdemeanor can, under federal law, result in the automatic deportation of a person who has lawfully immigrated to the United States, is a victim of domestic violence or a political refugee, even when all or part of the sentence to total confinement is suspended. The legislature further finds that this is a disproportionate

outcome, when compared to a person who has been convicted of certain felonies which, under the state's determinate sentencing law, must be sentenced to less than one year and, hence, either have no impact on that person's residency status or will provide that person an opportunity to be heard in immigration proceedings where the court will determine whether deportation is appropriate. Therefore, it is the intent of the legislature to cure this inequity by reducing the maximum sentence for a gross misdemeanor by one day." [2011 c 96 § 1.]

**Intent -- Effective date -- 2003 c 53:** See notes following RCW 2.48.180.

Penalty assessments in addition to fine or bail forfeiture -- Crime victim and witness programs in county: RCW 7.68.035.

## 9A.20.030

### Alternative to a fine — Restitution.

(1) If a person has gained money or property or caused a victim to lose money or property through the commission of a crime, upon conviction thereof or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement, the court, in lieu of imposing the fine authorized for the offense under RCW 9A.20.020, may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the commission of a crime. Such amount may be used to provide restitution to the victim at the order of the court. It shall be the duty of the prosecuting attorney to investigate the alternative of restitution, and to recommend it to the court, when the prosecuting attorney believes that restitution is appropriate and feasible. If the court orders restitution, the court shall make a finding as to the amount of the defendant's gain or victim's loss from the crime, and if the record does not contain sufficient evidence to support such finding the court may conduct a hearing upon the issue. For purposes of this section, the terms "gain" or "loss" refer to the amount of money or the value of property or services gained or lost.

(2) Notwithstanding any other provision of law, this section also applies to any corporation or joint stock association found guilty of any crime.

[1982 1st ex.s. c 47 § 12; 1979 c 29 § 3; 1975 1st ex.s. c 260 § 9A.20.030.]

#### Notes:

**Severability -- 1982 1st ex.s. c 47:** See note following RCW 9.41.190.

#### Restitution

condition of probation: RCW 9.95.210.

condition to suspending sentence: RCW 9.92.060.

disposition when victim dead or not found: RCW 7.68.290.

## 9A.20.040

### Prosecutions related to felonies defined outside Title 9A RCW.

In any prosecution under this title where the grade or degree of a crime is determined by reference to the degree of a felony for which the defendant or another previously had been sought, arrested, charged, convicted, or sentenced, if such felony is defined by a statute of this state which is not in Title 9A RCW, unless otherwise provided:

(1) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is twenty years or more, such felony shall be treated as a class A felony for purposes of this title;

(2) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is eight years or more, but less than twenty years, such felony shall be treated as a class B felony for purposes of this title;

(3) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is less than eight years, such felony shall be treated as a class C felony for purposes of this title.

[1975 1st ex.s. c 260 § 9A.20.040.]