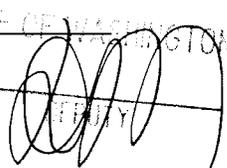


NO. 41082-6

FILED
COURT OF APPEALS
DIVISION II

10 OCT -8 PM 3:14

COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

STATE OF WASHINGTON
BY 

STATE OF WASHINGTON, RESPONDENT

v.

JAMES CHAMBERS, JR, APPELLANT

Appeal from the Superior Court of Pierce County
The Honorable Thomas Felnagle

No. 99-1-05307-1

BRIEF OF RESPONDENT

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ORIGINAL

Table of Contents

A. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR..... 1

1. Whether the error in the defendant’s judgment and sentence is a scrivener’s error and the only relief to which the defendant is entitled is correction of that error on the judgment and sentence? 1

2. Whether the court properly denied the defendant’s request for a new sentence where the only relief the defendant was entitled to was to withdraw his plea or receive specific performance by receiving the sentence he originally bargained for?..... 1

3. Whether, in the event the court were to order the defendant resentenced based on a lower offender score it is premature to do so until the State’s appeal is completed on COA# 40899-6 because in that case the State is appealing the dismissal of the count’s the defendant relies upon to claim a lower offender score? 1

B. STATEMENT OF THE CASE. 1

1. Procedure..... 1

2. Facts8

C. ARGUMENT..... 11

1. WHILE THE JUDGMENT AND SENTENCE CONTAINS AN ERROR, IT IS A SCRIVENER’S ERROR AND THE ONLY RELIEF TO WHICH THE DEFENDANT IS ENTITLED IS AN ORDER CORRECTING THE JUDGMENT AND SENTENCE. 11

2. THE DEFENDANT IS NOT ENTITLED TO A REDUCED SENTENCE, WHICH IS SOMETHING OTHER THAN SPECIFIC PERFORMANCE..... 14

3.	THE DEFENDANT IS NOT YET ENTITLED TO RELIEF WHERE THE STATE HAS APPEALED THE TRIAL COURT'S ORDER ON THE OTHER CASE SO THAT IT IS NOT YET CERTAIN THAT THE DEFENDANT'S OFFENDER SCORE IS INCORRECT.	18
D.	<u>CONCLUSION</u>	21

Table of Authorities

State Cases

<i>In re Carter</i> , 154 Wn. App. 907, 230 P.3d 181 (2010).....	18
<i>In re Cruz</i> , 157 Wn.2d 83, 134 P.3d 1166 (2006)	4
<i>In re Isadore</i> , 151 Wn.2d 294, 303, 88 P.3d 390 (2004).....	14
<i>In re Skylstad</i> , 160 Wn.2d 944, 947, 162 P.3d 413 (2007).....	18
<i>State v. Barber</i> , 152 Wn. App. 223, 227, 217 P.3d 346 (2009)	14
<i>State v. Harris</i> , 148 Wn. App. 22, 29, 197 P.3d 1206 (2008).....	15
<i>State v. Lathrop</i> , 125 Wn. App. 353, 104 P.3d 737 (2005)	14
<i>State v. Mayer</i> , 128 Wn. App. 694, 702-03, 708, 117 P.3d 353 (2005)....	12
<i>State v. Turley</i> , 149 Wn.2d 395, 400, 69 P.3d 338 (2003).....	14, 15

Statutes

RCW 69.50.401(a)(1)(ii) (1999)	11
RCW 69.50.408(a) (1999).....	11
RCW 9.94A.310 (1999).....	11, 12
RCW 9.94A.420 (1999).....	11

Rules and Regulations

CrR 7.8(b).....	4
CrR 7.8(b)(5)	3
RAP 10.3(a)(6)	14
RAP 7.3	13

A. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR.

1. Whether the error in the defendant's judgment and sentence is a scrivener's error and the only relief to which the defendant is entitled is correction of that error on the judgment and sentence?

2. Whether the court properly denied the defendant's request for a new sentence where the only relief the defendant was entitled to was to withdraw his plea or receive specific performance by receiving the sentence he originally bargained for?

3. Whether, in the event the court were to order the defendant resentenced based on a lower offender score it is premature to do so until the State's appeal is completed on COA# 40899-6 because in that case the State is appealing the dismissal of the count's the defendant relies upon to claim a lower offender score?

B. STATEMENT OF THE CASE.*

1. Procedure

On July 7, 1999, James John Chambers pleaded guilty on cause number 99-1-00817-2. *See* Appendix A (Statement of Defendant on Plea

* Due to the complexity of the page numbering of the supplemental designation of clerk's papers it is not possible to accurately enter citations at this time. The State will file a corrected brief with corrected citations once the pagination is available from the Clerk's office. Citations whose pagination is unclear are marked with an asterisk.

of Guilty on cause number 99-1-00817-2¹ and for sentencing to be set over. The defendant was released on that matter. CP 1-2. While sentencing was pending, the State filed the new charges in this case against the defendant based on an incident that occurred on November 14, 1999 to November 19, 1999. CP 3-4.

As a result of the new charges, the State extended to the defendant a plea offer that encompassed all three cases. CP 88-90. The defendant's statement of defendant on plea of guilty specifies as to Count I that "On 11-14-99 I possessed a vehicle which I knew to be stolen, I caused the vehicle to come into contact with a pedestrian and she was injured and died and then I drove away." CP 93-100. The prosecutor's recommendation on the 99-1-05307-1 cause number was for a total sentence of 240 months, all counts concurrent to each other, but that sentence consecutive to cause numbers 99-1-00817-2 (this case), and 99-1-02235-3. CP 88-90. As specified in the prosecutor's recommendation, the State agreed not to amend charges to include murder in the second degree, and not to seek firearm sentence enhancements. CP 88-90, 93-100.

Pursuant to the agreement, on March 17, 2000 the defendant

¹ The State recognizes that the documents in the appendices are not part of the record in this case. They are included solely for purposes of understanding the procedural posture of this case, and so that the court can understand how the sentences on the other cases affect the sentence in this case (as other current offenses imposed consecutive to this case).

pleaded guilty on this case, cause number 99-1-05307-1, and was then sentenced on all three matters. CP 93-100, 147-160. On this case, cause number 99-1-05307-1 the court imposed a sentence of 60 months on Count I; 57 months on Count II; 57 months on Count III; 116 months on Count IV and 240 months on Count V for a total sentence of 240 months. CP 147-160. This sentence was imposed consecutive to the sentences on cause numbers cause numbers 99-1-00817-2 and 99-1-02253-3. CP 147-160.

On August 14, 2003 the defendant filed in the trial court a motion for relief from judgment pursuant to CrR 7.8(b)(5). CP 88-90. The State filed a response on April 14, 2004. CP 101-121. The trial court transferred the defendant's motion to the court of appeals to be considered as a personal restraint petition. CP 102-103.

The petition was assigned COA No. 32135-1-II. CP *. On June 28, 2005 the court of appeals dismissed the defendant's petition because it failed to provide factual support required for the court to consider it. CP *. However, on February 14, 2006 the status of the defendant's petition was changed to conditional dismissal because the defendant had apparently filed his supporting documents with this office, but not with the court. CP *. He was given additional time to file the supporting materials. CP *. Then, on October 6, 2006 the court granted a stipulated

motion for voluntary withdrawal of petition and dismissing petition. CP *.²

On March 21, 2008 the defendant filed another Motion for Relief from Judgment Pursuant to CrR 7.8(b). CP *. In that petition the defendant sought to be resentenced based upon his claim that his sentence of 240 months on count V exceeded the standard range. In bringing the motion he relied upon the Washington Supreme Court's opinion in *In re Cruz*, 157 Wn.2d 83, 134 P.3d 1166 (2006). On September 16, 2008 the trial court entered an order transferring the motion to the Court of Appeals to be considered as a personal restraint petition. CP *.

The petition was assigned COA# 38205-9-II. CP *. On its own initiative the court issued a stay while the Washington Supreme Court considered personal restraint petition number 82681-1 on cause number 99-1-00817-2. See *In Re Chambers*, COA# 38205-9, Ruling to Stay dated 05-12-09. On March 25, 2010 the court lifted the stay and remanded the matter back to the trial court to be considered in conjunction with cause number 99-1-00817-2. CP *.

The defense filed a motion for relief from judgment or order, as well as a memorandum in support thereof. CP *, *. The State filed a memorandum in opposition to the defendant's motion for

² Presumably the defendant was informed by defense counsel that if he withdrew his plea, the State would be able to proceed with the murder prosecution.

relief. CP *. And of course the defense filed a reply memorandum. CP *.

A hearing was held on August 6, 2010 in which Exhibits were entered into evidence. CP *. 191-92.³ The court denied the defendant's motion. CP *.

The defendant timely filed a notice of Appeal on August 12, 2010. CP *. That is this case, COA No. 41082-6.

Procedural Posture on CA# 99-1-00817-2

On July 7, 1999 the defendant pleaded guilty to four counts, Count I, unlawful possession of a controlled substance with intent to deliver; Count II, unlawful manufacture of a controlled substance; Count III, unlawful possession of a firearm in the first degree; and Count IV, unlawful possession of a firearm in the first degree. *See* Appendix A (Statement of Defendant on Plea of Guilty).⁴ Counts I and II both included firearm sentence enhancements. *See* Appendix A. The State's recommendation was open.

Prior to sentencing, the incidents that form the basis of cause number 99-1-05307-1 occurred.

³ The transcripts from that hearing were not included in the Statement of Arrangements for this case. However, because the State is filing a motion to have this case consolidated with COA #, and the State included those transcripts in its Statement of Arrangements for that proceeding, the State agrees that the court may consider those transcripts as part of the record for this proceeding as well.

⁴ The State recognizes that the documents in the appendices are not part of the record in this case. They are included solely for purposes of understanding the procedural posture of this case, and so that the court can understand how the sentences on the other cases affect the sentence in this case (as other current offenses imposed consecutive to this

On March 17, 2000 the defendant was sentenced on cause number 99-1-00817-2 to a total sentence of 221 months, based on 149 months on Count I, the most significant count, and two 36 month firearm sentence enhancements that ran consecutive to that time. *See* Judgment and Sentence on cause number 99-1-00817-2 attached as Appendix B.

The defendant was sentenced to a total of 221 months on cause number 99-1-00817-2 on March 17, 2000. On October 12, 2006 the defendant filed a Personal Restraint Petition on cause number 99-1-00817-2 directly in the court of appeals under COA No. 35454-3. In that petition he claimed he was unaware of the effect of a doubling statute on the statutory maximum and sought a reduction in his sentence. On June 21, 2007 the court filed an order dismissing the defendant's petition because it was filed more than a year after the Judgment and Sentence was entered and he failed to show that any exception applied to the one-year time bar. *In re Chambers*, No. 35454-3 (Order Dismissing Petition of 06-21-10).

The defendant filed a motion for discretionary review to the Washington Supreme Court on 07-06-07 under No. 80331-5 and it was denied on November 29, 2007.

On July 7, 2008 the defendant filed another personal restraint petition in the court of appeals under COA No. 38074-9. The court granted him partial relief, holding that his convictions for Counts III and

case).

IV were not lawful because he had not previously been convicted of a serious offense as was required to elevate them to the first degree. *See In re Chambers*, No. 38074-9 (01-14-09 Order Granting Petition in Part). The court denied his request to reduce his sentences as to Counts I and II based on his claim that the statutory maximum was only ten years, not twenty. *Chambers*, No. 38074-9 (01-14-0 Order Granting Petition in Part). The court denied the motion on the basis that the prior drug doubler doubled the statutory maximum. *Chambers*, No. 38074-9 (Order Granting Petition in Part). Both parties filed motions for reconsideration which were denied.

The defendant petitioned for review in the Supreme Court, which petition was granted under No. 82681-1. The court granted the motion for discretionary review and remanded the matter back to the trial court so that the defendant's motion to withdraw his plea could be considered as to Counts I and II together with the court of appeals remand as to Counts III and IV. *In re Chambers*, No. 82681-1 (Order of 09-30-09).

In the trial court on remand, the defendant filed a motion to vacate judgment, motion to withdraw guilty plea, and motion for specific performance. Appendix D (Motion To Vacate Judgment, Motion To Withdraw Guilty Plea And Motion For Specific Performance; and Memorandum in Support thereof; Declaration in Support Thereof). On May 28, 2010 the court entered an order granting the defendant's motion to withdraw his pleas as to counts I, II, III, and IV, and then dismissed the

case because the State's evidence had been destroyed. Appendix E (Order Granting and Denying Motion to Withdraw Guilty Pleas).

The State timely filed a Notice of Appeal on Monday June 28, 2010.

Procedural Posture on CA# 99-1-02235-3

On cause number 99-1-02235-3, the defendant received a total sentence of 29 months that ran concurrent to cause number 99-1-00817-2. *See*, Judgment and Sentence attached as Appendix C. The defendant has not brought any subsequent attack on the validity of that judgment. However, because it was imposed as a concurrent sentence and is shorter than standard range sentence imposed on cause number 99-1-00817-2, the only practical effect of 99-1-02235-3 has been to add a point to the defendant's offender scores on 99-1-00817-2 and on this case, 99-1-05307-1. However, if the court's dismissal of cause number 99-1-00817-2 remains effective, then the defendant's sentence on 99-1-02235-3 would be of consequence because it was imposed consecutive to the sentence in this case.

2. Facts

Because this case resulted in a plea prior to trial so that no testimony was given as to the underlying facts, the following facts are taken from the declaration for determination of probable cause. CP 1-4.

On November 14, 1999 at about 12:09 p.m. Margaret Hill was crossing Tacoma Avenue North heading northbound, walking in the cross walk with the walk signal. The defendant was traveling southbound on Tacoma Avenue, turning left (Eastbound) onto north 1st street. While making his left turn, the defendant struck Ms. Hill. Her body came to rest some 38 feet east of the point of contact. The defendant then left the scene at a high rate of speed, however witnesses were able to give a description of the truck and driver. Ms. Hill was transported to Madigan Army Medical Center where she later died.

Approximately an hour later the Tacoma Police Department was contacted by a relative of the defendant who told the police that the defendant had shown up at the residence of a different relative and that he was in a vehicle that matched the description of the vehicle that hit Ms. Hill. Police responded to the address and saw the truck. The tabs and license plate matched a vehicle that was owned and registered to the defendant, however, the vehicle identification number matched a Toyota pickup that belonged to one Robert Browse and had been reported stolen earlier. A witness who observed the defendant arrive with the truck advised the Tacoma Police that it appeared that the defendant was washing blood off the truck. Upon further investigation officers determined that the defendant confessed to several relatives that he hit Ms. Hill and fled the scene.

On November 19, 1990 the Pierce County Sheriff's Department received a tip that the defendant was at a particular address. When they arrived he fled the scene but was apprehended by a K-9 Unit. When detained he exclaimed, "I didn't mean to hurt that old lady."

A 1987 Toyota pickup truck was located at the scene. The defendant and other witnesses indicated it had been in the defendant's possession. The truck belonged to one Richard G. Higginson and had been reported stolen. The truck contained a .22 caliber semi-automatic pistol. The defendant admitted that he knew the pistol was in the truck and that his prints would probably be found on the pistol and the bullets. He also admitted he knew the truck he was driving when he hit Ms. Hill was stolen.

A witness at the scene told the officers that the defendant was there to manufacture methamphetamine. The pickup the defendant had been driving was parked next to a shed that was partially enclosed with a tarp. When the deputy looked in he could see a hot plate with a large shallow pan sitting on it. The pan had some sort of a light colored powdery residue smeared all over it. Next to it on a bench was a length of coiled white plastic tubing. Laying inside this tubing was sandwich sized ziplock bag, almost full of a yellowish white powder. Next to this was a plastic storage bin that contained several cans of some solvents, coffee filters and other miscellaneous items. The defendant admitted to the officers that lab

was not his but that they would find his fingerprints on the batteries, pill bottle, and cooking equipment.

The defendant was previously convicted of unlawful manufacture of methamphetamine on July 7, 1999. He was awaiting sentencing on that matter, which was scheduled for January 5, 2000 when he killed Ms. Hill and committed the other crimes in this case.

C. ARGUMENT.

1. WHILE THE JUDGMENT AND SENTENCE CONTAINS AN ERROR, IT IS A SCRIVENER'S ERROR AND THE ONLY RELIEF TO WHICH THE DEFENDANT IS ENTITLED IS AN ORDER CORRECTING THE JUDGMENT AND SENTENCE.

On page 3 of the judgment and sentence, the defendant's standard range for Count V is incorrectly listed as 240 months. CP 10.

For a 1999 level X offense with an offender score of 17 the standard range is normally 149-198 months. *See* RCW 9.94A.310 (1999). However, with regard to the manufacture of methamphetamine the statutory maximum is ten years which normally also limits the standard range to 120 months. *See* RCW 69.50.401(a)(1)(ii) (1999); RCW 9.94A.420 (1999).

However, if a defendant is convicted of a second or subsequent offense, the statutory maximum is doubled to twice that otherwise authorized. RCW 69.50.408(a) (1999). Once the statutory maximum no

longer limits the standard range, the standard range reverts back to that listed on the sentencing grid in RCW 9.94A.310 (1999).

The State acknowledges that the entry of 240 months as the standard range on Count V is incorrect. The correct standard range is 149-198 months as indicated above. Contrary to the claims of the defense, the error listing the standard range as 240 months did not double his standard range, since his standard range is 149-198 months. *See* Br. App. at 7.

This error does not occur on the plea form, which does not list the standard range. CP 3. Moreover, the letter communicating the State's offer specified that the defendant would have to agree to 240 months. CP (08-14-03 Motion for Relief from Judgment). The plea form did correctly inform the defendant that the State "will recommend 240 months incarceration" consecutive to cause no. 99-1-00817-2 and 99-1-07235-3.

However, the erroneous listing of the defendant's standard range as 240 months is a scrivener's error that does not render the plea invalid. *See State v. Mayer*, 128 Wn. App. 694, 702-03, 708, 117 P.3d 353 (2005). Indeed, this error can be easily corrected by the court by entry of the correct standard range on the judgment and sentence, which is the only relief to which this error entitles the defendant.

Reviewing the first error also demonstrates a second error with the judgment and sentence. The court imposed a sentence in excess of the standard range. That can only be done by way of an exceptional sentence. Here the court had authority to impose an exceptional sentence because

the defendant had an offender score of 17, which would result in the defendant's other current offenses going unpunished. However, in imposing the sentence of 240 months the court did not mark the box indicating that it was imposing an exceptional sentence. CP 10 (para. 2.4). In paragraph 4.2(a) of the Judgment and Sentence, there is pre-printed language that states "Standard range sentence shall be..." and the "consecutive" box is checked as to cause numbers 99-1-00817-2 and 99-1-02235-3. CP 15.

The trial court erred when it imposed a sentence outside the standard range without indicating that it was imposing an exceptional sentence. The defendant has not assigned error to this in support of his challenge to the court's denial of his motion to be resentenced. *See* Br. App. However, it is an error that renders the judgment and sentence invalid on its face. Accordingly, the court should address the issue now in the interest of judicial economy because the defendant would otherwise be entitled to raise it in a subsequent personal restraint petition. Moreover, under RAP 7.3 the court has authority to address the issue where doing so is "necessary or appropriate to secure the fair and orderly review of a case."

That the judgment and sentence imposes a sentence outside the standard range but fails to specify that the court was imposing an exceptional sentence is not a scrivener's error, and raises the question as to what relief it entitles the defendant.

Moreover, it is the State's position that the transcript from the original sentencing hearing is necessary to properly decide this issue. Where that was not included in the defendant's statements of arrangements, the defendant fails to provide relevant citation to the record in support of his claim so that his claim should be denied for failure to comply with RAP 10.3(a)(6). In the alternative the court should direct the defendant to supplement the record with the transcript from the sentencing hearing held on May 5, 2000.

2. THE DEFENDANT IS NOT ENTITLED TO A REDUCED SENTENCE, WHICH IS SOMETHING OTHER THAN SPECIFIC PERFORMANCE.

Where a plea agreement is violated, the defendant is entitled to make an initial choice of withdrawal of the plea or specific performance. *State v. Turley*, 149 Wn.2d 395, 400, 69 P.3d 338 (2003). Specific performance merely entitles the defendant to have the State comply with the agreement by recommending what he or she agreed to recommend. *State v. Barber*, 152 Wn. App. 223, 227, 217 P.3d 346 (2009). *See also In re Isadore*, 151 Wn.2d 294, 303, 88 P.3d 390 (2004)(the defendant is entitled to the sentence in the original plea agreement and where the fundamental principles of due process are at stake the terms of the plea agreement may be enforced); *State v. Lathrop*, 125 Wn. App. 353, 104 P.3d 737 (2005)(specific performance of a plea agreement only means that

the prosecutor is required to recommend what he or she agreed to recommend). Here the State not only agreed to recommend 240 months, to which the defendant was also required to agree. CP 85-87

Although the defendant has the initial choice of remedy, the court is not necessarily bound by that choice. *Turley*, 149 Wn.2d at 401. Once the defendant has elected his initial choice, the State then bears the burden of showing that the defendant's choice of remedy is not just. *Turley*, 149 Wn.2d at 401. Normally the State's showing must be compelling, but where a plea agreement includes multiple counts or charges, the State may make its showing based upon any one or all of the counts or charges. *Turley*, 149 Wn.2d at 401. The trial court then decides whether the State's reasons are compelling and whether the defendant's initial choice is unjust. *Turley*, 149 Wn.2d 395.

A guilty plea also generally waives any challenges by the defendant to the offender score because the agreed sentence is based in part on the defendant's criminal history, and because the plea agreement usually contains a stipulation to the criminal history. *State v. Harris*, 148 Wn. App. 22, 29, 197 P.3d 1206 (2008). And indeed, this case did include such a stipulation. CP 71-73. While a defendant cannot by way of a plea agreement agree to a sentence in excess of that authorized by statute, and therefore cannot waive a challenge to such a sentence, here the sentence was not in excess of statutory authority because the court had authority to impose an exceptional sentence based on the defendant's high offender

score which would result in the defendant's other crimes being unpunished.

Here, the remedy sought by the defendant is something other than specific performance and is therefore not something he is entitled to in the first place.

Further, the remedy the defendant seeks is not just where the defendant seeks to be resentenced based on a reduced offender score and that offender score is reduced because the defendant was entitled to withdraw his plea on the other case and the State had to dismiss those counts because its evidence had been destroyed in the long interim since the plea was entered.

The court could lawfully impose the sentence it did. The defendant's offender score on Count V was a 17 and on the other counts was a 10, so that the court could have imposed an exceptional sentence because several of his offenses would have gone unpunished.

The defendant seeks an overwhelming benefit by his actions in this case. Not only has he managed to have one case completely dismissed, he is also seeking thereby to have the sentence on this case substantially reduced because being resentenced based on the reduced offender score would further substantially reduce his sentence in this case where exclusion of the other criminal history would reduce his offender score to a 7 with a standard range of 108 to 144 months.

Here, the defendant killed a woman while committing the felony crime of possessing a stolen automobile. The State could have charged him with felony murder. There are a number of different ways the State could have offered a resolution with time substantially comparable to what the defendant received as a result of this agreement. Any of those alternatives would have preserved his sentence in this case notwithstanding his dismissal in the other case. What the defendant seeks is a remedy that permits him to prevent the State from returning to its original position and seeking a fair resolution based on the seriousness of this case. Instead he seeks a remedy that can only unilaterally benefit him by so substantially reducing his sentence as to constitute a windfall.

Where he killed someone as a consequence of his conduct in committing this crime, it shocks the conscience that he should be entitled to so benefit. Further, it would represent the grossest injustice, to the point of undermining the credibility of the legal system.

The trial court properly denied his request to be resentenced based on his lower offender score.

If the court determines that the defendant's plea was not validly entered, the remedy available to the defendant should be to withdraw his plea, which he apparently does not wish to do, or to provide him with specific performance. Under the plea agreement the State was entitled to ask for 240 months. Pursuant to the agreement, the defendant was entitled to ask for 149 months, which was the low end of his range at the time.

Upon any resentencing the State would be entitled to ask for the 240 months as allowed under the plea agreement. Since the sentence imposed fell within the range of specific performance, the trial court properly denied his motion to be resentenced.

The defendant claims that the parties never contemplated an exceptional sentence. However, that claim is mistaken insofar as the parties agreed all along that this case, cause number 99-1-05307-1 would run consecutive to cause numbers 99-1-00817-2 and 99-1-02235-3. Cases sentenced on the same day must be imposed concurrent to each other unless they are imposed by way of an exceptional sentence. It was clear that the State was in fact seeking an exceptional sentence.

3. THE DEFENDANT IS NOT YET ENTITLED TO RELIEF WHERE THE STATE HAS APPEALED THE TRIAL COURT'S ORDER ON THE OTHER CASE SO THAT IT IS NOT YET CERTAIN THAT THE DEFENDANT'S OFFENDER SCORE IS INCORRECT.

Even if the court were to disagree with the State and conclude that the defendant was entitled to be resentenced based on a lower offender score, such relief is premature at this time. That is because the order of dismissal on cause number 99-1-00817-2 is not yet final where it has been appealed and that appeal is still pending. See *In re Carter*, 154 Wn. App. 907, 230 P.3d 181 (2010); *In re Skylstad*, 160 Wn.2d 944, 947, 162 P.3d 413 (2007). For this reason, if the court were inclined to grant the

defendant relief, it should not do so until the mandate is entered on COA No. 40899-6 and the case is complete.

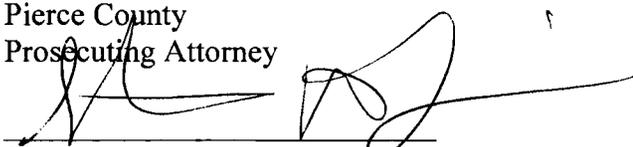
D. CONCLUSION.

The trial court did not err when it denied the defendant's motion to be resentenced based on a lower offender score. The incorrect listing of the standard range on the judgment and sentence is a scrivener's error which entitles the defendant to nothing more than correction. The fact that the court entered what was in effect an exceptional sentence without the box having been marked such also does invalidate the defendant's plea agreement, so that all he is entitled to is correction of that error. Even if the court were to hold that the plea was not valid, the only relief the defendant would be entitled to would be to withdraw his plea, or to receive specific performance. Specific performance consists of having the State make the same recommendation that it made in the original agreement, which here is the 240 months to which the defendant agreed to be sentenced.

The trial court did not err when it denied the defendant's motion to be resentenced based upon a lower offender score.

DATED: OCTOBER 8, 2010.

MARK LINDQUIST
Pierce County
Prosecuting Attorney


STEPHEN TRINEN
Deputy Prosecuting Attorney
WSB # 30925

Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

10-8-10 
Date Signature

FILED
COURT OF APPEALS
DIVISION II
10 OCT - 8 PM 3:15
STATE OF WASHINGTON
BY 
TRINEN

Appendix A
Statement of Defendant on Plea of Guilty on CA# 99-1-00817-2

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff,

vs.

James Chambers

Defendant.

CAUSE NO. 99-1-00817-2

STATEMENT OF DEFENDANT ON PLEA OF GUILTY

FILED
CRIMINAL DIV. 2
IN OPEN COURT

JUL 8 8 1999

JUL - 7 1999

TED RUTT, Clerk

By _____

DEPUTY

1. My true name is: James Chambers

2. My age is: 27

3. I went through the 9th grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is Steve GALT 1894.

(b) I am charged with the crime(s) of:

Count I: Unlawful Possession Controlled Substance with

Elements: Do Pierce Cty. intent to deliver with

possess A controlled substance with Deadly
intent to deliver to another; or with
and in course thereof have possession of deadly
weapon - 90"

This crime carries a maximum sentence of 10 years imprisonment and a \$ 20,000 fine. The standard range is from 108 months to 144 months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense[] Serious Violent[]
Violent[] Non-Violent[] Sex[] Drug[X]
Traffic[] (check all that apply)

STATEMENT OF DEFENDANT ON PLEA OF GUILTY - 1

Count II: Unlawful Manufacture of Controlled substance

Elements: In Pierce Cty, manufacture ^{with dead} A weapon
controlled substance, i.e. meth
and in course thereof have possession
of deadly weapon, i.e. ~~gun~~ rifle

This crime carries a maximum sentence of 10 years imprisonment and a \$ 20,000 fine. The standard range is from 149 months to 198 months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense[] Serious Violent[]
Violent[] Non-Violent[] Sex[] Drug~~[]~~
Traffic[] (check all that apply)

(c) 2 Additional counts are addressed in Appendix AI & AII

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

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

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

- (a) (i) This offense is a most serious offense as defined by RCW 9.94A.030(23), and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - 2

Count ~~I~~ ^{III}: Unlabeled Possession of Firearm 1^o

Elements: In Pierce Cty, possess A Firearm
After having been convicted of felony
(Class A or B)

This crime carries a maximum sentence of 10 years imprisonment and a \$ 20,000 fine. The standard range is from 41 months to 54 months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense[] Serious Violent[]
Violent[] Non-Violent[] Sex[] Drug[]
Traffic[] (check all that apply)

(c) Additional counts are addressed in Appendix .

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

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

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

- (a) (i) This offense is a most serious offense as defined by RCW 9.94A.030(23), and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - FAI

Count ^{IV} #: Unlawful Possession of Firearm 1P

Elements: Do Pierce Co., possess a firearm
After having been convicted of Felony
(Class A or B)

This crime carries a maximum sentence of 10 years imprisonment and a \$ 20,000 fine. The standard range is from 41 months to 54 months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense[] Serious Violent[]
Violent[] Non-Violent[] Sex[] Drug[]
Traffic[] (check all that apply)

(c) Additional counts are addressed in Appendix

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

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

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

- (a) (i) This offense is a most serious offense as defined by RCW 9.94A.030(23), and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - AA

- (ii) In addition, pursuant to RCW 9.94A.030(b)(i) ~~if this offense is (1) rape in the first degree, rape of a child in the first degree, rape in the second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child molestation in the first degree, or (2) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation, or (3) any attempt to commit any of the crimes listed in this sentence, and I have at least one prior conviction for one of these listed crimes in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]~~
- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere.
- (i) For crimes committed prior to July 1, 1997, criminal history always includes juvenile convictions for sex offenses and serious violent offenses. Criminal history also includes convictions in juvenile court for other felonies or serious traffic offenses that were committed when I was 15 years of age or older. Juvenile convictions, except those for class A felonies, serious violent offenses or sex offenses, count only if I was less than 23 years old when I committed the crime to which I am now pleading guilty.
- (ii) For crimes committed after July 1, 1997, criminal history always includes all juvenile adjudications or convictions.
- (c) The stipulation as to my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and

the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.

- (e) In addition to sentencing me to confinement, the judge will order me to pay \$ 500 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and attorney's fees.
- (f) If the total period of confinement ordered is 12 months or less, the court may impose, in addition to confinement, up to one year of community supervision. If the court imposes a sentence under a first time offender waiver, the court may impose, in addition to confinement, up to two years of community supervision. If the total period of confinement ordered is over one year, the court must impose a term of community placement or community custody, in addition to confinement, for certain offenses. Community placement for one year is a mandatory sentence condition for offenders sentenced to prison for the following offenses committed on or after July 1, 1988:

- any sex offense or serious violent offense committed before July 1, 1990;
- second degree assault;
- any crime against a person with a deadly weapon finding under RCW 9.94A.125; or
- any felony offense under RCW Chapter 69.50 or 69.52.

Community placement for two years is a mandatory sentence condition for offenders sentenced to prison for the following offenses:

- any sex offense committed after June 30, 1990 and before June 6, 1996;
- any serious violent offense committed after June 30, 1990; or
- any vehicular homicide or vehicular assault committed on or after June 6, 1996.

Community custody for three years is a mandatory sentence condition for offenders sentenced to prison for the following offenses:

- any sex offense committed on or after June 6, 1996.

During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities and may be ordered to

perform community service. My failure to comply with these conditions will render me ineligible for general assistance.

(g) The prosecuting attorney will make the following recommendation to the judge:

s/o sentencing
State's rec is open

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

(i) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(a)(i). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(j) I understand that the offense(s) I am ~~pleading~~ ^{pleading} guilty to include(s) a deadly weapon or firearm enhancement(s). ~~Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]~~

(k) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ shall be served consecutively to each other. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(l) The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030(22). This sentence could include as much as 90 days of confinement plus all the conditions described in paragraph (f). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed

course of study or occupational training. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

- (m) The judge may suspend execution of the standard range term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.120(8). If the judge suspends execution of the standard range term of confinement, I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater, I will be ordered to serve up to 180 days of total confinement, I will be ordered to participate in sex offender treatment, and I will be subject to all of the conditions described in paragraph (f). Additionally, the judge could require me to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (n) The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.120(6). This sentence could include a period of total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions described in paragraph (f). During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose one year of community custody that must include appropriate outpatient treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. Additionally, the judge could require me to devote time to specific employment or training, to stay out of certain areas, and to pay thirty dollars per month to offset the cost of monitoring. If a violation of the sentence occurs during community custody, the judge may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (o) If I have a driver's license and am convicted of any offense requiring mandatory license suspension or revocation, pursuant to RCW 46.20.270 and/or RCW 46.20.285, I must now surrender it to the judge. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (p) This plea of guilty will result in the suspension of public assistance, pursuant to RCW 74.08.290. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (q) This crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles; I will be required to undergo testing for the human

immunodeficiency (AIDS) virus. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

- (r) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
- (s) This crime involves a sex offense or a violent offense; I will be required to provide a sample of my blood for purposes of DNA identification analysis. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (t) Because this crime involves a sex offense, pursuant to RCW 9A.44.130(8)(a), or a kidnapping offense, pursuant to RCW 9A.44.130(8)(b), I will be required to register with the sheriff of the county of the state of Washington where I reside. If I am not a resident of Washington, but I am a student in Washington or I am employed in Washington or I carry on a vocation in Washington, I must register with the sheriff of the county of my school, place of employment, or vocation. I must register immediately upon being sentenced unless I am in custody, in which case I must register at the time of my release with the person designated by the agency that has me in custody and I must also register within 24 hours of my release with the sheriff of the county of the state of Washington where I will be residing, or if not residing in the state of Washington, where I am a student, where I am employed, or carry on a vocation.

If I leave this state following my sentencing or release from custody but later move back to Washington, I must register within 30 days after moving to this state or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections. If I leave this state following my sentencing or release from custody, but later, while not a resident of Washington, I become employed in Washington or carry out a vocation in Washington or attend school in Washington, I must register within 30 days after attending school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections.

If I change my residence within a county, I must send written notice of my change of residence to the sheriff within 72 hours of moving. If I change my residence to a new county within this state, I must send written notice of the change of address to the county sheriff in the new county of residence at least fourteen days before moving and I must register with the sheriff of the new county within 24 hours of moving and I must also give written notice of my change of address to the sheriff of the county where last registered within 10

days of moving. If I move out of Washington state, within 10 days of moving to the new state or foreign country, I must send written notice to the county sheriff with whom I last registered in Washington state.

If I am a resident of Washington and I am admitted to a public or a private institution of higher education, I shall, within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff of the county of my residence of my intent to attend the institution. [If not applicable, this section should be stricken and initialed by the defendant and the judge.]

- (u) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. (PURSUANT TO RCW 9.41.047(1), THE JUDGE SHALL READ THIS SECTION TO THE DEFENDANT IN OPEN COURT IF THE DEFENDANT IS PLEADING GUILTY TO A "SERIOUS OFFENSE" AS DEFINED UNDER RCW 9.41.010(12), A CRIME OF DOMESTIC VIOLENCE, OR A CRIME OF "HARASSMENT" AS DEFINED UNDER RCW 9A.46.060. THE CLERK SHALL FORWARD A COPY OF THE DEFENDANT'S DRIVER'S LICENSE IDENTICARD OR COMPARABLE IDENTIFICATION TO THE DEPARTMENT OF LICENSING ALONG WITH THE DATE OF CONVICTION.)
- (v) This crime involves the manufacture, delivery, or possession with the intent to deliver Methamphetamine or Amphetamine; a mandatory methamphetamine clean-up fine of \$3,000.00 will be assessed. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (w) Because this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as define in RCW 46.61.5055(8)(b). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (x) I understand that the offenses I am pleading guilty to include both a conviction under RCW 9.41.040 for unlawful possession of a firearm in the first or second degree and one or more convictions for the felony crimes of theft of a firearm or possession of a stolen firearm. The sentences imposed for these crimes shall be served consecutively to each other. For crimes committed after June 10, 1998, a consecutive sentence will also be imposed for each firearm unlawfully possessed. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(y) This offense is a violation of Chapter 69.50 RCW other than RCW 69.50.401(d); if I have a prior conviction under this Chapter or under any statute of the United States or of any State relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs, then I may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(z) An additional 24 months shall be added to the presumptive sentence for any ranked offense involving a violation of Chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

7. I plead guilty to the crime(s) of OPCSWID¹, ~~UM25~~¹, OPOF¹⁰ as charged in the ~~AMENDED~~ information. I have received a copy of that information.
 w/dwse w/dwse
- ORIGINAL

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

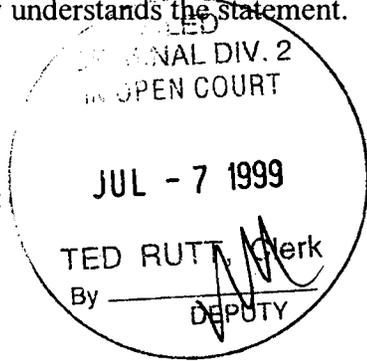
10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement: I am entering plea of guilty in order to take advantage of State's recommendation. I understand there exists sufficient evidence to convict me had I gone to trial.
X [Signature]

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

X [Signature]
Defendant

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



Approved for entry:

[Signature]
Defendant's Lawyer
WSBA # 18911

[Signature]
Prosecuting Attorney
WSBA# 23129

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

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

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

Dated this 7th day of July, 1999

[Signature]
Judge THOMAS J. FELNAGLE

*INTERPRETER'S DECLARATION

I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands, and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this _____ day of _____, _____.

Interpreter

Appendix B
Judgment and Sentence on CA# 99-1-00817-2

1
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4 Count No.: II
 Crime: UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE, Charge
 Code: (J8M)METHAMPHETAMINE SCHEDULE II
 RCW: 9.41.010, 9.94A.310, 9.94A.370 and 69.50.401(a)(1)(ii)
 Date of Crime: 02-23-99
 Incident No.: 990470560 TPD

7
8 Count No.: III
 Crime: UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE,
 Charge Code: (GG666)
 RCW: 9.41.040(1)(a)
 Date of Crime: 02-23-99
 Incident No.: 990470560 TPD

11
12 Count No.: IV
 Crime: UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE,
 Charge Code: (GG666)
 RCW: 9.41.040(1)(a)
 Date of Crime: 02-23-99
 Incident No.: 990470560 TPD

- 14
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16 [] Additional current offenses are attached in Appendix 2.1.
 17 [] A special verdict/finding for use of deadly weapon other than a
 firearm was returned on Count(s).
 18 [] A special verdict/finding for use of a firearm was returned on
 Counts_____.
 19 [] A special verdict/finding of sexual motivation was returned on
 Count(s)_____.
 20 [] A special verdict/finding of a RCW 69.50.401(a) violation in a
 school bus, public transit vehicle, public park, public transit
 21 shelter or within 1000 feet of a school bus route stop or the
 perimeter of a school grounds (RCW 69.50.435).
 22 [] Other current convictions listed under different cause numbers used
 in calculating the offender score are (list offense and cause
 number):

- 23
24
25 [] Current offenses encompassing the same criminal conduct and
 counting as one crime in determining the offender score are (RCW
 9.94A.400(1)):

26
27 2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history
 for purposes of calculating the offender score are (RCW
 9.94A.360):

28
JUDGMENT AND SENTENCE
 FELONY / OVER ONE YEAR - 2

<u>Crime</u>	<u>Sentencing Date</u>	<u>Adult or Juv. Crime</u>	<u>Date of Crime</u>	<u>Crime Type</u>
UMCS	11-09-95	A	09-25-95	

plus additional criminal history 99-1-03 307-]

- [] Additional criminal history is attached in Appendix 2.2.
- [] Prior convictions served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(5)(a)):

2.3 SENTENCING DATA:

	<u>Offender Score</u>	<u>Serious Level</u>	<u>Standard Range(SR)</u>	<u>Enhancement</u>	<u>Maximum Term</u>
Count I:	17	X	149-198	+36	20 YEARS
Count II:	17	VIII	108-144	+36	20 YEARS
Count III:	10	VII	36-48	87-116	10 YEARS
Count IV:	10	VII	36-48	87-116	10 YEARS

- [] Additional current offense sentencing data is attached in Appendix 2.3.

2.4 EXCEPTIONAL SENTENCE:

- [] Substantial and compelling reasons exist which justify an exceptional sentence
 - [] above [] within [] below the standard range for Count(s) _____.
- Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney [] did [] did not recommend a similar sentence.

2.5 RECOMMENDED AGREEMENTS:

- [] For violent offenses, serious violent offenses, most serious offenses, or any felony with a deadly weapon special verdict under RCW 9.94A.125; any felony with any deadly weapon enhancements under RCW 9.94A.310(3) or (4) or both; and/or felony crimes of possession of a machine gun, possessing a stolen firearm, reckless endangerment in the first degree, theft of a firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun, the recommended sentencing agreements or plea agreements are [] attached [X] as follows:

JUDGMENT AND SENTENCE
FELONY / OVER ONE YEAR - 3

Same as sentence imposed

2.6 RESTITUTION:

- Restitution will not be ordered because the felony did not result in injury to any person or damage to or loss of property.
- Restitution should be ordered. A hearing is set for _____.
- Extraordinary circumstances exist that make restitution inappropriate. The extraordinary circumstances are set forth in Appendix 2.5.
- Restitution is ordered as set out in Section 4.1, LEGAL FINANCIAL OBLIGATIONS.

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

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

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

III. JUDGMENT

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

IV. SENTENCE AND ORDER

JUDGMENT AND SENTENCE
FELONY / OVER ONE YEAR - 4

IT IS ORDERED:

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

\$ _____, Restitution to: _____

\$ 110.00, Court costs (filing fee, jury demand fee, witness costs, sheriff service fees, etc.);

\$ 500.00, Victim assessment;

\$ 3000, Fine; ~~the~~ VUCSA additional fine waived due to indigency (RCW 69.50.430);

\$ _____, Fees for court appointed attorney;

\$ _____, Washington State Patrol Crime Lab costs;

\$ _____, Drug enforcement fund of _____;

\$ _____, Other costs for: _____;

\$ _____, TOTAL legal financial obligations [] including restitution [] not including restitution.

[] Minimum payments shall be not less than \$ _____ per month. Payments shall commence on _____.

[] The Department of Corrections shall set a payment schedule.

[] Restitution ordered above shall be paid jointly and severally with:

Name	Cause Number
_____	_____
_____	_____

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

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

JUDGMENT AND SENTENCE
FELONY / OVER ONE YEAR - 5

99-1-00817-1

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

Bond is hereby exonerated.

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JUDGMENT AND SENTENCE
FELONY / OVER ONE YEAR - 6

Office of Prosecuting Attorney
946 County-City Building
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

4.2 CONFINEMENT OVER ONE YEAR: The defendant is sentenced as follows:

(a) CONFINEMENT: (Standard Range) RCW 9.94A.400. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections:

<u>149</u>	months on Count No. <u>I</u>	<input checked="" type="checkbox"/>	concurrent	<input type="checkbox"/>	consecutive
<u>144</u>	months on Count No. <u>II</u>	<input checked="" type="checkbox"/>	concurrent	<input type="checkbox"/>	consecutive
<u>116</u>	months on Count No. <u>III</u>	<input checked="" type="checkbox"/>	concurrent	<input type="checkbox"/>	consecutive
<u>116</u>	months on Count No. <u>IV</u>	<input checked="" type="checkbox"/>	concurrent	<input type="checkbox"/>	consecutive

(b) CONFINEMENT (Sentence Enhancement): A special finding/verdict having been entered as indicated in Section 2.1, the defendant is sentenced to the following additional term of total confinement in the custody of the Department of Corrections:

<u>36</u>	MONTHS ON COUNT	<u>I</u>
<u>36</u>	MONTHS ON COUNT	<u>II</u>
_____	MONTHS ON COUNT	_____
_____	MONTHS ON COUNT	_____

TOTAL MONTHS CONFINEMENT ORDERED: 72

Sentence enhancements in Counts I & II shall run
 concurrent consecutive to each other.
 Sentence enhancements in Counts I & II shall be served
 flat time subject to earned good time credit.

Standard range sentence shall be concurrent consecutive with the sentence imposed in Cause Nos.: 99-1-02235-3
but consecutive to 99-1-05307-1

Credit is given for 179 (days) served;

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

COMMUNITY CUSTODY (RCW 9.94A.120(1)). Because this was a sex offense that occurred after June 6, 1996, the defendant is sentenced to community custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150(1) and (2), whichever is longer.

While on community placement or community custody, the defendant shall: 1) report to and be available for contact with the assigned community corrections officer as directed; 2) work at Department of Corrections-approved education, employment and/or community service; 3) not consume controlled substances except pursuant to lawfully issued prescriptions; 4) not unlawfully possess controlled substances while in

JUDGMENT AND SENTENCE
FELONY / OVER ONE YEAR - 7

community custody; 5) pay supervision fees as determined by the Department of Corrections; 6) residence location and living arrangements are subject to the approval of the department of corrections during the period of community placement.

- (a) [] The offender shall not consume any alcohol;
- (b) The offender shall have no contact with: _____
- (c) [] The offender shall remain [] within or [] outside of a specified geographical boundary, to-wit: _____
- (d) The offender shall participate in the following crime related treatment or counseling services: _____
- (e) The defendant shall comply with the following crime-related prohibitions: all conditions of DOC
NO use / poss drugs UAS to monitor NO assoc with any users/sales
- (f) [] OTHER SPECIAL CONDITIONS AND CRIME RELATED PROHIBITIONS: _____
- (g) [] HIV TESTING. The Health Department or designee shall test the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. (RCW 70.24.340)
- (h) [] DNA TESTING. The defendant shall have a blood sample drawn for purpose of DNA identification analysis. The Department of Corrections shall be responsible for obtaining the sample prior to the defendant's release from confinement. (RCW 43.43.754)

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

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

FIREARMS: PURSUANT TO RCW 9.41.040, YOU MAY NOT OWN, USE OR POSSESS ANY FIREARM UNLESS YOUR RIGHT TO DO SO IS RESTORED BY A COURT OF RECORD.

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

JUDGMENT AND SENTENCE
FELONY / OVER ONE YEAR - 8

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

Date: 3-17-2000

[Signature]
JUDGE

Presented by:
[Signature]
THOMAS C. ROBERTS
Deputy Prosecuting Attorney
WSB # 19013

Approved as to form:
[Signature]
STEPHEN J. GANT
Lawyer for Defendant
WSB # _____

wjj



JUDGMENT AND SENTENCE
FELONY / OVER ONE YEAR - 9

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The defendant having been sentenced to the Department of Corrections for a:

- sex offense
- serious violent offense
- assault in the second degree
- any crime where the defendant or an accomplice was armed with a deadly weapon
- any felony under 69.50 and 69.52 committed after July 1, 1988 is also sentenced to one (1) year term of community placement on these conditions:

The offender shall report to and be available for contact with the assigned community corrections officer as directed:

The offender shall work at Department of Corrections approved education, employment, and/or community service;

The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions:

An offender in community custody shall not unlawfully possess controlled substances;

The offender shall pay community placement fees as determined by DOC:

The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

The offender shall submit to affirmative acts necessary to monitor compliance with court orders as required by DOC.

The Court may also order any of the following special conditions:

- (I) The offender shall remain within, or outside of, a specified geographical boundary:

- (II) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals: users or sellers of drugs
- (III) The offender shall participate in crime-related treatment or counseling services;
- (IV) The offender shall not consume alcohol;
- (V) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or
- (VI) The offender shall comply with any crime-related prohibitions.
- (VII) Other: _____

FINGERPRINTS

Right Hand

Fingerprint(s) of: JAMES JOHN CHAMBERS, Cause #99-1-00817-2

Attested by: Ted Rutt, CLERK.

By: DEPUTY CLERK Judith E. Whitmer

Date: 3-17-00

CERTIFICATE

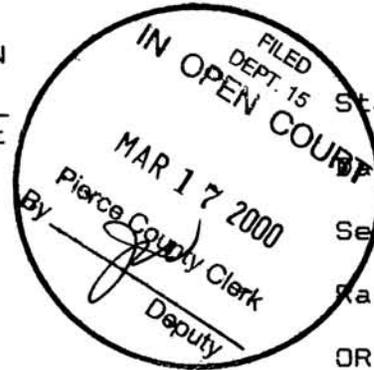
OFFENDER IDENTIFICATION

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

Dated: _____

CLERK

By: _____
DEPUTY CLERK



State I.D. #WA16025065

Date of Birth 04-23-72

Sex M

Race W

ORI _____

OCA _____

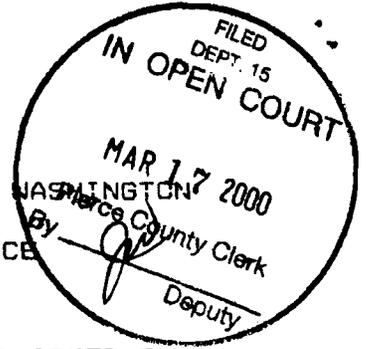
OIN _____

DOA _____



FINGERPRINTS

Appendix C
Judgment and Sentence on CA#



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

STATE OF WASHINGTON,
Plaintiff,
vs.
JAMES JOHN CHAMBERS,
Defendant.

CAUSE NO. 99-1-02235-3
WARRANT OF COMMITMENT
1) County Jail
2) Dept. of Corrections
3) Other - Custody

MAR 17 2000

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF
PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

- 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).
 - 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and
- YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody).

[] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement or placement not covered by Sections 1 and 2 above).

Dated: 3-17-2000

By direction of the Honorable

[Signature]

JUDGE

TED RUTT

CLERK

By: [Signature]

DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF

Date MAR 17 2000 By [Signature] Deputy

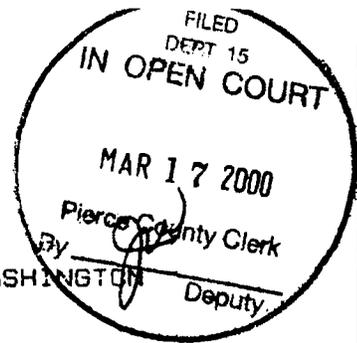


STATE OF WASHINGTON, County of Pierce ss: I, Ted Rutt, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this _____ day of _____, 19__.

TED RUTT, Clerk

By: _____ Deputy



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

STATE OF WASHINGTON,
Plaintiff,
vs.
JAMES JOHN CHAMBERS,
Defendant.
DOB: 04-23-72
SID NO.: WA16025063
LOCAL ID:

CAUSE NO. 99-1-02235-3
JUDGMENT AND SENTENCE

MAR 17 2000

(FELONY)

I. HEARING

1.1 A sentencing hearing in this case was held on 3-17-2000.
1.2 The defendant, the defendant's lawyer, Lance Hester, ~~STEPHEN J. GANT~~, and the
deputy prosecuting attorney, THOMAS C. ROBERTS, were present.

II. FINDINGS

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

2.1 CURRENT OFFENSES(S): The defendant was found guilty on 7-7-99 by
 plea jury-verdict bench trial of:

Count No.: I
Crime: UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE, Charge
Code: (J1)METHAMPHETAMINE SCHEDULE II
RCW: 69.50.401(d)
Date of Crime: 05-23-99
Incident No.: 991430185 PCSO

- Additional current offenses are attached in Appendix 2.1.
- A special verdict/finding for use of deadly weapon was returned on Count(s).
- A special verdict/finding of sexual motivation was returned on Count(s).

JUDGMENT AND SENTENCE
(FELONY) - 1

ENTERED
JUDGEMENT

00-9-(03295-2

Office of Prosecuting Attorney
946 County-City Building
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

001980.2973

- A special verdict/finding of a RCW 69.50.401(a) violation in a school bus, public transit vehicle, public park, public transit shelter or within 1000 feet of a school bus route stop or the perimeter of a school grounds (RCW 69.50.435).
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

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

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

<u>Crime</u>	<u>Sentencing Date</u>	<u>Adult or Juv. Crime</u>	<u>Date of Crime</u>	<u>Crime Type</u>
UMCS	11-09-95	A	10-26-95	
<i>plus criminal history on 99-1-05307-1 & 99-1-00817-2</i>				

- Additional criminal history is attached in Appendix 2.2.
- Prior convictions served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(5)(a)):

2.3 SENTENCING DATA:

	<u>Offender Score</u>	<u>Seriousness Level</u>	<u>Range Months</u>	<u>Maximum Years</u>
Count No. 1:		I	4-12	5 YEARS/\$10,000
<i>Neither concurrent convictions on 98-1-00817-2</i>				

- Additional current offense sentencing data is attached in Appendix 2.3.

2.4 EXCEPTIONAL SENTENCE:

- Substantial and compelling reasons exist which justify a sentence above below the standard range for Count(s)____. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney did did not recommend a similar sentence.

JUDGMENT AND SENTENCE
(FELONY) - 2

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2.5 RECOMMENDED AGREEMENTS:

[] For violent offenses, most serious offenses or armed offenders recommended sentencing agreements or plea agreements are [] attached [] as follows:

2.6 RESTITUTION:

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

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

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

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

THE FINANCIAL OBLIGATIONS IMPOSED IN THIS JUDGMENT SHALL BEAR INTEREST FROM THE DATE OF THE JUDGMENT UNTIL PAYMENT IN FULL, AT THE RATE APPLICABLE TO CIVIL JUDGMENTS. RCW 10.82.090. AN AWARD OF COSTS ON

JUDGMENT AND SENTENCE (FELONY) - 3

APPEAL AGAINST THE DEFENDANT MAY BE ADDED TO THE TOTAL LEGAL FINANCIAL OBLIGATIONS. RCW 10.73.

2.8 SPECIAL FINDINGS PURSUANT TO RCW 9.94A.120:

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

III. JUDGMENT

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

3.2 The court DISMISSES.

IV. SENTENCE AND ORDER

IT IS ORDERED:

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

\$ 0, Restitution to: _____

\$ 110.00, Court costs (filing fee, jury demand fee, witness costs, sheriff service fees, etc.);

\$ 500.00, Victim assessment;

\$ 250.00, Fine; VUCSA additional fine waived due to indigency (RCW 69.50.430);

\$ _____, Fees for court appointed attorney;

\$ _____, Washington State Patrol Crime Lab costs;

JUDGMENT AND SENTENCE (FELONY) - 4

\$ _____, Drug enforcement fund of _____;

\$ _____, Other costs for: _____;

\$ ~~6000~~ 860.00 TOTAL legal financial obligations including restitution [] not including restitution.

[] Minimum payments shall be not less than \$ _____ per month. Payments shall commence on _____.

The Department of Corrections shall set a payment schedule.

[] Restitution ordered above shall be paid jointly and severally with:

Name	Cause Number
_____	_____
_____	_____
_____	_____

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

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

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

Bond is hereby exonerated.

JUDGMENT AND SENTENCE
(FELONY) - 5

4.2 CONFINEMENT ONE YEAR OR LESS: The court imposes the following sentence:

(a) TOTAL CONFINEMENT: Defendant is sentenced to following term of total confinement in the County Jail commencing

29 days/months on Count No. I [] concurrent [] consecutive
 days/months on Count No. [] concurrent [] consecutive
 days/months on Count No. [] concurrent [] consecutive

[] Actual number of days of total confinement ordered is:

This sentence shall be concurrent [] consecutive with the sentence in with 99-1-00817-2 but consecutive to 99-1-05307-1

Credit is given for 179 days served.

[] Confinement shall be intermittent as follows:

(b) ALTERNATIVE CONVERSION PURSUANT TO RCW 9A.94A.380:

days of actual total confinement imposed above shall be converted to:

[] days of partial confinement.

[] Partial confinement shall be served in work release.

[] Partial confinement shall be served in home detention.

[] hours of community service under the supervision of the Department of Corrections to be completed within months of [] this date [] release from confinement.

[] Alternative conversion was not used because:

(c) ^{placement} COMMUNITY SUPERVISION: Defendant shall serve 12 months in community ^{placement} ~~supervision~~ under the Department of Corrections. ~~Defendant must contact the Department of Corrections at 735 Tacoma Avenue South, Tacoma upon release or by .~~ Defendant shall comply with all rules, regulations and requirements of the Department.

(d) CRIME RELATED PROHIBITIONS AND OTHER REQUIREMENTS: Crime related prohibitions and other requirements are attached.

(e) [] HIV TESTING. ^{all conditions of Doc} The Health Department or designee shall test the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing.

(f) [] DNA TESTING. The defendant shall have a blood sample drawn for purpose of DNA identification analysis. The county shall be responsible for obtaining the sample prior to the defendant's release from confinement.

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

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

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

FIREARMS: PURSUANT TO RCW 9.41.040, YOU MAY NOT OWN, USE OR POSSESS ANY FIREARM UNLESS YOUR RIGHT TO DO SO IS RESTORED BY A COURT OF RECORD.

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

Date: 3-17-2000

[Signature]
JUDGE

Presented by:

Approved as to form:

[Signature]
Deputy Prosecuting Attorney
WSB # 19045

Lawyer for Defendant
WSB # _____

wjj



SENTENCE ONE YEAR OR LESS - 2

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FINGERPRINTS

Right Hand
Fingerprint(s) of: JAMES JOHN CHAMBERS, Cause #99-1-02235-3

Attested by: Ted Rutt, CLERK.

By: DEPUTY CLERK Judith E. Whitmer

Date: 3-17-00

CERTIFICATE

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

Dated: _____

CLERK

By: _____

DEPUTY CLERK

OFFENDER IDENTIFICATION

State I.D. # WA16025063

Date of Birth 04-23-72

Sex M

Race W

ORI _____

OCA _____

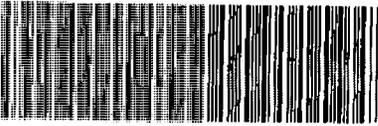
OIN _____

DOA _____



FINGERPRINTS

Appendix D
Motion to Vacate Judgment, Motion to Withdraw Guilty Plea and Motion for Specific
Performance
Memorandum in support thereof
Declaration in support thereof



99-1-00817-2 33843385 MTV 03-01-10

The Honorable Thomas Feltnagle, Judge
Department 15

Hearing Date: 03/15/2010 @ 1:30 p.m.

FILED
IN COUNTY CLERK'S OFFICE

A.M. FEB 26 2010 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

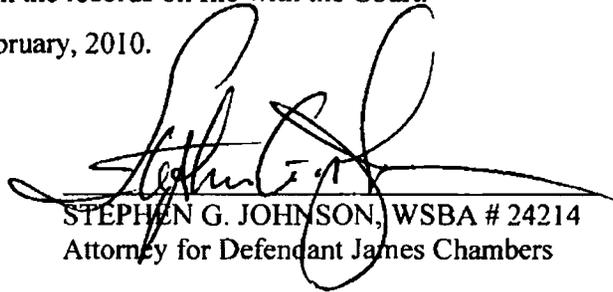
IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

9	STATE OF WASHINGTON,)	No. 99-1-00817-2
10	Plaintiff,)	
11	Vs.)	MOTION TO VACATE JUDGMENT,
12	JAMES JOHN CHAMBERS,)	MOTION TO WITHDRAW GUILTY
13	Defendant,)	PLEA, AND MOTION FOR SPECIFIC
14)	PERFORMANCE

COMES NOW the Defendant James John Chambers, by and through his attorney Stephen G. Johnson, to move the court for orders, pursuant to CrR 4.2(f) and 7.8, modifying the judgment and sentence in the above-captioned matter in Counts I and Counts II, and to withdraw the guilty pleas in the above-captioned matter, in Counts III and IV.

This motion is based upon the accompanying memorandum of authorities, the declaration and exhibits in support thereto, and upon the records on file with the Court.

DATED THIS 26th day of February, 2010.


STEPHEN G. JOHNSON, WSBA # 24214
Attorney for Defendant James Chambers

MOTION TO VACATE JUDGMENT,
MOTION TO WITHDRAW GUILTY
PLEA, AND MOTION FOR SPECIFIC
PERFORMANCE—Page 1

ORIGINAL

Stephen G. Johnson, JD
Attorney at Law
925 South Ridgewood Avenue
Tacoma, WA 98405
Telephone: (253) 370-3931
Facsimile: (253) 238-1425

II
Facts

On or about February 24, 1999, Defendant James John Chambers was charged by Information with one (1) count of Unlawful Possession of a Controlled Substance with Intent to Deliver (Count I), one (1) count of Unlawful Manufacturing of a Controlled Substance (Count II), and two (2) counts of Unlawful Possession of a Firearm in the First Degree (Counts III and IV). See, Exhibit A to DECLARATION IN SUPPORT OF DEFENDANT'S MOTION TO VACATE JUDGMENT, ET AL. (henceforth Johnson Declaration). See also, court file.

On or about July 7, 1999, Defendant, with the assistance of counsel, entered into an *Alford/Newton* plea as charged. See, Johnson Declaration, Exhibit B. Counts I and II of the original information do not include any notice to the Defendant that the State of Washington would be seeking to permissively double the jurisdictional maximum pursuant to RCW 69.40.408(1). See, Exhibit A. According to the Statement of Defendant on Plea of Guilty, no particular sentencing recommendation was made (See, page 5 of Exhibit B), but paragraph (y) (See, page 9 of Exhibit B) is stricken. Further, the Defendant was advised that the maximum sentence that could be imposed on Counts I and II was "10 years imprisonment," and not doubled pursuant to RCW 69.40.408(1). See, page 1 and 2 of Exhibit B. Defendant, however, was sentenced pursuant to RCW 69.40.408(1). See, court file.

Defendant was sentenced to a sentence consecutive to Pierce County Superior Court Cause Number 99-1-05307-1 per the demand of the Pierce County Prosecutor's Office. See, Johnson Declaration, Exhibit C.

III
Authorities and Arguments

A
Specific Performance for Counts I and II

Defendant seeks an order from the Court modifying the judgment imposed under Counts I and II; specifically, that the sentences should have not included the RCW 69.40.408(1) doubling. Defendant chooses the remedy of specific performance to accomplish this end.

The State enters into a contract with a defendant when it offers a plea bargain and the defendant accepts. See, e.g. State v. Talley, 134 Wn.2d 176, 949 P.2d 358 (1998); State v.

1 Sledge, 133 Wn.2d 828, 947 P.2d 1199 (1997); State v. Choppin, 57 Wn.App. 866, 791 P.2d
 2 228, review denied, 115 Wn.2d 1011, 797 P.2d 512 (1990). Because a defendant gives up
 3 important constitutional rights by agreeing to a plea offer, the State must adhere to its terms by
 4 recommending the agreed upon sentence. Talley, 134 Wn.2d at 183; In Re Palodichuk, 22
 5 Wn.App. 107, 109-10, 589 P.2d 269 (1978).

6 In State v. Goodwin, 146 Wn.2d 861, 50 P.3d 618 (2002), the defendant entered into a
 7 plea bargain and stipulated to an offender score. Thereafter the Supreme Court decided a series
 8 of cases dealing with the washout provisions for juvenile offenses. As a result of those cases,
 9 Mr. Goodwin determined that his offender score was incorrect and he filed a personal restraint
 10 petition. Although conceding that the offender score was incorrect, the State contended
 11 Goodwin waived the issue by stipulating to an erroneous criminal history and, alternatively, he
 12 breached the plea agreement by collaterally attacking his sentence. Goodwin, at 865. In
 13 rejecting the State's contentions, the court referred to In Re Pers. Restraint of Carle, 93 Wn.2d
 14 31, 604 P.2d 1293 (1980) "when a sentence has been imposed for which there is no authority in
 15 law, the trial court has the power and the duty to correct the erroneous sentence, when the error is
 16 discovered." Carle, at 33.

17 The State maintains, however, that Goodwin cannot show a complete
 18 miscarriage of justice because he agreed to the criminal history in the plea
 19 agreement and the State has detrimentally relied on that agreement. The State
 20 says that the miscalculated offender score resulted from a mutual mistake. The
 21 State contends that the usual remedy is the defendant's withdrawal of his guilty
 22 plea, leaving the State free to reinstate the original charges. Here, the State says
 23 it cannot reinstate the original charges because the statute of limitations has run.
 24 The State urges that the court should leave the parties as it found them since the
 25 mistake cannot be corrected.

26 We reject this argument. Our focus is not the voluntariness of the plea
 27 agreement¹, nor are we engaging in a balancing process, weighing the harm to
 28 the State versus the harm to the personal restraint petitioner. Rather, we are
 considering a fundamental defect, which is not of constitutional magnitude, and
 whether that defect has resulted in a complete miscarriage of justice. As noted,
 this court has already held that a sentence based upon a miscalculated offender
 score is a fundamental defect that results in a complete miscarriage of justice. []
 We conclude that the fact that a negotiated plea agreement was involved here
 does not require any other conclusion. First, that holding is in keeping with the
 court's precedent. As explained, the court had granted relief to personal
 restraint petitioners in the form of resentencing within statutory authority where

¹ Footnote 6 of the opinion states "The State's proposed remedy is, in any event, incorrect where a plea agreement is
 involuntary because based on a mutual mistake. As the court observed in State v. Walsh, 143 Wn.2d 1, 8-9, 17 P.3d
 591 (2001), in such a case the defendant ordinarily has the choice of specific enforcement or withdrawal of the
 guilty plea, unless there are compelling reasons not to allow defendant's choice of remedy."

1 a sentence in excess of that authority had been imposed, without regard to the
 2 plea agreements involved. [] Correcting an erroneous sentence in excess of
 3 statutory authority does not affect the finality of that portion of the judgment and
 4 sentence that was correct and valid when imposed. [] The court has also
 5 recognized, on direct appeal, that the erroneous portion of a sentence in excess
 6 of statutory authority must be reversed, and a plea agreement to the unlawful
 7 sentence does not bind the defendant. []

8 Goodwin, at 877 (citations omitted).

9 Thus, where the defendant's sentence is invalid, it is the defendant's choice as to specific
 10 enforcement of the plea agreement or withdrawal of the guilty plea. See also, State v. Turley,
 11 149 Wn.2d 395, 399, 69 P.3d 338 (2003), *citing State v. Miller*, 110 Wn.2d 528, 536, 756 P.2d
 12 122 (1988). The State then bears the burden of showing that the chosen remedy is unjust and
 13 compelling reasons exist to not allow that remedy. Turley, at 401, Miller, at 535.

14 In State v. Miller, 110 Wn.2d 528, 756 P.2d 122 (1988), the defendant plead guilty as
 15 charged to first degree murder. Under the terms of the plea agreement the State would
 16 recommend low end of 240 months but defense could argue for an exceptional sentence below
 17 the standard range. At the time of the plea, neither the defense nor the State were aware that the
 18 first degree murder carried a mandatory minimum of 240 months. The court discusses the
 19 remedies available to a defendant when a plea bargain contains a mistake as to sentencing
 20 consequences:

21 We have held that where fundamental principles of due process so dictate, the
 22 specific terms of a plea agreement based on a mistake as to sentencing
 23 consequences may be enforced despite the explicit terms of a statute. State v.
 24 Cosner, 85 Wn.2d 45, 530 P.2d 317 (1975).

25 In Cosner, petitioners Cramer and Christian pleaded guilty after being informed
 26 that the mandatory minimum would be 5 years. The petitioners were not
 27 advised that, because of a prior felony conviction, the special finding they were
 28 armed with deadly weapons would result in 7½ and 8½ year mandatory
 minimum terms, respectively. Cosner, at 49-50. This court stated:

Petitioners Cramer and Christian, while advised of the
 involvement of a mandatory minimum were, nevertheless,
 misinformed as to the length thereof. Their petitions are
 accordingly granted to the extent that the Board of Prison
 Terms and Paroles is directed to reduce their mandatory
 minimum terms in accordance with their understanding of the
 length thereof at the time of their pleas.

Cosner, at 51-52.

Cosner demonstrates that the court is not absolutely bound by the statutory
 mandatory minimum where it conflicts with the terms of a plea agreement.

MEMORANDUM IN SUPPORT OF
 MOTION TO VACATE JUDGMENT,
 MOTION TO WITHDRAW GUILTY
 PLEA, AND MOTION FOR SPECIFIC
 PERFORMANCE—Page 4

Stephen G. Johnson, JD
 Attorney at Law
 925 South Ridgewood Avenue
 Tacoma, WA 98405
 Telephone: (253) 370-3931
 Facsimile: (253) 238-1425

1 Accord, In Re Williams, 21 Wn.App. 238, 538 P.2d 1262 (1978). Defendant's
 2 constitutional rights under plea agreements take priority over statutory
 3 provisions. See, In Re James, 96 Wn.2d 847, 849, 640 P.2d 18 (1982). We
 4 decline to hold here that withdrawal of a plea is the only legal remedy where the
 5 plea agreement clashes with the Sentencing Reform Act of 1981.

6 Miller, at 532-33 (footnote omitted).

7 Although we affirm the Court of Appeals, we cannot completely agree with the
 8 reasons used by it. It held the fact that Miller had not yet been sentenced
 9 controlling, stating that the trial court should not allow specific performance and
 10 knowingly impose a sentence that violates the sentencing reform act. Miller, [48
 11 Wn.App. 625] at 630. However, the integrity of a plea bargain process requires
 12 that the defendants be entitled to rely on plea bargains as soon as the court has
 13 accepted the plea. State v. Tourtellotte, [88 Wn.2d 579] supra at 585. The trial
 14 court is required to determine the validity of the plea agreement before accepting
 15 the plea. RCW 9.94A.090. It is at this point that the defendant is entitled to rely
 16 on the benefit of the bargain, not the time of sentencing.

17 Miller, at 536.

18 The Miller court also addressed the weight to be accorded to the defendant's desires in
 19 his selection of the appropriate remedy:

20 In Tourtellotte we held: "a court ought to accord a defendant's preference
 21 considerable, if not controlling, weight inasmuch as the fundamental rights
 22 flouted by a prosecutor's breach of a plea bargain are those of the defendant, not
 23 of the State." 88 Wn.2d at 585, quoting Santobello v. New York, 404 U.S. 257,
 24 26, 30 L.Ed.2d 427, 92 S.Ct. 495 (1971) (Douglas, J. concurring).[] Although
 25 this case does not involve a prosecutor's deliberate breach of a plea agreement,
 26 the defendant's preference as to remedy should be the primary focus of the
 27 court. To the extent that Pope holds the court, rather than the defendant, is
 28 entitled to the choice of remedy, it is incorrect.

29 Miller, at 534 (footnote omitted). Thus, it is the Defendant's choice of remedy that controls
 30 "unless there are compelling reasons not to allow that remedy." Miller, at 535.

31 As outlined in Section II, infra., the RCW 69.40.408(1) doubler should not have been
 32 imposed against the Defendant. First, according to the changing document, RCW 69.40.408(1)
 33 was not sought by the State of Washington. Second, the plea paperwork specifically struck
 34 paragraph (y), and was endorsed by the State of Washington when signed off. As such, a
 35 sentence pursuant to RCW 69.40.408(1) should not have been imposed, and should be vacated
 36 and modified.

37 ////

38 ////

39 ////

MEMORANDUM IN SUPPORT OF
 MOTION TO VACATE JUDGMENT,
 MOTION TO WITHDRAW GUILTY
 PLEA, AND MOTION FOR SPECIFIC
 PERFORMANCE—Page 5

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B

Withdraw Guilty Plea For Counts III and IV

CrR 4.2(f) states that:

The court shall allow a defendant to withdraw the defendant's plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice.

In State v. Pugh, Division II Cause No. 38149-4-II (December 15, 2009), the Court of Appeals stated that "manifest injustice" means "an injustice that is obvious, directly observable, overt, [and] not obscure." Division II of the Court of Appeals, ruling in the Defendant's PRP petition, states:

Third, Chambers challenges his convictions for Counts III and IV. He contends that he cannot be guilty of first degree unlawful possession of a firearm because that crime requires him to have been previously convicted of a "serious offense." RCW 9.41.040(1)(a). He contends that his prior conviction, for unlawful manufacture of marijuana, was a Class C felony, and that under RCW 9.41.010(12)(b), a "serious offense" for a drug conviction must be for a Class B felony or higher. Thus, he contends that his prior conviction was not for a "serious offense" and he cannot be guilty of first degree unlawful possession of a firearm.

The State responds that unlawful manufacture of controlled substances is a Class B felony and therefore is a "serious offense" under RCW 9.41.010(12)(b). But not all unlawful manufacturing of controlled substances is a Class B felony. Only unlawful manufacturing of narcotic drugs, amphetamines or methamphetamines is a Class B felony. RCW 69.50.401(2)(a) and (b). Unlawful manufacturing of other Schedule I controlled substances, such as marijuana, is a Class C felony. RCW 69.50.401(2)(c). *Thus, Chambers did not have a prior conviction for a Class B felony, had not been previously convicted of a "serious offense" under RCW 9.41.010(12)(b) and could not be guilty of first degree unlawful possession of a firearm under RCW 9.41.040(1)(a). His judgment and sentence is invalid on its face as to Counts III and IV.*

Chambers, at 3-4 (emphasis added). Pleading guilty to charges that are invalid on their faces is "an injustice that is obvious, directly observable, overt, [and] not obscure." Pugh, supra. This manifest injustice can only be corrected by allowing Defendant to withdraw his guilty plea to Counts III and IV.

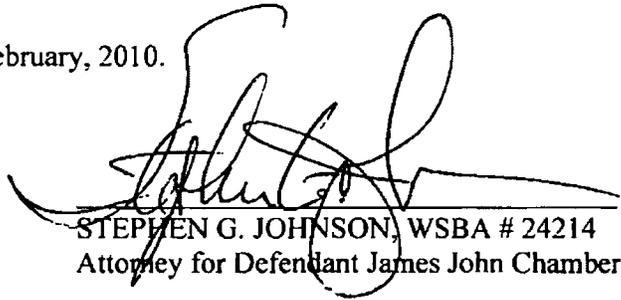
III Conclusion

For the foregoing reasons, the Defendant James John Chambers respectfully requests that the Court grant his motions and grant the relief requested.

MEMORANDUM IN SUPPORT OF
MOTION TO VACATE JUDGMENT,
MOTION TO WITHDRAW GUILTY
PLEA, AND MOTION FOR SPECIFIC
PERFORMANCE—Page 6

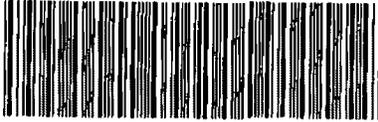
Stephen G. Johnson, JD
Attorney at Law
925 South Ridgewood Avenue
Tacoma, WA 98405
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Facsimile: (253) 238-1425

DATED THIS 26th day of February, 2010.



STEPHEN G. JOHNSON, WSBA # 24214
 Attorney for Defendant James John Chambers

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99-1-00817-2 33843387 AFS 03-01-10

The Honorable Thomas Feltnagle, Judge
Department 15

Hearing Date: 03/15/2010 @ 1:30 p.m.

FILED
IN COUNTY CLERK'S OFFICE

A.M. FEB 26 2010 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

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

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9 STATE OF WASHINGTON,)
10 Plaintiff,)
11 Vs.)
12 JAMES JOHN CHAMBERS,)
13 Defendant,)
14

No. 99-1-00817-2

DECLARATION IN SUPPORT OF
DEFENDANT'S MOTION TO VACATE
JUDGMENT, ET AL.

STEPHEN G. JOHNSON, duly sworn upon oath, deposes and declares:

- 15 (1.) I am the attorney of record for the Defendant in the above-captioned matter, am
16 over the age of eighteen (18) years, have personal knowledge of the matters
17 contained herein, and am competent to testify thereto;
18 (2.) Attached hereto as Exhibit A is a true and correct copy of the Information and
19 Probable Cause Declaration for Pierce County Superior Court Cause Number 99-
20 1-00817-2;
21 (3.) Attached hereto as Exhibit B is a true and correct copy of the Statement of
22 Defendant On Plea of Guilty for Pierce County Superior Court Cause Number 99-
23 1-00817-2;
24 (4.) Attached hereto as Exhibit C is a true and correct copy of the letter of DPA Allen
25 P. Rose regarding settlement of Pierce County Superior Court Cause Number 99-
26 1-05307-1.

27 ////

28 ////

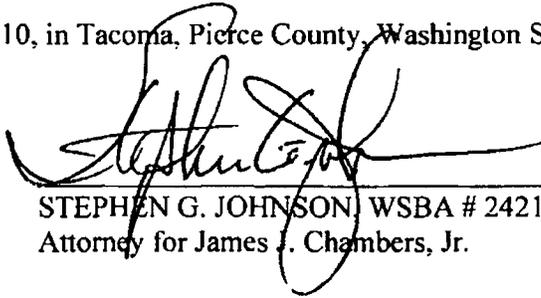
DECLARATION IN SUPPORT OF
DEFENDANT'S MOTION TO VACATE
JUDGMENT, ET AL.—Page 1

ORIGINAL

Stephen G. Johnson, JD
Attorney at Law
925 South Ridgewood Avenue
Tacoma, WA 98405
Telephone: (253) 370-3931
Facsimile: (253) 238-1425

1 I certify under penalty of perjury under the laws of the State of Washington that the foregoing is
2 true and correct to the best of my knowledge, information and belief.

3 DATED THIS 26th day of February, 2010, in Tacoma, Pierce County, Washington State.

4
5 
6 STEPHEN G. JOHNSON, WSBA # 24214
7 Attorney for James J. Chambers, Jr.

EXH. A

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

STATE OF WASHINGTON,

Plaintiff,

vs.

JAMES JOHN CHAMBERS,

Defendant.

CAUSE NO. **99 1 00817 2**
INFORMATION

DOB: 4/23/72 W/M
SS#: 137-66-2129 SID#: WA16025063 DOL#: UNKNOWN

I, JOHN W. LADENBURG, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse JAMES JOHN CHAMBERS of the crime of UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER, committed as follows:

That JAMES JOHN CHAMBERS, in Pierce County, Washington, on or about the 23rd day of February, 1999, did unlawfully and feloniously knowingly possess, with intent to deliver to another, a controlled substance, to-wit: Methamphetamine, classified under Schedule II of the Uniform Controlled Substance Act, and in the commission thereof the defendant was armed with a firearm, to-wit: HANDGUN, that being a firearm as defined in RCW 9.41.010, and invoking the provisions of RCW 9.94A.310, and adding additional time to the presumptive sentence as provided in RCW 9.94A.370, contrary to RCW 69.50.401(a)(1)(ii), and against the peace and dignity of the State of Washington.

INFORMATION - 1

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COUNT II

And I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do accuse JAMES JOHN CHAMBERS of the crime of UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE, a crime of the same or similar character, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That JAMES JOHN CHAMBERS, in Pierce County, Washington, on or about the 23rd day of February, 1999, did unlawfully and feloniously knowingly manufacture a controlled substance, to-wit: Methamphetamine, classified under Schedule II of the Uniform Controlled Substance Act, and in the commission thereof the defendant was armed with a firearm, to-wit: SHOTGUN, that being a firearm as defined in RCW 9.41.010, and invoking the provisions of RCW 9.94A.310, and adding additional time to the presumptive sentence as provided in RCW 9.94A.370, contrary to RCW 69.50.401(a)(1)(ii), and against the peace and dignity of the State of Washington.

COUNT III

And I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do accuse JAMES JOHN CHAMBERS of the crime of UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE, a crime of the same or similar character, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

INFORMATION - 2

1
2 That JAMES JOHN CHAMBERS, in Pierce County, Washington, on or
3 about the 23rd day of February, 1999, did unlawfully and feloniously
4 own, have in his possession, or under his control a firearm, he having
5 been previously convicted in the State of Washington or elsewhere of a
6 serious offense, to wit: UMCS, contrary to RCW 9.41.040(1)(a), and
7 against the peace and dignity of the State of Washington.

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COUNT IV

And I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do
accuse JAMES JOHN CHAMBERS of the crime of UNLAWFUL POSSESSION OF A
FIREARM IN THE FIRST DEGREE, a crime of the same or similar character,
and/or so closely connected in respect to time, place and occasion
that it would be difficult to separate proof of one charge from proof
of the others, committed as follows:

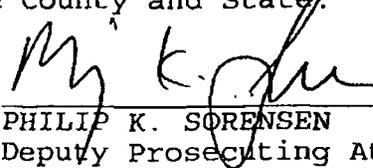
That JAMES JOHN CHAMBERS, in Pierce County, Washington, on or
about the 23rd day of February, 1999, did unlawfully and feloniously
own, have in his possession, or under his control a firearm, he having
been previously convicted in the State of Washington or elsewhere of a
serious offense, to wit: UMCS, contrary to RCW 9.41.040(1)(a), and
against the peace and dignity of the State of Washington.

DATED this 24th day of February, 1999.

City Case
WA02703

JOHN W. LADENBURG
Prosecuting Attorney in and for
said County and State.

dlk

By: 

PHILIP K. SORENSEN
Deputy Prosecuting Attorney
WSB #16441

INFORMATION - 3

NO. 99 1 00817 2

DECLARATION FOR DETERMINATION
OF PROBABLE CAUSESTATE OF WASHINGTON)
) ss
County of Pierce)

Philip K. Sorensen, declares under penalty of perjury:

That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police report and/or investigation conducted by the Tacoma Police Department, case number 990470560;

That the police report and/or investigation provided me the following information:

That in Pierce County, Washington, on or about the 23rd day of February, 1999, the defendant, JAMES JOHN CHAMBERS, did commit the crimes of Unlawful Possession of a Controlled Substance with Intent to Deliver, unlawful Manufacturing of a Controlled Substance and unlawful Possession of a Firearm in the First Degree.

On the above date at 1945 hours Tacoma police served a search warrant at 2305 South Wilkeson Street, in Tacoma. The suspect named in the warrant was CHAMBERS. CHAMBERS was stopped by Tacoma Police as he drove away from his residence. Officers served the warrant on CHAMBERS, read him his rights and he agreed to speak to officers. CHAMBERS told officers that he had narcotics in the car he was driving and that he had been selling narcotics from the residence listed in the search warrant. He told officers that he had been cooking methamphetamine at the Wilkeson address on other days, but wasn't on this particular day. He later told officers that he had been cooking methamphetamine at other locations but had just been extracting ephedrine in the garage at the location to be searched. CHAMBERS told police about the chemicals in the residence.

A search of CHAMBERS revealed two knives, a smoking device, a wallet with currency (\$949 seized) and vitablend. A search of the vehicle front seat located a fanny pack containing a loaded .22 pistol, an eyeglass case with two bags of white substance and three more bags of white substance, 60 grams total, which field tested positive for methamphetamine. On the front floorboard of the car was a black backpack. In the backpack were 4 baggies amounting to 15.1 grams of marijuana (field test positive), a loaded 9 mm handgun electronic scale, cell phone, baggies with white residue and a knife.

DECLARATION FOR DETERMINATION
OF PROBABLE CAUSE - 1

Exh. B

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

STATE OF WASHINGTON,

Plaintiff,

vs.
James Chambers

Defendant.

CAUSE NO. 99-1-00817-2

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY

CRIMINAL DIV. 2
IN OPEN COURT

JUL - 7 1999

TED RUM, Clerk
By [Signature]

1. My true name is: James Chambers
2. My age is: 27
3. I went through the 9th grade.
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:
 - (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is STEVE COAST 18511.
 - (b) I am charged with the crime(s) of:

Count I: Unlawful Possession Controlled Substance with
 Elements: Re Pierce Cty intent to deliver with
possess A controlled substance with Deadly
intent to deliver to another; 10 with weapon
and in course thereof have possession of deadly
weapon - 900

This crime carries a maximum sentence of 10 years imprisonment and a \$ 20,000 fine. The standard range is from 108 months to 144 months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense[] Serious Violent[]
 Violent[] Non-Violent[] Sex[] Drug[X]
 Traffic[] (check all that apply)

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - 1

Count II: Unlawful Manufacture of Controlled substance

Elements: in Pierce Co, manufacture of a ^{with class} controlled substance, it with
and in course thereof have possession
of deadly weapon, it for rifle

This crime carries a maximum sentence of 10 years imprisonment and a \$ 20,000 fine. The standard range is from 149 months to 198 months based upon

Offense Designation under RCW 9.94A.420 my criminal history.
Presumptive sentence becomes MAXIMUM TERM of 120 MONTHS (10 YEARS)
[] Serious Violent []
[] Sex [] Drug [X]
[] that apply)

(c) 2 Additional c

Class AI & AII

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

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

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

- (a) (i) This offense is a most serious offense as defined by RCW 9.94A.030(23), and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - 2

Count ^{III} ~~II~~: Unlabeled Possession of Firearm 1^o

Elements: In Pierce Cty, possess A Firearm
After having been convicted of felony
(Class A or B)

This crime carries a maximum sentence of 10 years imprisonment and a \$ 20,000 fine. The standard range is from 41 months to 54 months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense[] Serious Violent[]
Violent[] Non-Violent[] Sex[] Drug[]
Traffic[] (check all that apply)

(c) Additional counts are addressed in Appendix .

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

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

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

- (a) (i) This offense is a most serious offense as defined by RCW 9.94A.030(23), and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - ~~FAI~~

Count ^{IV} ~~II~~: Unlawful Possession of Firearm 1st

Elements: Pu Pierce Cty, possess a firearm
After having been convicted of felony,
(Class A or B)

This crime carries a maximum sentence of 10 years imprisonment and a \$ 20,000 fine. The standard range is from 41 months to 54 months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense[] Serious Violent[]
Violent[] Non-Violent[] Sex[] Drug[]
Traffic[] (check all that apply)

(c) Additional counts are addressed in Appendix

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

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

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

- (a) (i) This offense is a most serious offense as defined by RCW 9.94A.030(23), and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - A II

- (ii) In addition, pursuant to RCW 9.94A.030(b)(i), ~~if this offense is (1) rape in the first degree, rape of a child in the first degree, rape in the second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child molestation in the first degree, or (2) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation, or (3) any attempt to commit any of the crimes listed in this sentence, and I have at least one prior conviction for one of these listed crimes in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]~~
- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere.
- (i) For crimes committed prior to July 1, 1997, criminal history always includes juvenile convictions for sex offenses and serious violent offenses. Criminal history also includes convictions in juvenile court for other felonies or serious traffic offenses that were committed when I was 15 years of age or older. Juvenile convictions, except those for class A felonies, serious violent offenses or sex offenses, count only if I was less than 23 years old when I committed the crime to which I am now pleading guilty.
- (ii) For crimes committed after July 1, 1997, criminal history always includes all juvenile adjudications or convictions.
- (c) The stipulation as to my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and

the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.

- (e) In addition to sentencing me to confinement, the judge will order me to pay \$ 500 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and attorney's fees.
- (f) If the total period of confinement ordered is 12 months or less, the court may impose, in addition to confinement, up to one year of community supervision. If the court imposes a sentence under a first time offender waiver, the court may impose, in addition to confinement, up to two years of community supervision. If the total period of confinement ordered is over one year, the court must impose a term of community placement or community custody, in addition to confinement, for certain offenses. Community placement for one year is a mandatory sentence condition for offenders sentenced to prison for the following offenses committed on or after July 1, 1988:
- any sex offense or serious violent offense committed before July 1, 1990;
 - second degree assault;
 - any crime against a person with a deadly weapon finding under RCW 9.94A.125; or
 - any felony offense under RCW Chapter 69.50 or 69.52.

Community placement for two years is a mandatory sentence condition for offenders sentenced to prison for the following offenses:

- any sex offense committed after June 30, 1990 and before June 6, 1996;
- any serious violent offense committed after June 30, 1990; or
- any vehicular homicide or vehicular assault committed on or after June 6, 1996.

Community custody for three years is a mandatory sentence condition for offenders sentenced to prison for the following offenses:

- any sex offense committed on or after June 6, 1996.

During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities and may be ordered to

perform community service. My failure to comply with these conditions will render me ineligible for general assistance.

- (g) The prosecuting attorney will make the following recommendation to the judge:

s/o sentencing
State's rec. is open

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

- (i) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(a)(i). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

- (j) I understand that the offense(s) I am pleading guilty to include(s) a deadly weapon or firearm enhancement(s). Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

- (k) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ shall be served consecutively to each other. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

- (l) The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030(22). This sentence could include as much as 90 days of confinement plus all the conditions described in paragraph (f). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - 5

course of study or occupational training. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

- (m) The judge may suspend execution of the standard range term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.120(8). If the judge suspends execution of the standard range term of confinement, I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater, I will be ordered to serve up to 180 days of total confinement. I will be ordered to participate in sex offender treatment, and I will be subject to all of the conditions described in paragraph (f). Additionally, the judge could require me to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (n) The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.120(6). This sentence could include a period of total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions described in paragraph (f). During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose one year of community custody that must include appropriate outpatient treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. Additionally, the judge could require me to devote time to specific employment or training, to stay out of certain areas, and to pay thirty dollars per month to offset the cost of monitoring. If a violation of the sentence occurs during community custody, the judge may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (o) If I have a driver's license and am convicted of any offense requiring mandatory license suspension or revocation, pursuant to RCW 46.20.270 and/or RCW 46.20.285, I must now surrender it to the judge. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (p) This plea of guilty will result in the suspension of public assistance, pursuant to RCW 74.08.290. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (q) This crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles; I will be required to undergo testing for the human

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - 6

- immunodeficiency (AIDS) virus. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (r) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
- (s) This crime involves a sex offense or a violent offense; I will be required to provide a sample of my blood for purposes of DNA identification analysis. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
- (t) Because this crime involves a sex offense, pursuant to RCW 9A.44.130(8)(a), or a kidnapping offense, pursuant to RCW 9A.44.130(8)(b), I will be required to register with the sheriff of the county of the state of Washington where I reside. If I am not a resident of Washington, but I am a student in Washington or I am employed in Washington or I carry on a vocation in Washington, I must register with the sheriff of the county of my school, place of employment, or vocation. I must register immediately upon being sentenced unless I am in custody, in which case I must register at the time of my release with the person designated by the agency that has me in custody and I must also register within 24 hours of my release with the sheriff of the county of the state of Washington where I will be residing, or if not residing in the state of Washington, where I am a student, where I am employed, or carry on a vocation.

If I leave this state following my sentencing or release from custody but later move back to Washington, I must register within 30 days after moving to this state or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections. If I leave this state following my sentencing or release from custody, but later, while not a resident of Washington, I become employed in Washington or carry out a vocation in Washington or attend school in Washington, I must register within 30 days after attending school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections.

If I change my residence within a county, I must send written notice of my change of residence to the sheriff within 72 hours of moving. If I change my residence to a new county within this state, I must send written notice of the change of address to the county sheriff in the new county of residence at least fourteen days before moving and I must register with the sheriff of the new county within 24 hours of moving and I must also give written notice of my change of address to the sheriff of the county where last registered within 10

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - 7

days of moving. If I move out of Washington state, within 10 days of moving to the new state or foreign country, I must send written notice to the county sheriff with whom I last registered in Washington state.

If I am a resident of Washington and I am admitted to a public or a private institution of higher education, I shall, within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff of the county of my residence of my intent to attend the institution. [If not applicable, this section should be stricken and initialed by the defendant and the judge.]

(u) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license.(PURSUANT TO RCW 9.41.047(1), THE JUDGE SHALL READ THIS SECTION TO THE DEFENDANT IN OPEN COURT IF THE DEFENDANT IS PLEADING GUILTY TO A "SERIOUS OFFENSE" AS DEFINED UNDER RCW 9.41.010(12), A CRIME OF DOMESTIC VIOLENCE, OR A CRIME OF "HARASSMENT" AS DEFINED UNDER RCW 9A.46.060. THE CLERK SHALL FORWARD A COPY OF THE DEFENDANT'S DRIVER'S LICENSE IDENTICARD OR COMPARABLE IDENTIFICATION TO THE DEPARTMENT OF LICENSING ALONG WITH THE DATE OF CONVICTION.)

(v) This crime involves the manufacture, delivery, or possession with the intent to deliver Methamphetamine or Amphetamine; a mandatory methamphetamine clean-up fine of \$3,000.00 will be assessed. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(w) Because this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as define in RCW 46.61.5055(8)(b). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(x) I understand that the offenses I am pleading guilty to include both a conviction under RCW 9.41.040 for unlawful possession of a firearm in the first or second degree and one or more convictions for the felony crimes of theft of a firearm or possession of a stolen firearm. The sentences imposed for these crimes shall be served consecutively to each other. For crimes committed after June 10, 1998, a consecutive sentence will also be imposed for each firearm unlawfully possessed. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - 8

(y) This offense is a violation of Chapter 69.50 RCW other than RCW 69.50.401(d); if I have a prior conviction under this Chapter or under any statute of the United States or of any State relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs, then I may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(z) An additional 24 months shall be added to the presumptive sentence for any ranked offense involving a violation of Chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

7. I plead guilty to the crime(s) of UPCSW10^{n/dwise}, UUM25^{n/dwise}, UPOF10^{w/dwise} as charged in the ~~original~~ ORIGINAL information. I have received a copy of that information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

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

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement: I am entering plea of guilty in order to take advantage of State's recommendation. I understand there exists sufficient evidence to convict me had I gone to trial.

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

[Signature]
Defendant

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

JUDICIAL DIV. 2
OPEN COURT
JUL - 7 1999
By TED RUTT, Clerk
DEPUTY

[Signature]
Defendant's Lawyer
WSBA # 18911

[Signature]
Prosecuting Attorney
WSBA # 23139

Approved for entry:

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

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

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

Dated this 7th day of July, 1999

[Signature]
Judge THOMAS J. FELNAGLE

*INTERPRETER'S DECLARATION

I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands, and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

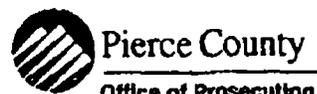
Dated this _____ day of _____,

Interpreter

Exh. C

Case Number: 99-1-05307-1 Date: April 27, 2009
SerialID: E959F117-F20F-6452-D466DCE97E2909A1
Digitally Certified By: Kevin Stock Pierce County Clerk, Washington

5467 8/15/2003 80016



Pierce County
Office of Prosecuting Attorney

JOHN W. LADENBURG
Prosecuting Attorney

REPLY TO:
CRIMINAL FELONY DIVISION
930 Tacoma Avenue South, Room 948
Tacoma, Washington 98402-2171
Criminal Felony Records: 798-6513
Victim-Witness Assistance: 798-7400
FAX: (253) 798-6636

Main Office: (253) 798-7400
1-800-992-2456
(Valid only within Washington State)

February 9, 2000

Lance Hester
Law Offices of Monte E. Hester
1008 South Yakima Avenue, Suite 302
Tacoma, WA. 98405

Re: State of Washington vs. James John Chambers, Jr.
Pierce County Superior Court Cause No. 99-1-05307-1

Dear Mr. Hester:

I am writing you this letter in order to memorialize my offer to your client in the above entitled case. With this letter I am enclosing copies of the first several pages of the pleas of guilty on cause numbers 99-1-02235-3 and 99-1-00817-2. My offer to your client consists of two parts. First as to the 02235-3 and 00817-2 matters, your client must agree that the sentences in those matters run consecutive to the 05307-1 matter. My understanding of your clients's range on the 02235-3 and 00817-2 matters is 149 to 198. This standard range applies only to count 1 on the cause number 99-1-00817-2. I am not going to outline all the other applicable ranges because they involve periods of time less than the 149 to 198. All of those counts would run concurrent to one another but consecutive to the matters involving the hit and run injury accident (99-1-05307-1). Your client would be free to ask for the 149 months, which is the low end of the standard range on count 1.

Took Plea July 7th 1999
Sentenced March 17th 2000

The second part of the offer is that the defendant has to plead guilty to all presently charged counts on 99-1-05307-1. His score for purposes of the SRA would be ten (10) for the non-manufacturing/intent to deliver crimes (PSP1 x 2, Hit and Run felony, Unlawful Poss F/A 1). For the manufacturing of methamphetamine charge, your client would be a sixteen (16). As

Crime Nov 1994
Took Plea March 17th 2000
Sentenced May 5 2000



Case Number: 99-1-05307-1 Date: April 27, 2009
SerialID: E959F117-F20F-6452-D466DCE97E2909A1
Digitally Certified By: Kevin Stock Pierce County Clerk, Washington

5467 6/15/2003 00817

you are aware, RCW 69.50.408 sets forth the statutory maximum for a crime involving manufacture or possession with intent to deliver. This statutory maximum is ten (10) years. As you are also aware, RCW 69.50.408 allows for the doubling of any standard range for a subsequent conviction for manufacturing or possession with intent to deliver. At the time of your client's manufacturing offense as charged in 99-1-05307-1, your client had two prior manufacturing convictions and one prior possession with intent to deliver conviction. RCW 9.94A.030(10) defines conviction to include a plea of guilty so the 02235-3 and 00817-2 matters count as priors for the 99-1-05307-1 matter.

Your client would have to agree to 240 months on the manufacturing on the 99-1-05307-1 matter. The other counts on this matter involve lesser amounts of time. Of course there would be the standard legal financial obligations, restitution, 12 months of community placement and all the usual conditions. This would run consecutive to the 02235-3 and 00817-2 matters.

If your client rejects this offer the state will amend to include the charges of felony murder and the state will add gun enhancement on the manufacturing charge. I have given your client until March 17th, 2000 to accept this offer, however, unless I receive by February 17, 2000, a written waiver regarding late arraignment, I will proceed with the arraignment. Once I arraign your client on the felony murder there is no going back.

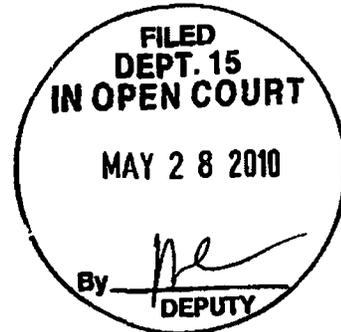
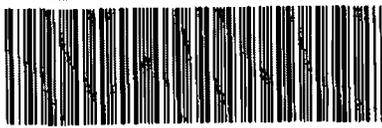
Very truly yours,



Allen P. Rose
Deputy Prosecuting Attorney

Encl: plea forms
APR:apr

Appendix E
Order Granting and Denying Motion to Withdraw Guilty Pleas



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 99-1-00817-2

vs.

JAMES CHAMBERS,

ORDER GRANTING AND DENYING
MOTION TO WITHDRAW GUILTY
PLEAS

Defendant.

THIS MATTER came before the court on the defendant's motion to withdraw the guilty pleas and the State's motion to reconsider the Court's April 2, 2010, oral ruling. The court has considered the defendant's written motion, the State's motion to reconsider, the memoranda filed by the parties and the authorities cited. The court has reviewed *In Re Clark*, --Wn.2d.--, --- P.3d---, 2010 WL 1380165(April 9, ²⁰¹⁰ ~~2009~~ ¹⁸⁷). The court finds that *Clark* supports the holding of the Court of Appeals as to Counts One and Two. Now, therefore

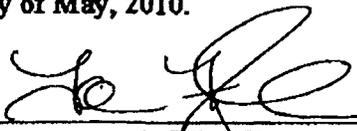
It is hereby ORDERED that the defendant's motion to withdraw his guilty plea is granted as to Counts ^{One, Two,} Three and Four only.

Furthermore, it is ORDERED that in light of the State's physical evidence having been disposed of and not being available to be admitted into evidence at trial, Counts ^{One, Two,} Three and Four ^{One, Two,} are hereby dismissed. Under RAP 2.2(b)(1) and/or(3) the Court's ruling as to Counts Three and Four in effect abates, discontinues, or determines the case on those counts other than by a judgment or verdict of not guilty or has the effect of vacating the judgment as to those counts.

1
2
3 Furthermore, it is ORDERED that the State's motion to reconsider is granted. The court
4 withdraws its oral ruling as to Counts One and Two. The defendant's motion to withdraw his
5 guilty pleas as to Counts One and Two is denied.

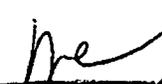
6 Furthermore, it is ORDERED that the defendant's request for re-sentencing as to
7 Counts One and Two is granted. A sentencing hearing is to be set on the court's sentencing
8 docket by separate scheduling order.

9 DONE IN OPEN COURT this th 28 day of May, 2010.

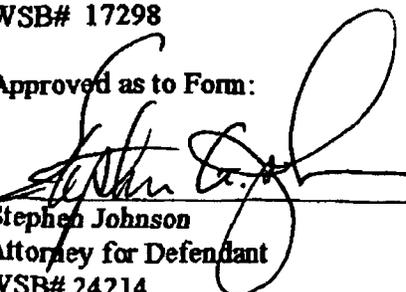
10
11 
12 JUDGE

13 Presented by:

14 
15 James S. Schacht
16 Deputy Prosecuting Attorney
17 WSB# 17298

FILED
DEPT. 15
IN OPEN COURT
MAY 28 2010
BY 
DEPUTY

18 Approved as to Form:

19 
20 Stephen Johnson
21 Attorney for Defendant
22 WSB# 24214

23 A 
24 James Todd Chambers