

No. 915318

RECEIVED BY E-MAIL

IN THE WASHINGTON STATE SUPREME COURT

STATE OF WASHINGTON,

Respondent,

v.

CURTIS G. STUMP,

Appellant.

**E FILED**  
**DEC 23 2015** CR  
WASHINGTON STATE  
SUPREME COURT

**AMICI CURIAE BRIEF OF COLUMBIA LEGAL SERVICES, THE  
WASHINGTON DEFENDER ASSOCIATION, AND THE ACLU OF  
WASHINGTON**

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## I. INTEREST OF *AMICI CURIAE*

The interests of the three organizations joining as amicus curiae in this brief are described in the motion for leave to participate as *amici* which accompanies this brief.

## II. ISSUES TO BE ADDRESSED BY *AMICI*

Whether a court should be required to conduct an inquiry into an appellant's ability to pay before ordering an appellant to pay costs of appeal.

## III. STATEMENT OF THE CASE

*Amici* rely on the facts set forth in the brief of the appellant.

## IV. ARGUMENT

### A. APPELLATE COURTS SHOULD BE REQUIRED TO INQUIRE INTO AN APPELLANT'S ABILITY TO PAY BEFORE ORDERING COSTS OF APPEAL.

Should the Court find that granting an *Anders* brief may result in the State being the substantially prevailing party on appeal, thus allowing the court to impose costs on the appellant, it should find that an appellate court must engage in an inquiry into the appellant's ability to pay before requiring that he or she pay costs.

Washington's legal financial obligation (LFO) scheme is broken, in large part, because courts often impose both trial and appellate LFOs on

indigent defendants without first determining that they have or will have an ability to pay them. This occurs either because courts, by statute, cannot examine a defendant's ability to pay with regards to some LFOs, or fail to meaningfully consider a defendant's ability to pay where they are required to do so. *See* RCW 10.73.160 (appellate cost statute); *State v. Blazina*, 182 Wn.2d 827, 838, 344 P.3d 680 (2015) (boilerplate language in judgment and sentence did not constitute sufficient inquiry into defendant's ability to pay). When a meaningful inquiry does not occur prior to the imposition of an LFO, indigent defendants are burdened with unpayable debts and face a myriad of serious collateral consequences that further entrench their poverty and impede successful rehabilitation. This Court recently helped rectify this problem by clarifying the analysis sentencing courts must engage in when determining whether a defendant will be ordered to pay costs. *Blazina*, 182 Wn.2d at 839 (record must reflect that the sentencing court made an individualized inquiry into the defendant's ability to pay before imposing discretionary costs).

The LFO scheme is also broken because, in practice, constitutional and statutory safeguards offer few to no protections to indigent defendants. These include safeguards against incarceration and the ability to seek waiver of costs. *See Bearden v. Georgia*, 461 U.S. 660, 668, 103 S. Ct. 2064 (1983) (court may not incarcerate a defendant for failing to pay

LFOs if the failure to pay is due solely to the defendant's indigence); *State v. Blank*, 131 Wn.2d 230, 241, 930 P.2d 1213 (1997) (upholding the constitutionality of appellate cost statute, in part, because defendant could not be incarcerated for failure to pay unless the violation was intentional); RCW 10.73.160(4) (allowing a defendant to seek remission of costs).

We seek to have this Court reexamine Washington's broken LFO system with regards to appellate costs, reconsider *Blank* in light of *Blazina*, and find that fairness, equity and justice require courts of appeal to analyze an appellant's ability to pay before imposing appellate costs.

#### **1. Legal Financial Obligations in Washington State**

Washington municipal, district, superior, and appellate courts are authorized to order that a convicted defendant pay LFOs. RCW 36.110.020; RCW 9.94A.030(31); RCW 10.73.160. LFOs may be discretionary or mandatory; most are discretionary, including most costs.

Under Washington's general discretionary cost recoupment statute, several conditions must be met before costs may be imposed on a defendant. RCW 10.01.160. Conditions include the following: costs may only be imposed on a convicted defendant; the court may only impose costs if the defendant "is or will be able to pay them;" and a defendant who is ordered to pay costs must have the opportunity at any time to petition the court for a remission of the costs if the costs create a manifest

hardship. *Id.* Furthermore, the defendant cannot be incarcerated for failure to pay if the non-payment was not willful. *See State v. Curry*, 118 Wn.2d 911, 915, 829 P.2d 166 (1992); *see also e.g., Fuller v. Oregon*, 417 U.S. 40, 94 S. Ct. 2116 (1974) (upholding constitutionality of an Oregon cost recoupment statute because it contained safeguards making payment conditional). These safeguards, when applied together, protect against the “oppressive application” of costs. *State v. Hess*, 86 Wn.2d 51, 53, 541 P.2d 1222 (1975). This is particularly true for indigent defendants.

Washington appellate courts are also authorized to impose costs. RCW 10.73.160. However, the appellate cost recoupment statute includes only two of the conditions included in the general cost recoupment statute: costs may only be imposed on “an adult convicted of an offense;” and a defendant who has been ordered to pay appellate costs may at any time petition the sentencing court for a remission of the costs. *Id.* Additionally, as with the general cost recoupment statute, a defendant cannot be incarcerated for failing to pay appellate costs unless the failure to pay is willful. *Blank*, 131 Wn.2d at 230. Unlike the general cost recoupment statute, there is no requirement in the appellate cost statute requiring courts to consider the defendant’s ability to pay before imposing costs. *Id.*

“Appellate costs shall be requested in accordance with the procedures contained in Title 14 of the rules of appellate procedure.” RCW 10.73.160.

Under Title 14, appellate costs will be awarded to the party that substantially prevails on review. RAP 14.2; *State v. Nolan*, 141 Wn.2d 620, 8 P.3d 300 (2000); *see also City of Spokane v. Ward*, 122 Wn.App. 40, 44, 92 P.3d 787 (2004) (statute providing discretion to court to order costs of appeal prevails over rule requiring court to impose costs of appeal because judgment to pay costs affects substantive rights). Once imposed, the appellate costs become a part of the trial court judgment and sentence and are added to any preexisting obligations. RCW 10.73.160(3).

## **2. Washington's LFO system is broken**

For the past several years, Washington has come under increasing public scrutiny for imposing a debt system that punishes poor defendants. *See In for a Penny: The Rise of America's New Debtor's Prisons*, American Civil Liberties Union (2010) (national report including Washington as one of five states with problematic LFO policies and practices); Katherine Beckett, Alexes Harris & Heather Evans, *The Assessment and Consequences of Legal Financial Obligations in Washington State*, Wash. Minority and Justice Comm'n (2008); Roopal Patel and Meghna Phillip, *Criminal Justice Debt: A Toolkit for Action*, Brennan Center for Justice (2012) (national report referencing Washington's LFO problems); *Modern-Day Debtors' Prisons: How Court-Imposed Debts Punish Poor People in Washington*, ACLU of

Washington and Columbia Legal Services (2014) (examining the negative impact LFO policies and practices have on poor defendants). In a recent decision, this Court cited some of these reports and concluded that Washington has a “broken” LFO system, specifically referencing a number of the problematic consequences Washington’s LFO system creates for indigent defendants. *Blazina*, 182 Wn.2d at 835-36.

These consequences apply with equal force on the poor regardless of whether the LFOs are imposed by a trial court or an appellate court. In fact, once imposed, there is no way to distinguish between trial court and appellate court LFOs because once appellate costs are imposed, they are added to the existing LFOs for that cause number and thus subject to the same statutory conditions. RCW 10.73.160(3).

Most of these consequences are immediate and harsh and occur before sanctions for non-payment are ever sought. It is now well understood that defendants who receive LFOs incur a mandatory interest penalty on their LFOs of 12 percent per year from the date of judgment. RCW 10.82.090; *State v. Claypool*, 111 Wn. App. 473, 476, 45 P.3d 609 (2002). Thus, a person’s LFOs will accrue interest during the entire period of incarceration, when he likely will have little or nothing to contribute

toward repayment.<sup>1</sup> If his appeal is denied during this period, and the court imposes appellate costs, he will see thousands of dollars in principal added to the existing LFOs which will also accrue interest at 12 percent per year. And appellate costs can be significantly higher than trial court discretionary costs. For example, in Mr. Stump's case, the appellate court, which was not required to consider his ability to pay, imposed \$3,024 in costs, primarily consisting of the cost of appointed counsel (\$2,692), while the trial court, which was required to consider his ability to pay, imposed only \$100 in discretionary costs (the \$100 crime lab fee). *See* Stump Cost Bill, Appendix A at 1; Stump Judgment and Sentence, Appendix B at 7; RCW 43.43.690. The \$3,024 in appellate costs is much higher than the average fee and fine imposed by Spokane County and Washington State trial courts. *See* Beckett, *et.al.*, *supra* at 90 (sample set of cases showing average fee and fine imposed in Spokane County totaled \$951; average fee and fine statewide totaled \$1406).

Following release, interest continues to accrue, debts multiply, and the time for repayment grows. *See In For a Penny, supra*, at 68.

Additionally, the individual will be reentering society with a new or

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<sup>1</sup> *See* Peter Wagner, *The Prisoner Index: Taking Pulse of the Crime Control Industry*, Prison Policy Initiative (2003), available at [prisonpolicy.org/prisonindex/prisonlabor.html](http://prisonpolicy.org/prisonindex/prisonlabor.html) (minimum wages for state prisoners, in dollars per day for non-industry work average \$0.93; maximum wages paid to prisoners by the state averages \$4.73 per day).

additional criminal conviction and often times, a limited education, which creates significant limitations on future employment prospects and one's ability to pay LFOs. *See* Alicia Bannon, Mitali Nagrecha & Rebekah Diller, *Criminal Justice Debt: A Barrier to Reentry*, Brennan Center for Justice (2010) at 4 (nearly 65 percent of persons incarcerated in the U.S. did not receive a high school diploma; 70 percent of prisoners function at the lowest literacy levels); John Schmitt and Kris Warner, *Ex-offenders in the Labor Market*, Center for Economic and Policy Research (2010) at 2 (stating that a felony conviction or time in prison makes individuals significantly less employable); Dan Satterberg and Brady Walkinshaw, *Inmates Re-entering Society Should Not Face Lifetime Barriers to Work*, *The Seattle Times*, (Feb. 16, 2015) (in Washington, a criminal conviction bars obtaining occupational licenses in a number of professions such as barbering, nursing, and commercial fishing).

A person with a criminal conviction is also more likely to have a substance abuse problem or a physical or mental disability that precludes employment, and is also more likely to be forced into a tenuous housing situation. *See Behind Bars II: Substance Abuse and America's Prison Population*, National Center on Addiction and Substance Abuse at Columbia University (2010) at 25-26 (of the 2.3 million inmates in the nation's prisons, 1.5 million meet the DSM-IV medical criteria for

substance abuse or addiction; 32.9% of inmates have a mental health disorder); Bannon, *et. al.*, *supra* at 4 (between 15-27 percent of prisoners expect to live in homeless shelters upon release).

These factors contribute to present and future indigence, and a defendant whose indigence continues is unlikely to see his or her LFO debt disappear or even significantly diminish. Although Washington allows for the waiver or reduction of interest, an indigent defendant will not be eligible for this relief because, in most circumstances, payment is a prerequisite to receiving a waiver. RCW 10.82.090. The passage of time also will not provide any relief because the court's jurisdiction to collect LFOs does not expire until the LFOs are paid in full. RCW 9.94A.760(4) (for an offense committed on or after July 1, 2000, the court retains jurisdiction over the offender with respect to LFOs, until the LFOs are completely satisfied).

This results in an indigent defendant being constantly under the threat of additional punishment or subjected to regular supervision and review by the court because of non-payment. If no term of incarceration is ordered or if the term of confinement has ended, the individual is required to make a monthly payment towards the LFOs as a condition of sentence. RCW 9.94A.760(10). Failure to pay can start an unending chain of events that further marginalizes the defendant. The court may issue an arrest

warrant, and upon arrest, the individual may sit in jail awaiting a hearing to show cause for why he should not be sanctioned. *See* RCW 9.94B.040; RCW 9.94A.6333; RCW 10.01.180. An arrest may also create new LFOs that compound the existing debt. *See* RCW 10.01.160 (authorizing costs of up to \$100 for serving a warrant for failure to appear).

If the court finds that the failure to pay is willful, it can incarcerate the defendant for up to 60 days in the county jail per violation. RCW 9.94B.040; RCW 9.94A.6333. And although the Constitution precludes the jailing of an indigent defendant, *see Bearden*, 461 U.S. at 668, given the limited guidance as to what constitutes “willfulness,” it is not uncommon in practice for indigent defendants to end up behind bars for their failure to pay. *See Modern Day Debtors’ Prison, supra*. This may occur irrespective of whether the individual failed to pay LFOs imposed by the sentencing or appellate court.

Even when incarceration or other criminal sanctions are not used to enforce collection, there are a number of civil collection processes that the state utilizes to collect unpaid LFOs. *See State v. Wiens*, 77 Wn. App. 651, 654, 894 P.2d 569 (1995) (authorizing wage garnishment for collection of LFOs); RCW 9.94A.7602 (orders of payroll deduction); 9.94A.7606 (orders to withhold and deliver); 9.94A.7701 (wage assignments); RCW 19.16.500 (allowing courts to contract with private collection agencies for

collection of LFOs, and charge the defendant a “reasonable” fee of up to 50% of the outstanding balance upon assignment to the collection agency).

In short, absent an ability to pay analysis, an indigent defendant can see his or her life ruined by the imposition of discretionary LFOs.

### **3. Remission is not an adequate replacement for an ability to pay analysis**

A constitutional cost recoupment scheme must include a meaningful opportunity for the defendant to seek remission of costs. *See Fuller v. Oregon*, 417 U.S. at 45 (upholding the constitutionality of a cost recoupment statute, in part, because defendant who received costs could at any time petition court for remission of costs); *Olson v. James*, 603 F.2d 150, 155 (10th Cir. 1979) (a convicted person on whom an obligation to repay has been imposed ought at any time to be able to petition the court for remission of the payment of costs).

Washington’s appellate cost recoupment statute allows the sentencing court to remit costs if payment of the costs will impose a manifest hardship on the defendant or the defendant’s immediate family. RCW 10.73.160(4). This Court held that it is constitutionally permissible for an appellate court to order an indigent defendant to pay costs of appeal, in part, because a remission provision exists. *State v. Blank*, 131 Wn.2d at

230 (because of the remission provision, RCW 10.73.160 “contemplates the constitutionally required inquiry into ability to pay.”).

In theory, the remission process authorized under RCW 10.73.160 offers some protection to indigent defendants against the requirement to pay for costs they cannot afford. However, in practice, the process is often meaningless and flawed, and rarely provides indigent defendants with the relief allowed for by statute. These flaws are numerous; consequently remission is not an adequate substitute for an “ability to pay” analysis prior to the imposition of appellate costs.

The primary flaw is that a different standard applies when costs are sought than when remission of costs is considered. If appellate courts were required to use the same pre-imposition ability to pay analysis that was upheld as constitutional in *Fuller* (and the same analysis that is currently required in Washington’s general cost recoupment statute), then a more stringent standard would apply at the time a court determines whether to impose appellate costs than when the court decides whether to remit appellate costs. Using the general costs standard, the appellate court would be required to determine whether the defendant “is or will be able to pay” the costs prior to imposing them. *See Fuller*, 417 U.S. at 45. Furthermore, this inquiry would have to be individualized. *Blazina*, 182 Wn.2d at 839.

To determine whether a defendant is, at present, able to pay, the court must examine the “financial resources of the defendant and the nature of the burden that costs will impose.” *Fuller*, 417 U.S. at 43. In determining the “will be able to pay” component of the inquiry, the court should look at whether the defendant has the foreseeable ability to pay the costs. *Id.* at 53. Additionally, if a *Blazina* analysis is applied, the court would also be required to use the indigency standards in GR 34 in determining the defendant’s ability to pay appellate costs. *Blazina*, 182 Wn.2d at 838. While the court retains some discretion to determine ability to pay, in part because of its ability to examine the defendant’s future ability to pay, the analysis is fairly clear and structured – if the defendant meets the guidelines of GR 34, then the court “should seriously question that person’s ability to pay LFOs.” *Blazina*, 182 Wn.2d at 839.

The standard used at a remission hearing is far more vague and undefined. At remission, the court is only looking at whether the costs impose a manifest hardship on the defendant. RCW 10.73.160(4). However, neither Washington appellate decisions nor statute provides any guidance on what “manifest hardship” means or how to demonstrate it to the court, putting indigent defendants at a tremendous disadvantage. This lack of guidance thus confers complete discretion to the court in determining whether manifest hardship exists. A court also has complete

discretion to grant relief even when it finds that the costs impose a manifest hardship. RCW 10.73.160(4) (court *may* remit costs if it is satisfied that the costs will impose manifest hardship) (emphasis added). Thus, a “manifest hardship” requirement *does not* contemplate the constitutionally required inquiry into ability to pay, *Blank*, 131 at 242; rather, it is a different standard that is in complete conflict with a standard that requires an inquiry into one’s ability to pay prior to imposing costs.

In addition to the different standards that apply, a defendant’s access to representation also differs between the time appellate costs are sought and when remission of those costs occurs. Many indigent defendants will still be represented by counsel at the time the State seeks to collect appellate costs from the defendant, and object to the State’s request for costs. In fact, this is what happened in Mr. Stump’s case despite the court’s granting of his counsel’s motion to withdraw. Appellate counsel is more fit than a *pro se* defendant to effectively put forth evidence of the defendant’s past, present, and future ability to pay, and other factors that are relevant to whether costs should be imposed.

At a remission hearing, the defendant does not have a right to counsel. Furthermore, indigent defendants are unlikely to have the resources to hire counsel to represent them at remission hearings – if they

did, they would not be seeking remission. As a result, most defendants proceed *pro se* with little to no idea of what they must prove to the court.

Equally troubling is that remission is only available to defendants who know the process exists. *See* Beckett, *et. al., supra* at 59 (stating that the remission process is unclear to many defendants with LFOs). Courts and clerks' offices rarely, if ever, provide defendants with any notice that they can seek remission at a later date. As a result, in most scenarios, an indigent defendant must 1) learn that a remission process exists under statute; 2) know how to file a motion with the court; 3) gather all evidence necessary to present to the court regarding his or her financial situation; and 4) take a guess at what "manifest hardship" means and whether he or she meets that undefined standard. Absent knowledge of the process, they will suffer the burdens of their LFOs, which could include incarceration. These problems and resulting consequences could be eliminated early in the process if the court conducted a meaningful ability to pay analysis.

**4. The Court should revisit its holding in *Blank* and recognize the importance of a pre-imposition ability to pay inquiry.**

This Court in *Blank* upheld the constitutionality of Washington's appellate cost recoupment statute which allows the court to impose costs on an indigent defendant without first inquiring into his or her ability to pay. *Blank*, 131 Wn.2d at 242. The Court stated the relevant time to

inquire into ability to pay “is at the point of collection and when sanctions are sought.” *Id.* It further held that the absence of an ability to pay requirement does not chill defendants’ constitutional right to appeal, in part, because a defendant’s ability to pay must be assessed before sanctions are entered. *Blank*, 131 Wn.2d at 247. In doing so, it did not fully recognize the importance of the pre-imposition ability to pay analysis discussed in *Fuller*; it also did not contemplate that constitutional safeguards that protect indigent defendants are often meaningless in practice, thus creating damaging results for indigent defendants long before sanctions are sought.

In upholding the constitutionality of a cost recoupment statute, the *Fuller* Court placed great importance on the consideration of a defendant’s ability to pay at sentencing. Under the recoupment statute at issue in *Fuller*, the requirement to pay costs was never mandatory. *Fuller*, 417 U.S. at 44; *see also* RCW 10.01.160. Only a defendant who was indigent at the time of sentencing, but who foreseeably had the ability to pay at a later time could be ordered to repay costs. *Fuller*, 417 U.S. at 45. To make this determination, it was necessary that the sentencing court conduct a meaningful inquiry into the defendant’s ability to pay. The only way a defendant could avoid costs is if his or her indigence was unlikely to end. *Id.* Accordingly, the Oregon statute was constitutional because it was,

[C]arefully designed to ensure that only those who actually become capable of repaying the state will ever be obliged to do so. Those who remain indigent or for whom repayment would work a “manifest hardship” are forever exempt from any obligation to repay.

*Id.*

Such a scheme does not unnecessarily burden indigent defendants with debts they will never be able to pay. Prior to *Blank*, Washington courts followed *Fuller* and similarly recognized the importance of an ability to pay analysis before costs are imposed. *See State v. Curry*, 118 Wn.2d at 915 (citing *State v. Barklind*, 87 Wn.2d 814, 557 P.2d 314 (1976)). *Blank*, on the other hand, only recognizes the importance of an ability to pay analysis when it is often too late to undo the damage created by the imposition of LFOs. *Blank*, 131 Wn.2d at 242.

The *Fuller* approach promotes sound legal and public policy, whereas placing a repayment obligation on a person who lacks no present or future ability to pay defies common sense – and promotes debtors’ prisons and the broken LFO system. *See Blazina*, 182 Wn.2d at 837 (“the state cannot collect money from defendants who cannot pay, which obviates one of the reasons to impose LFOs.”).

Furthermore, when the state seeks to collect and enforce payment of appellate costs from a population that lacks any ability to pay, it significantly impedes an indigent defendant’s rehabilitation and successful

community reintegration – two goals the state seeks to promote through its criminal justice policies – and results in a significant waste of the state’s time and resources – two goals the state seeks to avoid through its fiscal policies. This approach serves no incentive. It only saddles the indigent with additional unpayable debts and keeps them tethered to the criminal justice system, thus giving the impression that the state and courts are comfortable criminalizing poverty by punishing individuals and their families simply because they are too poor to pay.

Additionally, requiring an ability to pay analysis does not confer a financial advantage on indigent defendants over non-indigent defendants. *See* State’s Supplemental Brief, at 14. If this Court were to find that an appellate court must consider a defendant’s ability to pay prior to imposing the costs of appeal, and adopt the ability to pay scheme upheld as constitutional in *Fuller* and utilized under RCW 10.01.160, courts would be required to analyze the defendant’s present *and* future ability to pay. *Fuller*, 417 U.S. at 46; RCW 10.01.160(3). This requirement creates strong safeguards against an indigent defendant receiving an advantage over a non-indigent defendant because it does not preclude the court from imposing costs of appeal on an indigent defendant; it only forecloses the imposition of costs on an indigent defendant whose indigence is unlikely to end. Those with any foreseeable future ability to pay would not escape

appellate costs unless their indigence does not end and they are able to access relief through a meaningful remission process. Under these circumstances, all currently indigent defendants would be deterred from bringing frivolous appeals because the court could still find future ability to pay. In fact, even in Mr. Stump's case, there is no guarantee that he will escape costs of appeal if an ability to pay analysis is required.

*Fuller* and pre-*Blank* case law in Washington is not the only source of support for an ability to pay analysis at sentencing. Local and national recommendations for LFO reform should also persuade this court to reconsider its decision in *Blank*. Advocates and experts have persistently recommended that courts be required to conduct meaningful pre-imposition ability to pay inquiries. *See* Patel & Phillip, *supra* at 13 (recommending states adopt up-front determination of defendant's ability to pay prior to imposition of fees and fines); *In For a Penny, supra* at 11 (recommending that courts be required to consider ability to pay when determining whether to assess LFOs).

## V. CONCLUSION

The LFO world has changed dramatically since *Blank* was decided. Since then, courts have become aware of the many unfair burdens that LFOs create for indigent defendants prior to incarceration, and the safeguards that are needed to protect those defendants from unjust

outcomes. Accordingly, in the interest of public policy, we respectfully request that this Honorable Court find that Washington courts have a duty to consider a defendant's ability to pay prior to imposing costs of appeal.

RESPECTFULLY SUBMITTED this 14<sup>th</sup> day of December, 2015.

  
COLUMBIA LEGAL SERVICES

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## APPENDIX A

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

STATE OF WASHINGTON, )  
Respondent, ) No. 32015-4-III  
v. )  
CURTIS G. STUMP, ) COST BILL  
Appellant. )

---

Steven J. Tucker, Prosecuting Attorney for Spokane County, Washington, by his deputy, Andrew J. Metts, respondent, asks that the following costs be awarded:

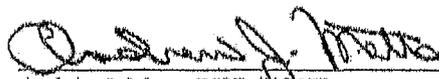
1.	Preparation of Brief of Respondent (3 pages @ \$2.00 each)	\$ 6.00
2.	Preparation of Clerk's Papers	46.50
3.	Cost of Court Appointed Counsel	2,692.00
4.	Cost of Report of Proceedings	280.00

**TOTAL COSTS**

**\$ 3,024.50**

The above items are expenses allowed as costs by RAP 14.3 and RCW 10.73.160, reasonable expenses actually incurred, and reasonably necessary for review. Appellant should pay item one to the Spokane County Prosecuting Attorney's Office and the remaining items to the Office of Public Defense (Indigent Defense Fund).

STEVEN J. TUCKER  
Prosecuting Attorney



Andrew J. Metts, WSB #192578  
Deputy Prosecuting Attorney

I certify under penalty of perjury under the laws of the State of Washington that on September 18, 2014, I e-mailed a copy of this Cost Bill to David L. Donnan, attorney for the defendant at david@washapp.org pursuant to the parties' agreement.

Dated this 18<sup>th</sup> day of September, 2014

Spokane, WA Kim Cornelius

(Place)

(Signature)

**SPOKANE COUNTY PROSECUTOR**

**September 18, 2014 - 10:36 AM**

Transmittal Letter

Document Uploaded: 320154-Stump - 320154 -CostBill.pdf

Case Name: State of Washington v Curtis G Stump

Court of Appeals Case Number: 32015-4

Party Represented: Respondent

Is This a Personal Restraint Petition?  Yes  No

Trial Court County: \_\_\_\_\_ - Superior Court # 13-1-02221-5

**Type of Document being Filed:**

- Designation of Clerk's Papers
- Statement of Arrangements
- Motion: \_\_\_\_\_
- Response/Reply to Motion: \_\_\_\_\_
- Brief
- Statement of Additional Authorities
- Affidavit of Attorney Fees
- Cost Bill
- Objection to Cost Bill
- Affidavit
- Letter
- Electronic Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_\_  
Hearing Date(s): \_\_\_\_\_
- Personal Restraint Petition (PRP)
- Response to Personal Restraint Petition
- Reply to Response to Personal Restraint Petition
- Other: \_\_\_\_\_

**Comments:**

No Comments were entered.

Proof of service is attached and an email service by agreement has been made to david@washapp.org and scpaappeals@spokanecounty.org.

Sender Name: Kimberly Carnellus - Email: [scpaappeals@spokanecounty.org](mailto:scpaappeals@spokanecounty.org)

## APPENDIX B

COURT COSTS 200  
 VICTIM ASSESS 500  
 RESTITUTION \_\_\_\_\_  
 FINE \_\_\_\_\_  
 ATTY FEES \_\_\_\_\_  
 SHERIFF COSTS \_\_\_\_\_  
 METH \_\_\_\_\_  
 DNA FEE 100  
 CRIME LAB 100  
 OTHER COST \_\_\_\_\_  
**\$900**

**FILED**

OCT 15 2013

THOMAS R. FALLQUIST  
SPOKANE COUNTY CLERK

**SUPERIOR COURT OF WASHINGTON  
 COUNTY OF SPOKANE  
 STATE OF WASHINGTON**

	)	No. 13-1-02221-5
Plaintiff,	)	
	)	PA# 13-9-49511-0
v.	)	RPT# 002-13-0201846
	)	RCW 69.50.4013(1)-F (#56640)
CURTIS GUY STUMP	)	FELONY JUDGMENT AND SENTENCE (FJS)
WM 02/16/65	)	Drug Offender Sentencing Alternative
	)	
Defendant.	)	<input type="checkbox"/> Clerk's Action Required, para 2.1, 3.2, 4.1, 4.3, 4.7, 5.2, 5.3, 5.5 and 5.7
	)	<input type="checkbox"/> Defendant used Motor Vehicle
SID: 012424445	)	<input type="checkbox"/> Juvenile Decline <input type="checkbox"/> Mandatory <input type="checkbox"/> Discretionary

**I. Hearing**

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

**II. Findings**

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon

~~Not guilty plea~~ (date) \_\_\_\_\_  Jury verdict (date) \_\_\_\_\_  bench trial (date) 9/16/13

Count No.: I      **POSSESSION OF A CONTROLLED SUBSTANCE - HEROIN**  
 RCW 69.50.4013(1)-F (#56640)  
 Date of Crime June 21, 2013  
 Incident No. 002-13-0201846

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)  
to the Information

Additional current offenses are attached in Appendix 2.1a.

13908347 *up adl*

JUDGMENT AND SENTENCE (JS)  
 (Drug Offender Sentencing Alternative)  
 (RCW 9.94A.500, 9.94A.505)(WPF CR 84.0400 (7/2013))

\$25 4-15-14 DOC PAGE 1

The defendant is a drug offender who is eligible for the drug offender sentencing alternative and the court determines that the sentencing alternative is appropriate. RCW 9.94A.660

The jury returned a special verdict or the court made a special finding with regard to the following:

**GV**  For the crime(s) charged in Court \_\_\_\_\_ **domestic violence** was pled and proved. RCW 10.99.020.

Count \_\_\_\_\_, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435 took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

In Count \_\_\_\_\_ the defendant committed a robbery of a pharmacy as defined in RCW 18.64.011(21), RCW 9.94A. \_\_\_\_\_.

The defendant committed a crime involving the manufacture of methamphetamine including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count(s) \_\_\_\_\_, RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.

The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.

Count \_\_\_\_\_ is a **criminal street gang-related** felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that minor in the commission of the offense. RCW 9.94A.833.

Count \_\_\_\_\_ is the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.829.

Count \_\_\_\_\_ is a felony in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285

Count \_\_\_\_\_ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.

Counts \_\_\_\_\_ encompass the same criminal conduct and count as one crime in determining the offender score (RCW 9.94A.589)

**Other current convictions listed under different cause numbers used in calculating the offender score** are (list offense and cause number):

	<i>Crime</i>	<i>Cause Number</i>	<i>Court (county &amp; state)</i>
1.			
2.			

\*DV: Domestic Violence was pled and proved.

Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

**2.2 Criminal History: (RCW 9.94A.525):**

Crime	Date of Crime	Crime Type	Adult or Juv	Place of Conviction	Sent. Date
MONEY LAUNDER (F)	050412	NV	A	SPOKANE CO, WA	061312
PCS CONSP	100104	DRUG	A	SPOKANE CO, WA	051105
DCS	061998	DRUG	A	SPOKANE CO, WA	120998
DCS	061998	DRUG	A	SPOKANE CO, WA	120998
RES. BURGLARY	050691	NV	A	SPOKANE CO, WA	AFFIRMED 070693
DCS	082091	DRUG	A	SPOKANE CO, WA	021492
THEFT 2	041681	NV	J	SPOKANE CO, WA	072981
DV ASSAULT 4	080207	MISD.	A	SPOKANE CO, WA	011408
DV VIOL RSTRN ORD	041305	MISD.	A	SPOKANE CO, WA	050205
RECK. DRIVING		MISD.	A	SPOKANE CO, WA	062587

\*DV: Domestic Violence was pled and proved.

- Additional criminal history is attached in Appendix 2.2
- The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.
- The prior convictions listed as number(s) \_\_\_\_\_ above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525).
- The prior convictions listed as number(s) \_\_\_\_\_ above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520:

**2.3 SENTENCING DATA:**

CT NO	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus enhancements*	Total Standard Range (including enhancements)	Maximum Term
I	6	Drug	12+ - 24		12+ - 24	5y

\* (V) VUCSA in a protected zone, (RPh) Robbery of a pharmacy, (JP) Juvenile present, (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude.

- Additional current offense sentencing data in Appendix 2.3.

- 2.4**  **Exceptional Sentence:** The Court finds substantial and compelling reasons that justify an exceptional sentence:
- below the standard range for Count(s) \_\_\_\_\_.
  - above the standard range for Count(s) \_\_\_\_\_.
  - The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the

exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

Aggravating factors were  stipulated by the defendant,  found by the court after the defendant waived jury trial,  found by jury by special interrogatory.

within the standard range for Count(s) \_\_\_\_\_, but served consecutively to Count(s) \_\_\_\_\_.

Findings of fact and conclusions of law are attached in Appendix 2.4.  Jury's special Interrogatory is attached. The Prosecuting Attorney  did  did not recommend a similar sentence.

**2.6 Legal Financial Obligations/Restitution.** The court has considered the total amount owing, the defendant's 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 makes the following specific findings:

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): \_\_\_\_\_

The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

**2.6 Felony Firearm Offender Registration.** The defendant committed a felony firearm offense as defined in RCW 9.41.010.

The court considered the following factors:

the defendant's criminal history.

whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere.

evidence of the defendant's propensity for violence that would likely endanger persons.

other: \_\_\_\_\_

The court directed the defendant  should  should not register as a felony firearm offender.

**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 defendant is found **NOT GUILTY** of Count(s) \_\_\_\_\_ in the charging document.

The Court **DISMISSES** Counts \_\_\_\_\_ in the charging document.

**IV. SENTENCE AND ORDER**

**IT IS ORDERED:**

4.1 **Confinement.** The court waives imposition of a sentence within the standard range and imposes the following sentence:

(a) **Prison-Based Alternative** (effective for sentences imposed on or after October 1, 2008):

(1) **Confinement.** A term of total confinement in the custody of the Department of Corrections (DOC) (half of the midpoint of the standard range, or 12 months, whichever is greater):

\_\_\_\_\_ months of total confinement in the custody of DOC on Count \_\_\_\_\_  
\_\_\_\_\_ months of total confinement in the custody of DOC on Count \_\_\_\_\_  
\_\_\_\_\_ months of total confinement in the custody of DOC on Count \_\_\_\_\_

Confinement shall commence immediately unless otherwise set forth here:

Work release is authorized, if eligible and approved. If the midpoint of the standard range is 24 months or less, no more than three months may be served in work release status. RCW 9.94A.731

**Credit for Time Served.** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The Spokane County Detention Services shall compute time served

(2) **Community Custody.** The defendant shall serve:

\_\_\_\_\_ months in community custody on Count \_\_\_\_\_  
\_\_\_\_\_ months in community custody on Count \_\_\_\_\_  
\_\_\_\_\_ months in community custody on Count \_\_\_\_\_

(One half the midpoint of the standard range.) The defendant shall comply with the community custody conditions in paragraph 4.2.

(3) **Additional Term of Community Custody.** If the defendant fails to complete, or is administratively terminated from, the drug offender sentencing alternative program, the court imposes a term of 12 months community custody under RCW 9.94A.701 unless community custody is not authorized for the crime.

(b)

**Residential Chemical Dependency Treatment-Based Alternative** (effective for sentences imposed on or after October 1, 2005).

(1) The defendant shall serve

24 months in community custody on Count I  
\_\_\_\_\_ months in community custody on Count \_\_\_\_\_  
\_\_\_\_\_ months in community custody on Count \_\_\_\_\_

(A term equal to one-half of the midpoint of the standard range or two years, whichever is greater) under the supervision of the Department of Corrections (DOC), on the condition that the defendant enters and remains in residential chemical dependency treatment certified under chapter 70.96A RCW for 3-6 months.

(2) The defendant shall comply with the community custody conditions in paragraph 4.2. DOC shall make chemical dependency assessment and treatment services available to the defendant during the term of community custody, within available funding.

(3) The defendant shall appear in person or by telephone at a progress hearing and a termination hearing to be set by the court at a later date.

(c) **Confinement For Other Non-Dosa Charges** (for 0-12 month range)

CT \_\_\_\_\_ days/months \_\_\_\_\_ months community custody  
 CT \_\_\_\_\_ days/months \_\_\_\_\_ months community custody  
 CT \_\_\_\_\_ days/months \_\_\_\_\_ months community custody

The time served shall be computed by the Spokane County Detention Services unless the credit for time served prior to sentencing is specifically set forth by the court: \_\_\_\_\_ days credit.

Defendant shall also receive credit for time served at treatment center pursuant to Residential DOSA sentencing alternative.

4.2 **Community Custody Conditions.** RCW 9.94A.660 Defendant shall report to DOC, located at West 1717 Broadway - Second Floor, Spokane, Washington 99201, 568-3123, no later than 72 hours after sentencing or release from custody. The defendant shall comply with the instructions, rules and regulations of DOC for the conduct of the defendant during the period of community custody. The defendant shall perform affirmative acts as required by DOC to confirm compliance with the orders of the court. The defendant shall not use illegal controlled substances. The defendant shall comply with any other conditions of community custody stated in this Judgment and Sentence or imposed by DOC under RCW 9.94A.704 and .706 during community custody. While under supervision the defendant shall not own, use or possess firearms or ammunition. The court orders that during supervision the defendant shall:

- (a) Undergo and successfully complete a substance abuse treatment program approved by the Division of Alcohol and Substance Abuse of the Department of Social and Health Services.
- (b) Undergo urinalysis or other testing to monitor drug-free status.  
 The defendant shall pay the statutory rate to DOC, while on community custody, to offset the cost of urinalysis.
- (c) Additional conditions (choose at least three):
 

<input checked="" type="checkbox"/> pay all court ordered legal financial obligations	<input checked="" type="checkbox"/> report as directed to a Community Corrections Officer
<input checked="" type="checkbox"/> notify the Court or Community Corrections Officer in advance of any change in defendant's address or employment	<input checked="" type="checkbox"/> remain within or outside of prescribed geographical boundaries
<input type="checkbox"/> Perform community restitution (service) work	<input checked="" type="checkbox"/> devote time to specific employment, or training
	<input type="checkbox"/> stay out of areas designated by the judge.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

Other conditions: No use and/or possession of alcohol, non-prescription controlled substances, legend drugs and/or drug paraphernalia. No contact with DOC ID'd drug offenders except in treatment setting. Obtain DOC pre-approval on all living arrangements and residence location. No use or possession of Marijuana and or products containing Tetrahydrocannabinol (THC)

**4.3 Legal Financial Obligations:** The defendant shall pay to the clerk of this court:

JASS CODE

PCV \$500.00 Victim Assessment RCW 7.68.035

PDV \$ \_\_\_\_\_ Domestic Violence Assessment RCW 10.99.080

CRC \$200.00 Court costs, including: RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190

Criminal Filing fee \$ \_\_\_\_\_ FRC

Witness costs \$ \_\_\_\_\_ WFR

Sheriff service fees \$ \_\_\_\_\_ SFR/SFS/SFW/SRF

Jury demand fee \$ \_\_\_\_\_ JFR

Extradition costs \$ \_\_\_\_\_ EXT

Other \$ \_\_\_\_\_

PUB \$ \_\_\_\_\_ Fees for court appointed attorney RCW 9.94A.760

WRF \$ \_\_\_\_\_ Court appointed defense expert and other defense costs RCW 9.94A.760

FCM/MTH \$ \_\_\_\_\_ Fine RCW 9A.20.021; [ ] VUCSA chapter 69.50 RCW, [ ] VUCSA additional fine deferred due to indigency RCW 69.50.430

MTH \$ \_\_\_\_\_ Meth/Amphetamine Cleanup Fine, \$3000. RCW 69.50.440, 69.50.401(a)(1)(ii)

CDF/LDI/ \$ \_\_\_\_\_ Drug enforcement fund of \_\_\_\_\_ RCW 9.94A.760

FCD/NTP/SAD/SDI

CLF \$ 100 Crime lab fee [ ] suspended due to indigency RCW 43.43.690

\$ 100 DNA collection fee RCW 43.43.7541

FPV \$ \_\_\_\_\_ Specialized forest products RCW 76.48.140

\$ \_\_\_\_\_ Other fines or costs for: \_\_\_\_\_

RTN/RJN \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

\$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

\$ \_\_\_\_\_ Restitution to: \_\_\_\_\_ (Name and Address-address may be withheld and provided confidentially to Clerk's Office)

\$ ~~900~~ <sup>900</sup> TOTAL RCW 9.94A.760

[ ] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

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shall be set by the prosecutor  
 is scheduled for \_\_\_\_\_

The defendant waives any right to be present at any restitution hearing (sign initials); \_\_\_\_\_

**Restitution.** Schedule attached.

Restitution ordered above shall be paid jointly and severally with:  
NAME of other defendant Cause Number (Victim Name) (Amount\$)

RJN

The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8)



All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by the DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ 25 per month commencing 1/15/13 RCW 9.94A.760.

The defendant SHALL report to the Spokane County Superior Court Clerk's Office immediately after sentencing if out of custody or within 48 hours after release from confinement if in custody. The defendant is required to keep an accurate address on file with the Clerk's Office and to provide financial information when requested by the Clerk's Office. The defendant is also required to make payments on the legal-financial obligations set by the court. Failure to do any of the above will result in a warrant for your arrest. RCW 9.94A.760(7)(b).

The Court orders the defendant to pay costs of incarceration at the rate of \$ \_\_\_\_\_ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760. (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480.)

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 appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.150

**4.4 DNA Testing.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754 **FAILURE TO REPORT FOR TESTING MAY BE CONSIDERED CONTEMPT OF COURT.**

**HIV Testing.** The defendant shall submit to HIV testing as directed by court order. RCW 70.24.340 **FAILURE TO PROVIDE DOCUMENTATION FOR TESTING MAY BE CONSIDERED CONTEMPT OF COURT.**

The victim, based upon their request, shall be notified of the results of the HIV test whether negative or positive. (Applies only to victims of sexual offenses under RCW 9A.04.) RCW 70.24.105(7)

4.5 No Contact:

The Defendant shall not have contact with \_\_\_\_\_ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for \_\_\_\_\_ years (not to exceed the maximum statutory sentence.)

The defendant is excluded or prohibited from coming within \_\_\_\_\_ (distance) of:  \_\_\_\_\_ (name of protected person(s))'s  home/residence  work place  school  (other location(s))

\_\_\_\_\_, or  other location \_\_\_\_\_, until \_\_\_\_\_ (which does not exceed the maximum statutory sentence).

A separate Domestic Violence No-Contact Order or, Anti-Harassment No-Contact Order, or Sexual Assault Protection Order is filed concurrent with this Judgment and Sentence.

4.6 Other:

\_\_\_\_\_  
\_\_\_\_\_

4.7 Exoneration: The Court hereby exonerates any bail, bond and/or personal recognizance conditions.

4.8 (a) **ADDITIONAL CONFINEMENT UPON VIOLATION OF SENTENCE CONDITIONS.** If the defendant violates any of the sentence conditions in Section 4.6 above, or, for offenses committed on or after June 8, 2000, is found by the United States attorney general to be subject to a deportation order, DOC shall hold a violation hearing, unless waived by the defendant. If DOC finds that the conditions have been willfully violated, the defendant may be reclassified to serve the remaining balance of the original sentence. For offenses committed on or after June 8, 2000, if DOC finds that the defendant is subject to a valid deportation order, the DOC may administratively terminate the defendant from the program and reclassify the defendant to serve the remaining balance of the original sentence. DOC shall reclassify a defendant who fails to complete the special drug offender sentencing alternative program or who is administratively terminated from the program to serve the unexpired term of the sentence as ordered by the sentencing judge subject to all rules relating to community custody and earned release time. DOC may sanction a defendant who violates any conditions of supervision as defined by DOC. Sanctions may include, but are not limited to, reclassifying the defendant to serve the unexpired term of sentence as ordered by the sentencing judge. If DOC reclassifies the defendant to serve the unexpired term of the sentence, the defendant shall be subject to all rules relating to earned release time. RCW 9.94A.660

(b) **CONFINEMENT TO BE ORDERED AT THE TREATMENT TERMINATION HEARING** (effective for sentences imposed on or after October 1, 2005). At the treatment termination hearing, the court may impose a term of total confinement equal to one-half of the midpoint of the standard range or the range of a sentence within the standard range. Confinement imposed at the hearing shall be followed by the term of community custody in paragraph 4.8. Within available funding, DOC shall make chemical dependency assessment and

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treatment services available to the defendant during the terms of total confinement and community custody.

**4.9 ADDITIONAL TERM OF COMMUNITY CUSTODY UPON FAILURE TO COMPLETE OR TERMINATION FROM ALTERNATIVE PROGRAM.**

(a) For offenses committed on or after June 8, 2000, the following term of community custody is ordered, and shall be imposed upon the defendant's failure to complete or defendant's administrative termination from the special drug offender sentencing alternative program.

(b) (effective for sentences imposed on or after October 1, 2005). For a defendant sentenced under the residential chemical dependency treatment-based alternative, the court orders the following term of community custody. This community custody shall be imposed upon the defendant after the term of total confinement imposed at the treatment termination hearing.

A range from

\_\_\_\_\_ to 12 months in community custody on Count II  
\_\_\_\_\_ to \_\_\_\_\_ months in community custody on Count \_\_\_\_\_  
\_\_\_\_\_ to \_\_\_\_\_ months in community custody on Count \_\_\_\_\_

While on community custody, the defendant shall comply with conditions set by DOC, including but not limited to:

- (1) report to and be available for contact with the assigned community corrections officer as directed;
- (2) work at DOC approved education, employment and/or community restitution (service);
- (3) not consume controlled substances except pursuant to lawfully issued prescriptions;
- (4) not unlawfully possess controlled substances while in community custody;
- (5) pay supervision fees as determined by DOC;
- (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC;
- (7) obtain prior approval of DOC for residential location and living arrangements.

The court orders the following conditions of community custody:

- The defendant shall not consume any alcohol.
- Defendant shall have no contact with: DOC ID'd drug offenders.
- Defendant shall remain  within  outside of a specified geographical boundary, to-wit: per CC.

- The defendant shall participate in the following crime-related treatment or counseling services: UA/BA monitoring.

- The defendant shall undergo an evaluation for treatment for  domestic violence  substance abuse  mental health  anger management and fully comply with all recommended treatment.

*22*

[ X ] The defendant shall comply with the following crime-related prohibitions: No use or possession of non-prescribed controlled substances, legend drugs, and/or drug paraphernalia

Other conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**V. Notices and Signatures**

**5.1 Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090

**5.2 Length of Supervision.** If you committed your offense prior to July 1, 2000, you 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, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purposes of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for the purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

**5.3 Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606

**5.4 Community Custody Violation.**  
(a) **Prison-based alternative:** If DOC finds that you willfully violated the conditions of the drug offender sentencing alternative program, DOC may reclassify you to serve the remaining balance of the original sentence.  
(b) **Residential chemical dependence treatment-based alternative:** If the court finds that you willfully violated the conditions of the drug offender sentencing alternative, the court may order you to serve a term of total confinement equal to one-half the midpoint of the standard range or a term of total confinement up to the top of the standard range. The court may also impose a term of community custody.

(c) In any case, if you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.633.

(d) In any case, if you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.

**5.5a Firearms.** You may not own, use or possess any firearm, and under federal law any firearm or ammunition unless your right to do so is restored by the court in which you are convicted or the superior court of Washington State where you live, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court 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 or commitment). RCW 9.41.040, 9.41.047.

**5.5b**  **Felony Firearm Offender Registration.** The defendant is required to register as a felony firearm offender. The specific registration requirements are in the "Felony Firearm Offender Registration" attachment.

**5.6** Reserved.

**5.7**  **Department of Licensing Notice:** The court finds that Count \_\_\_\_\_ is a felony in the commission of which a motor vehicle was used. **Clerk's Action --** The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the defendant's driver's license. RCW 46.20.285.

**5.8** Other: Any pre-trial surety bond not previously forfeited shall be exonerated.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Done* in Open Court in the presence of the defendant this 15 day of

OCT 2013.

JUDGE Print name: HAROLD D. CLARKE III

EDWARD D. HAY  
Deputy Prosecuting Attorney  
WSBA# 11846

KYLE CZELLER  
Attorney for Defendant  
WSBA# 38162

CURTIS GUY STUMP  
Defendant

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**Voting Rights Statement:** I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.010). I must register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the Indeterminate Sentence Review Board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature: \_\_\_\_\_



I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the \_\_\_\_\_ language, which the defendant understands. I interpreted this Judgment and Sentence for the defendant into that language.

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

Signed at \_\_\_\_\_, on \_\_\_\_\_  
(city) (state) (date)

\_\_\_\_\_  
Interpreter

\_\_\_\_\_  
Print Name

VI. IDENTIFICATION OF DEFENDANT

SID No. 012424445

Date of Birth 02/16/1965

(If no SID take fingerprint card for State Patrol)

FBI No. 199937DA4

Local ID No. 0083100

PCN No.

Other

DOB 02/16/1965

Alias name

Race:

Ethnicity:

Sex:

Asian/Pacific Islander

Black/African-American

Caucasian

Hispanic

Male

Native American

Other: \_\_\_\_\_

Non-hispanic

Female

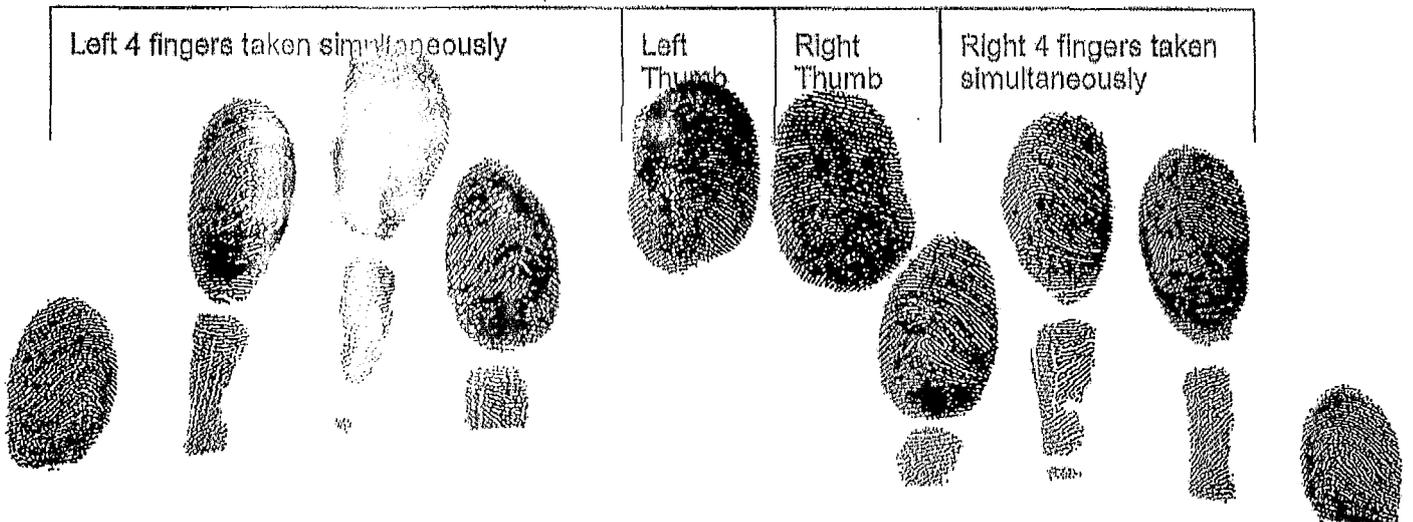
FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto.

THOMAS R. FALLQUIST, Clerk of the Court

[Signature], Deputy Clerk.

Dated: 10/15/13

DEFENDANT'S SIGNATURE: [Signature]



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## OFFICE RECEPTIONIST, CLERK

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**To:** Maureen Janega  
**Cc:** LHaskell@spokanecounty.org; jan@washapp.org; cindy@defensenet.org; pdave@aclue-wa.org; Nick Allen; Rhona Taylor  
**Subject:** RE: State of Washington v. Curtis Stump, No. 915318

Received on 12-15-2015

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

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**From:** Maureen Janega [mailto:Maureen.Janega@ColumbiaLegal.org]  
**Sent:** Monday, December 14, 2015 5:14 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Cc:** LHaskell@spokanecounty.org; jan@washapp.org; cindy@defensenet.org; pdave@aclue-wa.org; Nick Allen <Nick.Allen@ColumbiaLegal.org>; Rhona Taylor <Rhona.Taylor@ColumbiaLegal.Org>  
**Subject:** State of Washington v. Curtis Stump, No. 915318

Dear Clerk,

Attached for filing please find:

- Motion for Leave to File Amici Curiae Brief of Columbia Legal Services, the Washington Defender Association, and the ACLU of Washington; and
- Amici Curiae Brief of Columbia Legal Services, the Washington Defender Association, and the ACLU of Washington
- Certificate of Service for the above.

Please contact me if there are any difficulties opening the attachments to this message. Thank you for your attention and assistance.

**Maureen Janega, Paralegal**  
Columbia Legal Services  
Institutions Project Group

101 Yesler Way, Suite 300 | Seattle, WA 98104 | (206) 464-5911, ext. 123  
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Our vision of justice: When people have the necessary tools and opportunity to achieve social and economic justice, a more inclusive and equitable society is possible.

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