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No. 92125-3

IN THE SUPREME COURT FOR THE STATE OF WASHINGTON

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In re Personal Restraint Petition of:

John Westley Jackson, Jr.,

Petitioner.

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PETITIONER'S SUPPLEMENTAL BRIEF

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RICHARD W. LECHICH  
Attorney for Petitioner

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ORIGINAL

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## **A. INTRODUCTION**

Before his incarceration in the Department of Corrections, John Westley Jackson spent time in the King County Jail. The jail certified his time served and credited him with earned early release credits (“good-time”) at a rate of 33 percent. Acting on a newly enacted statute instructing the Department to recalculate the earned release date of all inmates, the Department extended Mr. Jackson’s release date, concluding that the jail had mistakenly applied too high a rate in crediting Mr. Jackson with good-time. But there was no mistake. Moreover, the Department acted in contravention to the plain language of the new statute and the prohibition against *ex post facto* laws in extending Mr. Jackson’s term of incarceration. Accordingly, this Court should grant Mr. Jackson’s personal restraint petition and order the Department to restore his good-time.

## **B. ISSUES**

1. A 2013 law instructed the Department to recalculate the earned release date of all offenders in their custody. It does not direct the Department to recalculate the amount of earned release credit previously awarded by county jails. The law also provides an exception to any recalculation, instructing that for offenders who committed their offense before the 2013 law, “the recalculation shall not extend a term of

incarceration beyond that to which an offender is currently subject.” Mr. Jackson committed his offense before this law was enacted and was awarded earned early release credit by the jail at a 33 percent rate. Applying the plain language of the statute and to avoid rendering the 2013 law invalid under the constitutional prohibition against *ex post facto* laws, did the Department unlawfully reduce earned release credit awarded by the jail to Mr. Jackson, which extended his current term of incarceration?

2. A change in the law that limits eligibility for reduced imprisonment violates the prohibition against *ex post facto* laws when applied to offenders whose crimes were committed before the law’s enactment. The Department claims the 2013 law required it to recalculate the earned release credit awarded by the jail to Mr. Jackson at the lower rate applicable to offenders serving time in prison. If true, does the 2013 law violate the prohibition against *ex post facto* laws by retroactively taking away the earned release credit awarded by the jail to Mr. Jackson and extending his confinement?

### **C. STATEMENT OF THE CASE**

In 2012, Mr. Jackson pleaded guilty to attempted assault in the first degree and felony harassment. Judgment and Sentence, p. 2.<sup>1</sup> The court

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<sup>1</sup> Mr. Jackson’s Judgment and Sentence is attached to his personal restraint petition.

imposed 120 months of confinement for the attempted assault and 60 months on the harassment, ordering that they be served consecutively. Judgment and Sentence, p. 4. The court ordered that Mr. Jackson be given credit for time served at King County Jail. Judgment and Sentence, p. 4.

On December 12, 2012, the jail certified that Mr. Jackson served 438 days. Jail Certification Form.<sup>2</sup> Applying a 33 percent rate to Mr. Jackson's sentence,<sup>3</sup> the jail correctly certified that Mr. Jackson was eligible for earned early release credit of 219 days. Earned early release credit is commonly called "good-time." Matter of Williams, 121 Wn.2d 655, 658, 853 P.2d 444 (1993). Mr. Jackson then began serving his sentence at the Department of Corrections.

In 2013, the Legislature instructed the Department to recalculate the earned release date for inmates serving a term of custody in their facilities. Laws of 2013, 2nd Sp. Sess. Ch. 14 (S.S.S.B. No. 5892), § 4. The law went into effect on July 1, 2013. Id.

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<sup>2</sup> The "Jail Certification and Authorization for Earned Early Release Credit," is attached to Mr. Jackson's personal restraint petition. A copy is also attached in the appendix.

<sup>3</sup> The rate is applied against the sentence, not the total time served. Matter of Williams, 121 Wn.2d 655, 658-60, 853 P.2d 444 (1993).

Around February 2015, Mr. Jackson noticed that based on this law, his early release date had been extended by about four months. See “Offender Kite.”<sup>4</sup> Mr. Jackson sent out a “kite”<sup>5</sup> inquiring into the law:

I am writing you in regards to the new bill 5892. Further more I would like any and all information in regards to such. Albeit, my ERD being changed from 8-30-23 now its 1-5-24. Goodtime on Jail cert.

Id. He received a response telling him that the jail had mistakenly calculated his good-time rate at 33 percent rather than 10 or 15 percent:

The bill 5892 (HB 2050) became active on 7-1-13. All calculations of good time (on jail time) need to be conducted on every offender due to the jails being inconsistent with the % of good time on the jail time. The bill makes the jail percentage of good time consistent with the crime percentage. In your case, the good time % is 10 %. [T]he jail gave you 33%. Your good time had to be recalculated at 15% because the rules say we could not go below 10% due to the error. So you should have only received 10% good time on your assault 1<sup>st</sup>, but due to the error we could only go to 15%, you can find information on bill in law library.

Id.

In May 2015, Mr. Jackson filed a personal restraint petition, contending that the Department erred when it recalculated his sentence and reduced his good-time credits awarded by the county jail.

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<sup>4</sup> This is attached in Mr. Jackson’s personal restraint petition.

<sup>5</sup> “Kites” are forms given to inmates to communicate with prison staff, attorneys, and others. State v. Puapuaga, 164 Wn.2d 515, 518 n. 2, 192 P.3d 360 (2008).

Personal Restraint Petition, p. 2, 5. The Court of Appeals summarily dismissed his petition. Order of Dismissal. Mr. Jackson moved for discretionary review in this Court. This Court granted review and appointed counsel for Mr. Jackson.

#### **D. ARGUMENT**

- 1. The jail correctly certified Mr. Jackson with 219 days in earned early release credit or “good-time.” The plain language of the 2013 law forbade the Department of Corrections from reducing Mr. Jackson’s good-time and in extending his term of incarceration.**

- a. Standard of review.**

Mr. Jackson has not had a previous opportunity to appeal the issues in his personal restraint petition, so he need only show unlawful restraint. Matter of Stuhr, 186 Wn.2d 49, 52, 375 P.3d 1031 (2016); RAP 16.4. His incarceration qualifies as restraint. Stuhr, 186 Wn.2d at 52. The issue is whether the recalculation of earned good-time credits was unlawful. Id.; RAP 16.4(c).

Interpretation of statutes, court-rules, and the Constitution are issues of law, reviewed *de novo*. In re Talley, 172 Wn.2d 642, 649, 260 P.3d 868 (2011). The objective of statutory interpretation is to effectuate the lawmaker’s intent. State v. Conover, 183 Wn.2d 706, 711, 355 P.3d 1093 (2015). Intent is derived from the plain language of the statute, which considers the text, the context of the statute, related provisions,

amendments, and the overall statutory scheme. Id. When consistent with the purpose of the statute, courts construe statutes to avoid constitutional problems. Williams, 121 Wn.2d at 665.

**b. Good-time rules and the 2013 changes.**

“Good-time” is “credit a prisoner receives for good behavior or good performance while incarcerated.” Talley, 172 Wn.2d at 647. It is synonymous with the terms “earned early release time” or “early release credits.” Id.; RCW 9.94A.729(1)(b); RCW 9.92.151(1).

Both county jails and the Department of Corrections may award good-time credit. Id. The rules governing good-time in county jails are set out in RCW 9.92.151. Talley, 172 Wn.2d at 647. These rules apply not only to prisoners confined for misdemeanors, but also to felonies, even though felony sentences over one year are served in state correctional institutions. RCW 9.92.151(1) (“the sentence of a prisoner confined in a county jail facility for a felony, gross misdemeanor, or misdemeanor conviction may be reduced by earned release credits in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction.”); RCW 9A.20.021 (felonies punished in state correctional institution while misdemeanors punished in county jail). The rules governing good-time in the Department’s facilities are set out in

RCW 9.94.A.728-29. Talley, 172 Wn.2d at 647. While similar, the rules have not been identical. Id.

As this Court previously explained, the statutory scheme “divides authority over the award of good-time between the county jail and the Department.” Williams, 121 Wn.2d at 661. This “reflects the disciplinary role of good-time” and permits each institution to control its award or denial. Id. at 662; accord Blick v. State, 182 Wn. App. 24, 30, 328 P.3d 952 (2014).

In 2012, when Mr. Jackson was transferred from King County Jail to the Department, the law provided that “the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time.” Former RCW 9.94A.729 (2012) (emphasis added). This has long been the rule. See Williams, 121 Wn.2d at 655.

In 2013, however, the Legislature amended the last part of RCW 9.94A.729 and added identical language to RCW 9.94A.151. Under the 2013 revision, instead of certifying “the amount of earned release time,” the jail certifies “the number of days of early release credits lost or not earned.” RCW 9.92.151(3); RCW 9.94A.729; Laws of 2013, 2nd Sp. Sess. Ch. 14 (S.S.S.B. No. 5892), § 2-3 (emphasis added). The

Legislature also added language instructing the Department to adjust an “offender’s rate of early release” upon receiving the certification:

The department must adjust an offender’s rate of early release listed on the jail certification to be consistent with the rate applicable to offenders in the department’s facilities. However, the department is not authorized to adjust the number of presentence early release days that the jail has certified as lost or not earned.

RCW 9.94A.729(1)(b); Laws of 2013, 2nd Sp. Sess. Ch. 14 (S.S.S.B. No. 5892), § 2.

At the same time, the Legislature instructed the Department to recalculate the earned release dates of all people currently serving a term of incarceration in the Department. For those who committed their offense before this legislation, the recalculation was to “not extend a term of incarceration beyond that to which an offender is currently subject”:

Pursuant to RCW 9.94A.729, the department shall recalculate the earned release date for any offender currently serving a term in a facility or institution either operated by the state or utilized under contract. The earned release date shall be recalculated whether the offender is currently incarcerated or is sentenced after the effective date of this section, and regardless of the offender’s date of offense. For offenders whose offense was committed prior to the effective date of this section, the recalculation shall not extend a term of incarceration beyond that to which an offender is currently subject.

Laws of 2013, 2nd Sp. Sess. Ch. 14 (S.S.S.B. No. 5892), § 4 (emphasis added).<sup>6</sup>

**c. The jail properly calculated Mr. Jackson's good-time. The 2013 law did not authorize the Department to recalculate his good-time at a lower rate.**

The Department's recalculation of Mr. Jackson's earned release date was premised on an assertion that the jail had wrongly applied a good-time rate of 33.3 percent. This premise is incorrect.

For time spent in county jail, the pertinent statute establishes a general limit on good-time of "one-third of the total sentence." RCW 9.92.151(1) ("In no other case may the aggregate earned early release time exceed one-third of the total sentence."). It also establishes a cap of 15 percent for some offenses: "In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence." *Id.*

This language is identical to the language of former RCW 9.94A.150(1),<sup>7</sup> which was a statute applicable to the Department rather

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<sup>6</sup> This section was not codified. But it is still the law. State v. Franklin, 172 Wn.2d 831, 839 n.9, 263 P.3d 585 (2011).

<sup>7</sup> This provision has since been amended and is now codified at RCW 9.94A.729(3)(a).

than the jail. In re Smith, 139 Wn.2d 199, 202, 986 P.2d 131 (1999). This Court interpreted the language in Smith. The issue was whether the “class A felony” language applied to both “serious violent offenses” and “sex offenses.” Id. at 201-02. This Court held that it did and granted relief to petitioners convicted of class B “serious violent offenses” who had their good-time erroneously capped at 15 percent by the Department. Id. at 208-09.

The Legislature amended the statute interpreted in Smith and added commas so as to make the cap applicable to all “serious violent offenses.” See id. at 207; Laws of 1999, ch. 37 § 1. But the Legislature did not add commas to RCW 9.92.151(1), whose language is identical to former RCW 9.94A.150(1). Accordingly, under Smith, the 15 percent cap in RCW 9.92.151(1) does not apply to all “serious violent offenses.”

Attempted first degree assault is a “serious violent offense.” RCW 9.94A.030(46)(ix). However, this is a class B felony, not a class A. RCW 9A.36.011; RCW 9A.28.020(3)(b). Thus, the 15 percent cap does not apply. Smith, 139 Wn.2d at 208-09. The jail’s certification of good-time at 33 percent did not violate the law. The Department was incorrect in concluding that the jail erred.

The Department may have been confused because the statute applicable to *the Department* limits good-time for all “serious violent

offenses” at either ten or fifteen percent (the percent depends on when the offense was committed). RCW 9.94A.729(3)(b),<sup>8</sup> (c).<sup>9</sup>

It is not reasonable to read the recalculation mandate as requiring the Department to recalculate the good-time Mr. Jackson accrued while in jail at the ten percent rate in RCW 9.94A.729(3)(b). While the recalculation mandate in section 4 refers back to RCW 9.94A.729, it does not specifically refer to RCW 9.94A.729(1)(b). Laws of 2013, 2nd Sp. Sess. Ch. 14 (S.S.S.B. No. 5892), § 4 (“Pursuant to RCW 9.94A.729 . . .”). RCW 9.94A.729 contains a host of rules governing the amount of good-time a person can earn while serving a sentence under the Department’s authority. It also does not state the Department is authorized to take away “earned release credits” that were properly credited under RCW 9.92.151(1). Thus, the recalculation mandate was plainly directed to fix errors committed by *the Department* in the past, not modify good-time that had been properly certified by a *county jail*.

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<sup>8</sup> “In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence.” RCW 9.94A.729(3)(b).

<sup>9</sup> “In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.” RCW 9.94A.729(3)(c).

To construe the statutory scheme otherwise would permit the Department to effectively control the rate of good-time in all county jails. This would be contrary to how the statutory scheme has traditionally been interpreted. See, e.g., Williams, 121 Wn.2d at 661-62, 655 (“Under our reading of the statute, the county jail retains complete control over the good-time credits granted to offenders within its jurisdiction.”). It could also result in jails being unable to provide adequate incentives to meet their unique needs. See Petition of Cromeenes, 72 Wn. App. 353, 357-58, 864 P.2d 423 (1993) (noting Skagit County’s argument that its jail had duty to ensure that inmates do not escape while awaiting trial and sentencing, and that the Department had no such concern); State v. Donery, 131 Wn. App. 667, 674, 128 P.3d 1262 (2006) (reasoning that county jails arguably need a greater incentive to improve discipline because time spent in jails is usually much shorter and jail cannot take away credits that might be earned in prison).

King County Jail did not err in crediting Mr. Jackson with 219 days of good-time. The recalculation mandate did not authorize the Department to recalculate his good-time at a lower rate.

**d. In violation of the plain language of the statute, the Department's recalculation extended Mr. Jackson's term of incarceration beyond that to which he was currently subject.**

Additionally, the Department violated the plain language of the final sentence in section 4 of the 2013 Act. Regarding recalculation, this provision commands, "For offenders whose offense was committed prior to the effective date of this section, the recalculation shall not extend a term of incarceration beyond that to which an offender is subject." Laws of 2013, 2nd Sp. Sess. Ch. 14 (S.S.S.B. No. 5892), § 4. Because Mr. Jackson's offenses were committed before this statute went into effect, this prohibition applied.

Mr. Jackson was properly credited with 219 days in good-time by the King County Jail. After certifying these credits, the Department provided Mr. Jackson with an earned release date. Taking away some of these credits through a "recalculation" changes Mr. Jackson's earned release date, thereby extending his term of incarceration beyond that to which he was currently subject. Thus, the Department violated the restriction in section 4.

In its answer to Mr. Jackson's motion for discretionary review, the Department argued that this interpretation would "render RCW 9.94A.729(1)(b) superfluous." Answer at 7. It does not. The exception

applies only to those who committed their offenses *before* the statute became effective. It also only prevents an *increase* rather than a *decrease*. Thus, this interpretation does not make any other portion “superfluous.”

The Department also argued that the language at issue—“the recalculation shall not extend a term of incarceration beyond that to which an offender is subject”—refers to the sentence imposed in the judgment and sentence. Answer at 6-8. But the Legislature did not use such language. Moreover, the Department’s argument actually renders the language the Legislature chose as superfluous because the Department is never authorized to confine offenders beyond that to which is authorized in the judgment and sentence. Further, if the Department’s interpretation were correct, it is difficult to understand why the Legislature provided that this exception applies *only* to “offenders whose offense was committed prior to the effective date of this section.” It is doubtful that the Legislature was authorizing the Department to confine some offenders beyond what is authorized in an offender’s judgment and sentence.

The Department’s strained interpretation is premised on State v. Franklin, 172 Wn.2d 831, 841, 263 P.3d 585 (2011). There, the offender argued that a retroactive statute required resentencing to ensure his term of confinement and term of community custody did not exceed the statutory maximum for the crime. Franklin, 172 Wn.2d at 839-40. In rejecting the

request for resentencing, the Franklin court cited a statute directing the Department (rather than sentencing courts) to recalculate terms of community custody for offenders in custody:

The department of corrections shall recalculate the term of community custody and reset the date that community custody will end for each offender currently in confinement or serving a term of community custody for a crime specified in RCW 9.94A.701. That recalculation shall not extend a term of community custody beyond that to which an offender is currently subject.

Laws of 2009, ch. 375, § 9 (emphasis added). In interpreting this provision, this Court reasoned that the Department “must reset the end date for [the offender]’s terms of community custody for [his two counts], ensuring that [his] total sentence does not exceed that imposed in the judgment and sentence.” Franklin, 172 Wn.2d at 841. The Court concluded that while the offender was entitled to have the combined term of confinement and community custody not exceed the statutory maximum for his offenses, the statute charged the Department, not the sentencing court, with bringing the terms of community custody into compliance. Id. at 843.

Franklin read the language “term of community custody beyond that to which an offender is currently subject” as referring to what was imposed in the judgment and sentence. Franklin, 172 Wn.2d at 841. This

makes sense because terms of community custody are imposed by sentencing courts.

But it does not make sense to read the language, “term of incarceration beyond that to which an offender is currently subject,” as also referring to the judgment and sentence. Unlike community custody, good-time is credited by the Department or county jails. In fact, trial courts have no authority over good-time. In re W., 154 Wn.2d 204, 215, 110 P.3d 1122 (2005) (“The sentencing court exceeded its statutory authority when it purported to govern West’s earned early release time.”).

Moreover, accepting the Department’s interpretation raises a serious constitutional question: whether the Department’s application of the 2013 Act to Mr. Jackson violates the constitutional prohibition against *ex post facto* laws. See Weaver v. Graham, 450 U.S. 24, 36, 101 S. Ct. 960, 67 L. Ed. 2d 17 (1981) (state law that reduced the amount of good-time which could be earned by prisoners violated *ex post facto* clause as applied to person whose offense occurred before effective date of law). Because the language can be fairly read to avoid this issue, the canon of constitutional avoidance applies and favors Mr. Jackson’s interpretation. Williams, 121 Wn.2d at 665. Indeed, by providing an exception to the recalculation for people who had already committed their offense, it

appears that the Legislature sought to comply with the constitutional prohibition against *ex post facto* laws.

The Department's recalculation of Mr. Jackson's earned release date extended his term of incarceration beyond that to which he was currently subject. Because the plain language of the statute forbids this as to offenders like Mr. Jackson who have already committed their offense, the Department acted unlawfully.

**2. If the Department's interpretation is adopted, the statute violates the constitutional prohibition against *ex post facto* laws.**

Both the Washington Constitution and the United States Constitution prohibit *ex post facto* laws. Const. art. I, § 23 ("No bill of attainder, ex post facto law, or law impairing the obligations of contracts shall ever be passed."); U.S. Const. art. I, § 10, cl. 1 ("No state shall . . . pass any . . . ex post facto law.").

The prohibition against *ex post facto* laws "protects liberty by preventing governments from enacting statutes with 'manifestly *unjust and oppressive*' retroactive effects." Stogner v. California, 539 U.S. 607, 611, 123 S. Ct. 2446, 156 L. Ed. 2d 544 (2003) (quoting Calder v. Bull, 3 Dall. 386, 391, 1 L. Ed. 648 (1798)). The prohibition "ensures that individuals have fair warning of applicable laws and guards against vindictive legislative action."). Peugh v. United States, \_\_\_ U.S. \_\_\_, 133 S.

Ct. 2072, 2085, 186 L. Ed. 2d 84 (2013). It “also safeguards ‘a fundamental fairness interest in having the government abide by the rules of law it establishes to govern the circumstances under which it can deprive a person of his or her liberty or life.’” Id. (quoting Carmell v. Texas, 529 U.S. 513, 533, 120 S. Ct. 1620, 146 L. Ed. 2d 577 (2000)) (ellipses omitted).

“Retroactive application of a law violates the ex post facto clause if it increases the quantum of punishment for an offense after the offense was committed.” Smith, 139 Wn.2d at 208. “A change in the law that limits eligibility for reduced imprisonment violates the ex post facto clause when applied to individuals whose crimes were committed before the law’s enactment.” Id. (citing Weaver, 450 U.S. at 31-36).

In Weaver, the United States Supreme Court reviewed a Florida law that altered the availability good-time credits. Weaver, 450 U.S. at 25. The law was passed after the defendant committed his offense and reduced the rate at which offenders obtained good-time. Id. at 25-26. The Supreme Court held that this change violated the prohibition against *ex post facto* laws for people who had committed their offense before the enactment of the statute. Id. at 35-36.

Accepting the Department’s interpretation of the statute, the statute violates the prohibition against *ex post facto* laws. Under the

Department's interpretation, the Department is to recalculate the good-time rate applied by jails commensurate with the rate applied by the Department even if this results in extending a person's time in prison. The Department argues it is appropriate to retroactively apply this recalculation to those who committed their offense before the amended law. As in Weaver, this violates the prohibition against *ex post facto* laws. Accord Smith, 139 Wn.2d at 207-08 (retroactive application of amendment which "clarified" that cap on early release at 15 percent applied to all those convicted of a "serious violent offense" would violate *ex post facto* clause).

If the Court adopts the Department's reading of the statute, the Court should hold that the law is an unconstitutional *ex post facto* law as applied to Mr. Jackson.

#### **E. CONCLUSION**

The jail did not violate any statutory cap in awarding Mr. Jackson good-time at a rate of 33 percent. By recalculating Mr. Jackson's good-time while in jail at a lower rate, the Department unlawfully extended his term of incarceration in violation of the plain language of the statute and the prohibition against *ex post facto* laws. This Court should grant Mr. Jackson's personal restraint petition and order the Department to restore the good-time awarded by the county jail.

Respectfully submitted this 30th day of September, 2016,

/s Richard W. Lechich  
Richard W. Lechich -- WSBA #43296  
Washington Appellate Project  
Attorney for Petitioner

# Appendix

**Jail Certification and Authorization for Earned Early Release Credit  
Washington State Department of Corrections**

The following information is submitted for the purpose of crediting time spent in the King County Correctional Facility (King County Jail):

Inmates's Name: JACKSON, JOHN W <sup>979212</sup> CCN: 1515276

CHARGE	CAUSE#	FROM	TO
ATT ASLT I	11C078848	100411	121412
FEL HARASS			

TOTAL NUMBER OF DAYS UNDER THE LISTED CAUSE NUMBER(S)..... 438

Pursuant to Williams, 121 Wn. 2d 655, and based on the total days served, this subject is eligible for earned early release credit as follows:

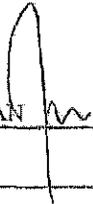
219 DAYS less                      DAYS for disciplinary action

One-half is applied for all charges, except one-sixth is applied for serious violent offenses and certain sex crimes.

All dates of booking and release concerning the above case number(s) and charge(s) are listed. This form is to be attached to the Judgement and Sentence and Warrant of Commitment when delivering the above listed subject to custody of the State.

**CERTIFIED  
ONLY IF ORIGINAL  
CERTIFICATION STAMP  
IS APPLIED  
CERTIFIED COPY**

Signature/Title of Preparer  
Commitments  
  
Date

MCLELLAN   
121212

KING COUNTY DEPARTMENT OF ADULT DETENTION RECORDS OFFICE (206)296-1291.  
KCDAD F-659 10/94

**IN THE SUPREME COURT OF THE STATE OF WASHINGTON**

IN RE THE PERSONAL RESTRAINT PETITION OF )  
 )  
JOHN JACKSON, JR., ) NO. 92125-3  
 )  
 )  
PETITIONER. )

**DECLARATION OF DOCUMENT FILING AND SERVICE**

I, MARIA ARRANZA RILEY, DECLARE THAT ON THE 30<sup>TH</sup> DAY OF SEPTEMBER, 2016, I CAUSED THE ORIGINAL **SUPPLEMENTAL BRIEF OF PETITIONER** TO BE FILED IN THE **WASHINGTON STATE SUPREME COURT** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

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**SIGNED** IN SEATTLE, WASHINGTON THIS 30<sup>TH</sup> DAY OF SEPTEMBER, 2016.

x \_\_\_\_\_ 

**Washington Appellate Project**  
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# WASHINGTON APPELLATE PROJECT

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