

NO. 92125-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re the Personal Restraint Petition of:

JOHN WESLEY JACKSON,

Petitioner-Appellant.

RESPONDENT'S SUPPLEMENTAL BRIEF

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ORIGINAL

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PORTAL

TABLE OF CONTENTS

I. INTRODUCTION.....1

II. ISSUE PRESENTED2

III. STATEMENT OF THE CASE3

IV. ARGUMENT7

 A. This Court’s Recent Precedent Indicates the Statutory
 Phrase “Term of Incarceration Beyond that to Which an
 Offender is Currently Subject” Means the Sentence
 Imposed, not the Early Release Date8

 B. The Plain Meaning of the Statute and Rules of Statutory
 Construction Confirm the Conclusion in *Franklin* that
 “Term of Incarceration” Means the Sentence Imposed by
 the Court.....10

 C. Defining “Term of Incarceration” as the Early Release
 Date Rather than the Sentence is Inconsistent with the
 Early Release System.....15

V. CONCLUSION18

APPENDIX A: "Judgment and Sentence"
 King County Cause No. 11-1-07884-8

APPENDIX B: "Jail Certification"
 King County Cause No. 11-1-07884-8

APPENDIX C: "Personal Restraint Petition"
 Court of Appeals Cause No. 73980-8-1

APPENDIX D: "Order of Dismissal"
 Court of Appeals Cause No. 73980-8-1

TABLE OF AUTHORITIES

Cases

<i>Foster v. Washington State Dep't of Ecology</i> , 184 Wn.2d 465, 362 P.3d 959 (2015).....	12, 13
<i>Francis v. Washington State Dep't of Corr.</i> , 178 Wn. App. 42, 313 P.3d 457 (2013).....	11
<i>Honore v. Washington State Board of Prison Terms & Paroles</i> , 77 Wn.2d 697, 466 P.2d 505 (1970).....	3
<i>In re Crowder</i> , 97 Wn. App. 598, 985 P.2d 944 (1999).....	17
<i>In re Mattson</i> , 166 Wn.2d 730, 214 P.3d 141 (2009)	17
<i>Matter of George</i> , 52 Wn. App. 135, 758 P.2d 13 (1988).....	10
<i>Matter of Stuhr</i> , 186 Wn.2d 49, 375 P.3d 1031 (2016)	3, 15, 16
<i>Robbins, Geller, Rudman, & Dowd, LLP v. State</i> , 179 Wn. App. 711, 328 P.3d 905 (2014).....	11
<i>State v. Brown</i> , 178 Wn. App. 70, 312 P.3d 1017 (2013).....	10
<i>State v. Franklin</i> , 172 Wn.2d 831, 263 P.3d 585 (2011).....	passim
<i>State v. Hyder</i> , 159 Wn. App. 234, 244 P.3d 454 (2011).....	10
<i>State v. Rogers</i> , 112 Wn.2d 180, 770 P.2d 180 (1989)	3, 16

<i>State v. Silva</i> , 108 Wn. App. 536, 31 P.3d 729 (2001).....	10
<i>State v. Torres</i> , 151 Wn. App. 378, 212 P.3d 573 (2009).....	14
<i>Swinomish Indian Tribal Community v. Dep't of Ecology</i> , 178 Wn.2d 571, 311 P.3d 6 (2013).....	12, 14

Statutes

RCW 9.94A.030(45)(a)(ix).....	5
RCW 9.94A.030(45)(a)(v).....	5
RCW 9.94A.728	16
RCW 9.94A.728(1)(a)	3
RCW 9.94A.729.....	1, 5, 16
RCW 9.94A.729(1).....	3, 15
RCW 9.94A.729(1)(a)	3, 15
RCW 9.94A.729(1)(b)	passim
RCW 9.94A.729(3).....	4
RCW 9.94A.729(3)(c)	4, 5
RCW 9.94A.729(5).....	17
RCW 9.94A.729(b)(1)	12
RCW 9.94A.730.....	14
RCW 9.94A.730(5).....	14
RCW 9.94A.730(7).....	14

Sentencing Reform Act..... 16
Wash. Laws 2013 2nd Spec. Sess., ch. 14, § 4..... passim

I. INTRODUCTION

Washington law presumes a prisoner will serve the full sentence imposed by a court, but the law also allows a prisoner to earn early release credits for good behavior and performance. At the time Jackson was sentenced, when a prisoner was confined in a county jail prior to sentencing, the jail certified to the Department of Corrections the earned release time to be awarded for time served in the jail. In 2013 to provide consistency in the awarding of earned release time by jails, the Legislature expressly directed the Department to recalculate rates of earned release time for all prisoners to be consistent with the rate applicable to offenders confined in the Department's prisons. The Department could not adjust the number of days the jail certified as lost or unearned, *see* RCW 9.94A.729, and for an offense committed prior to July 1, 2013, could not recalculate the rate so as to "extend a term of incarceration beyond that to which an offender is currently subject." *See* Wash. Laws 2013 2nd Spec. Sess., ch. 14, § 4 (hereinafter Section 4 of the Act).

Jackson committed a serious violent offense in 2011. For this crime, Jackson was eligible to receive earned release time from the Department of Corrections at the statutory maximum rate of ten percent. But the jail certified Jackson's earned release time at a rate of fifty percent. In accordance with the 2013 statutes, the Department recalculated

Jackson's earned early release time at the statutory maximum rate of ten percent. As a result of the recalculation, the Department adjusted Jackson's early release date. Jackson filed a personal restraint petition challenging the Department's recalculation of his earned release time and the adjustment of his early release date. Jackson does not raise a constitutional claim. Rather, Jackson asserts only a statutory violation, alleging that the Department's recalculation of his earned release time improperly extended his "term of incarceration beyond that to which an offender is currently subject" by changing his early release date.

But in light of case law using this phrase and to be consistent with the overall statutory scheme, the statutory phrase "term of incarceration" means the sentence imposed by the superior court, not the early release date. And this exception to the Department's authority should be construed narrowly. By contrast, adopting Jackson's interpretation would make the statute ineffectual, contrary to the statute's purpose, and inconsistent with the statutory scheme. Because the Department's recalculation did not extend Jackson's incarceration beyond the sentence imposed by the court, the Department did not violate the statute.

II. ISSUE PRESENTED

RCW 9.94A.729(1)(b) requires the Department to recalculate an offender's earned release time received from a jail to conform to the rate

earned by prisoners in Department custody, and that “[t]he recalculation shall not extend a term of incarceration beyond that to which an offender is currently subject.” Did the Department comply with the statute when it recalculated Jackson’s earned release time to the correct statutory rate, properly adjusted the early release date accordingly, and did not extend the early release date beyond the term of incarceration imposed by the court?

III. STATEMENT OF THE CASE

When the superior court imposes a sentence, the law presumes that the prisoner will serve the sentence. *Honore v. Washington State Board of Prison Terms & Paroles*, 77 Wn.2d 697, 700, 466 P.2d 505 (1970); *State v. Rogers*, 112 Wn.2d 180, 183, 770 P.2d 180 (1989). But a prisoner may obtain early release from the sentence for good behavior and good performance. RCW 9.94A.728(1)(a); RCW 9.94A.729(1). The credit for such good behavior and good performance is called earned release time. RCW 9.94A.729(1)(a). The Department uses the earned release time to determine the prisoner’s early release date. An offender’s early release date, however, does not necessarily remain forever fixed in a point of time. Rather, the early release date may fluctuate depending upon the offender’s earning and loss of earned release time. *Matter of Stuhr*, 186 Wn.2d 49, 52-54, 375 P.3d 1031, 1032-33 (2016).

The maximum rate at which the prisoner may receive earned release time is set by statute and is based upon the prisoner's crime of conviction. RCW 9.94A.729(3). The maximum rate for a serious violent offense committed after July 1, 2003, is ten percent. RCW 9.94A.729(3)(c).

A prisoner may receive earned release time for presentence time served in jail. RCW 9.94A.729(1)(b). At the time of Jackson's conviction, when a prisoner was confined in a county jail prior to sentencing, the jail certified to the Department of Corrections the earned release time to be awarded for time served in the jail. Upon entry into the Department, the Department then calculated an offender's early release date based on the jail certification. It did not recalculate the earned release time certified by the jail to conform to the statutory rates for earning earned release. But in 2013, the Legislature directed the Department to adjust the rate at which offenders earn earned release time to be consistent with the rate for offenders confined in its facilities. This now requires the Department to audit the jail certification and grant presentence earned release time only up to the percentage statutorily mandated under RCW 9.94A.729(3).

Jackson was convicted of attempted first degree assault and felony harassment, and the court sentenced him to 180 months confinement,

followed by a term of community custody. App. A¹. The jail certified that Jackson was eligible for 219 days earned release time for his 438 days served in jail. App. B. This certification equaled an award of earned release time at a rate of fifty percent. *See Id.* But attempted first degree assault is a serious violent offense. RCW 9.94A.030(45)(a)(v), (ix) (attempted assault in the first degree is a serious violent offense). Under the statute, Jackson's crime caps the aggregate earned release time at a maximum rate of ten percent of the sentence. RCW 9.94A.729(3)(c) (for an offender convicted of a serious violent offense committed after July 1, 2003, "the aggregate earned release time may not exceed ten percent of the sentence.").

In accordance with RCW 9.94A.729, the Department recalculated Jackson's earned release time from the jail certification to be consistent with the statutory maximum rate allowed for a prisoner in the Department's custody. Jackson alleged that the Department reduced the

¹ For the Courts convenience, relevant court documents previously filed in the Court of Appeals are included as appendices to this brief.

- Appendix A is the "Judgement and Sentence", King County Cause No. 11-1-07884-8 SEA, originally filed as Appendix 2 to the Answer to Motion for Discretionary Review filed in this Court.
- Appendix B is the "Jail Certification" which was originally filed as Exhibit 1 to the Personal Restraint Petition filed in Court of Appeals Cause No. 73980-8-I.
- Appendix C is the "Personal Restraint Petition" originally filed in the Court of Appeals Cause No. 73980-8-I.
- Appendix D is the "Order of Dismissal" originally filed in the Court of Appeals Cause No. 73980-8-I.

earned release time for Jackson's presentence jail time from 219 days to 77 days.² See App. C at p. 3. Jackson alleges that this resulted in a change of his early release date from August 30, 2023 to January 5, 2024. *Id.*

Jackson filed a personal restraint petition, alleging that the Department unlawfully extended his earned release date in violation of Section 4 of the Act. App. C. The petition did not raise any constitutional claim. Rather, Jackson relied solely on the provision in Section 4 of the Act that "the recalculation shall not extend a term of incarceration beyond that to which an offender is currently subject." *Id.* Jackson contended that the adjustment of the early release date extended his term of incarceration. *Id.*

The Court of Appeals dismissed Jackson's petition without calling for a response from the Department. The Acting Chief Judge held that the jail certified earned release time at a rate of fifty percent, that Jackson was not entitled to earned release time at a rate higher than the statutory rate of ten percent, and that the Department's recalculation of the earned release time to the correct statutory rate did not extend Jackson's incarceration beyond the 180 month sentence imposed by the superior court. App. D.

² These calculations and dates and those referenced throughout this brief are based on Jackson's representations in his Petition. Given the unique procedural posture of this matter, Department records are not in the record. However, the Department does not contest that it recalculated Jackson's earned release time and adjusted the earned release date accordingly. Given Jackson's argument that the Department cannot adjust the earned release date at all, the exact numbers and dates are not relevant.

Jackson sought review by this Court, again contending the Department's recalculation violates Section 4 of the Act. This Court granted review, appointed counsel for Jackson, and ordered supplemental briefing.

IV. ARGUMENT

RCW 9.94A.729(1)(b) mandates that "[t]he 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." The Department complied with this statutory mandate by recalculating Jackson's rate of earned release time from the nonconforming rate of fifty percent to the correct statutory rate of ten percent. As the Court of Appeals noted, Jackson does not contend and cannot establish that he is entitled to earned release time at a rate greater than ten percent.

Having correctly recalculated the earned release time, the Department then adjusted Jackson's early release date accordingly to reflect the corrected earned release time. Jackson alleges his early release date changed from August 30, 2023 to January 5, 2024. App. C at p. 3. Jackson contends this change of his early release date violated Section 4 of the Act by extending his "term of incarceration beyond that to which an offender is currently subject." But Jackson too narrowly construes the

language “term of incarceration beyond that to which an offender is currently subject” to mean the early release date, rather than the sentence imposed by the superior court. Because the “term of incarceration” as used in this statute is the sentence imposed by the superior court, and the Department’s recalculation did not extend Jackson’s incarceration beyond that sentence, Jackson is not entitled to relief.

A. This Court’s Recent Precedent Indicates the Statutory Phrase “Term of Incarceration Beyond that to Which an Offender is Currently Subject” Means the Sentence Imposed, not the Early Release Date

In *State v. Franklin*, 172 Wn.2d 831, 263 P.3d 585 (2011), this Court interpreted an analogous statute that similarly directed the Department to recalculate an offender’s term of community custody. Like Section 4 of the Act here, the statute in *Franklin* directed the Department to reset the date on which the term of community custody would end. *Id.* at 590. Further like Section 4 of the Act, the statute in *Franklin* provided, “[t]hat recalculation shall not extend a term of community custody beyond that to which an offender is currently subject.” *Id.* at 841 (citing Wash. Laws 2009 ch. 375, § 9).

This Court determined the statutory language “term...beyond that to which an offender is currently subject” means the sentence imposed by the superior court. *Franklin*, 172 Wn.2d at 841. The Court determined the

statute directed the Department to recalculate the end date of community custody, “ensuring that Franklin’s total sentence does not exceed that imposed in the judgment and sentence.” *Id.* The Court noted that the Department’s recalculation of community custody end date was a purely ministerial function that did not invade the purview of the courts because the recalculation does not extend the sentence beyond that imposed by the court. *Id.* at 843. This holding is equally applicable here.

Although this Court in *Franklin* discussed the statutory phrase “term of community custody beyond that to which an offender is currently subject,” that statutory phrase is almost identical to the phrase in Section 4 of the Act, “term of incarceration beyond that to which an offender is currently subject.” The only difference between the two statutory phrases is that Section 4 of the Act replaces the words “community custody” with the word “incarceration.” The remainder of the sentence is identical in both statutes. Since the phrase “term of community custody beyond that to which an offender is currently subject” in *Franklin* means the sentence imposed by the superior court, the phrase “term of incarceration beyond that to which an offender is currently subject” should also mean the sentence imposed by the superior court.

Other courts have similarly used the phrase “term of incarceration” to mean the sentence imposed by the superior court. *See, e.g., State v.*

Hyder, 159 Wn. App. 234, 369-70, 244 P.3d 454 (2011) (using “term of incarceration” to refer to sentence imposed by the superior court); *State v. Silva*, 108 Wn. App. 536, 542, 31 P.3d 729 (2001) (using “term of incarceration” to indicate the court could have imposed a sentence of confinement up to the statutory maximum); *State v. Brown*, 178 Wn. App. 70, 73, 312 P.3d 1017 (2013) (using “term of incarceration” to refer to the standard range sentence imposed by the court); *Matter of George*, 52 Wn. App. 135, 143, 758 P.2d 13 (1988) (referring to the sentence imposed by the court as the “term of incarceration”).

Jackson provides no coherent argument as to why the statutory phrase in Section 4 of the Act should be read differently from the statute at issue in *Franklin* and differently from its common meaning as shown in numerous cases. Jackson provides no basis for not interpreting the phrase “term of incarceration” to mean the sentence imposed by the court, rather than the earned early release date.

B. The Plain Meaning of the Statute and Rules of Statutory Construction Confirm the Conclusion in *Franklin* that “Term of Incarceration” Means the Sentence Imposed by the Court

In enacting RCW 9.94A.729(1)(b), the Legislature directed the Department to recalculate the award of earned release time to provide consistency of the rate at which offenders receive earned release time. But Jackson’s interpretation of Section 4 of the Act would effectively

invalidate this statutory directive by preventing the Department from recalculating earned release time in many circumstances. Because recalculation of the earned release time necessarily affects the early release date, the Department must adjust the early release date when it recalculates earned release time.

In interpreting statutes, courts “try to determine and give effect to the legislature’s intent.” *Francis v. Washington State Dep't of Corr.*, 178 Wn. App. 42, 59-60, 313 P.3d 457 (2013). When the statute’s meaning is plain on its face, then courts give full effect to the plain meaning. *Id.*; *Robbins, Geller, Rudman, & Dowd, LLP v. State*, 179 Wn. App. 711, 720-21, 328 P.3d 905 (2014). Here, the Legislature mandated that the Department recalculate an offender’s earned release time. In enacting RCW 9.94A.729(1)(b), the Legislature plainly sought consistency among the rates at which prisoners received earned release time, and required that the Department adjust inconsistent rates from the county jails. The Legislature recognized and sought to correct disparate terms of confinement depending on the county in which offenders served their presentence time. For example, here Jackson served time in King County Jail and the jail awarded earned release time at a rate of fifty percent. App. B. Not only did this rate exceed the statutory maximum rate, but offenders who may have spent presentence confinement in another county for the

same crimes may have received earned release time at a much lower rate. RCW 9.94A.729(b)(1) plainly sought to correct this disparity by requiring the Department to adjust the rate of early release time to be consistent with that available to all offenders in Department custody. Jackson's interpretation ignores this plain statutory intent and significantly impinges the Department's authority and ability to bring consistency to presentence early release time.

While Section 4 of the Act provides a limit on the Department in effectuating the desired consistency, this exception should be construed narrowly as to mean the sentence imposed by the court, not the early release date, in order to effectuate the primary purpose of the statute. *See Foster v. Washington State Dep't of Ecology*, 184 Wn.2d 465, 473, 362 P.3d 959 (2015) ("statutory exceptions are construed narrowly in order to give effect to the legislative intent underlying the general provisions."); *Swinomish Indian Tribal Community v. Dep't of Ecology*, 178 Wn.2d 571, 582, 311 P.3d 6 (2013) (same). Section 4 of the Act prevents the Department from recalculating earned release time so as to hold the prisoner beyond the sentence imposed by the superior court. In other words, no matter the recalculation, the Department may not hold Jackson for more than the 180 months imposed by the court. But Jackson's interpretation of Section 4 of the Act—that the Department cannot adjust

one's earned early release date to add more time—essentially prevents any recalculation of earned release time because it would prevent any adjustment of his early release date. In short, under Jackson's interpretation, the Department must recalculate his earned release time but then ignore the recalculation and still grant him the early release credits awarded under the incorrect rate. That the Legislature would require the Department to recalculate presentence earned release time for consistency but then prevent the Department from using the recalculation to adjust the early release date would create an absurd result.

Contrary to Jackson's argument, Section 4 of the Act only limits the Department's statutory obligations under RCW 9.94A.729(1)(b) by requiring that any recalculation not exceed the term of incarceration set out in the judgment and sentence. This interpretation provides full effect to the plain meaning of the statute and appropriately narrowly interprets Section 4 of the Act as an exception. Any interpretation to the contrary renders hollow the mandatory obligation that the Legislature intended to place on the Department.

The technical meaning of the phrase "term of incarceration" also requires that Section 4 of the Act limit the Department's authority only to the sentence set out in the superior court's order. And terms of art must be given their technical meaning. *See Foster*, 184 Wn. 2d at 471; *Swinomish*

Indian Tribal Cmty., 178 Wn.2d at 581. While the term “term of incarceration” is not explicitly defined in either RCW 9.94A.729(1)(b) or Section 4 of the Act, the use of the term in other statutes is instructive. For example, RCW 9.94A.730 uses the phrase “term of incarceration” to refer to the sentence imposed by the court. The statute authorizes the Indeterminate Sentence Review Board when releasing the offender to require supervision “up to the length of the court-imposed term of incarceration.” RCW 9.94A.730(5). Similarly, the statute authorizes the Board to return such an offender “up to the remainder of the court-imposed term of incarceration” when the offender violates a condition of supervision. RCW 9.94A.730(7).

Indeed the Legislature is presumed to know the area of law in which it is legislating as well as the prior judicial use of the terms that it employs. *State v. Torres*, 151 Wn. App. 378, 385, 212 P.3d 573 (2009). As discussed above, this Court interpreted nearly identical statutory language in *Franklin* in 2011. The Court held that the phrase “term... beyond that to which an offender is currently subject” referred to the sentence imposed in the judgment and sentence. *Franklin*, 172 Wn.2d at 841. Subsequently in 2013, the Legislature enacted RCW 9.94A.729(1)(b) and Section 4 of the Act using almost identical language to that interpreted in *Franklin*. Also, as noted above, numerous courts have used “term of incarceration” to refer

to the sentence imposed in the judgment and sentence, not the early release date. Because the phrase at issue here was interpreted in 2011 to refer to the sentence imposed in the judgment and sentence, and the Legislature subsequently used the same language in the 2013 legislation, this Court should presume that the Legislature intended the same result. The Legislature intended to limit the Department's authority only by the sentence set out in the judgment and sentence.

C. Defining "Term of Incarceration" as the Early Release Date Rather than the Sentence is Inconsistent with the Early Release System

In establishing the early release system, the Legislature gave broad deference to the Department. *See* RCW 9.94A.729(1)(a); *Matter of Stuhr*, 375 P.3d at 1034 (recognizing the broad authority given to the Department to establish and administer the early release program). The plain language of the statute contains a broad mandate and narrow limiting language. *See* RCW 9.94A.729(1). Here, the relevant statutory purpose is to provide consistency in the rate at which prisoners receive earned release time, and the limitation is to not hold offenders past the sentence imposed by the court. This interpretation is consistent with the overall early release system and the broad authority granted to the Department by the Legislature.

Jackson's argument that "term of incarceration" means the early release date rests upon an erroneous premise that he has a right to outright

release on a fixed early release date. But Jackson has no such right. There is no right to a “fixed” early release date since the date is constantly subject to change depending upon whether the prisoner earns or loses earned release time during confinement. Moreover, Jackson has no right to release on the early release date. Rather, Jackson only becomes eligible for transfer to community custody on that early release date.

The Sentencing Reform Act presumes a prisoner shall not be released before the expiration of the sentence except for specified exceptions for early release. RCW 9.94A.728, .729. “The statute prohibits early release absent existence of one of the statutory exceptions.” *Rogers*, 112 Wn.2d at 183. One such exception is the early release program in RCW 9.94A.728 and .729.

As this Court has recognized, an offender’s early release date does not necessarily remain forever fixed in a point of time. Rather, the early release date may fluctuate depending upon the offender’s earning and loss of earned release time. *Matter of Stuhr*, 375 P.3d at 1033-34. Interpreting “term of incarceration” to mean the early release date and construing Section 4 of the Act to prevent an adjustment of the early release date is inconsistent with the early release system, which by definition includes a fluctuating early release date depending on circumstances.

Further demonstrating that an early release date is not a fixed right for a prisoner to be released, the statute does not authorize outright early release when the offender is sentenced to a term of community custody. *See, e.g., In re Mattson*, 166 Wn.2d 730, 737-741, 214 P.3d 141 (2009) (sex offender was not entitled to outright release on early release date but became eligible for transfer to community custody upon reaching the early release date); *In re Crowder*, 97 Wn. App. 598, 600, 985 P.2d 944 (1999) (offenders sentenced to community custody are excluded from general early release program). When an offender like Jackson reaches his early release date, he will only become eligible for transfer to community custody in lieu of earned release time. RCW 9.94A.729(5). The Department may decline to transfer Jackson to community custody, and may instead continue to hold him in total confinement beyond the early release date, up to the sentence of confinement imposed by the superior court. RCW 9.94A.729(5).

Interpretation of the phrase “term of incarceration” to mean that the Department cannot adjust the early release date, and must release Jackson on that date, is inconsistent with the rule that the Department may hold an offender like Jackson beyond his early release date, up to the sentence imposed by the court. The only reasonable interpretation consistent with the early release system is that “term of incarceration” means sentence, since the

Department cannot hold an offender beyond the sentence imposed by the court.

Jackson may argue that limiting the Department's recalculation only by the sentence outlined on the judgment and sentence provides no meaningful limit and reads this Section 4 of the Act out of the statute. However, limiting the Department's authority to the sentence imposed on the judgment and sentence may have simply been a legislative failsafe to ensure any recalculation provided appropriate deference to sentencing, which is clearly in the province of the judiciary. Indeed, this Court in *Franklin* acknowledged that directing the Department to recalculate a sentence was an exercise of ministerial duties which, provided that the resulting sentence did not exceed the sentence actually imposed by the court, did not invade the purview of the courts. *See Franklin*, 172 Wn.2d at 843. Recognizing this principle of separation of powers, the Legislature limited the Department to the sentence imposed by the court in an effort to safeguard the province of the judiciary and ensure any recalculation did not extend an offender's term of incarceration beyond his judgment and sentence.

V. CONCLUSION

Jackson is not entitled to relief because the Department's recalculation of the rate of earned release time consistent with the statutory maximum rate is consistent with RCW 9.94A.729(1)(b) and

Section 4 of the Act. This adjustment did not extend Jackson's term of incarceration beyond the 180 months imposed in the judgment and sentence. This Court should affirm the denial of Jackson's petition.

RESPECTFULLY SUBMITTED this 30th day of September,
2016.

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CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed RESPONDENT'S SUPPLEMENTAL BRIEF with the Clerk of the Court using the electronic filing system and I hereby certify that I have mailed by United States Postal Service the document to the participant:

RICHARD WAYNE LECHICH
WASHINGTON APPELLATE PROJECT
1511 3RD AVENUE SUITE 701
SEATTLE WA 98101-3647

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

EXECUTED this 30th day of September, 2016, at Olympia, WA.

s/ Tera Linford
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APPENDIX A

“Judgement and Sentence”

King County Superior Court Cause No. 11-1-07884-8-SEA

**Originally filed as Appendix 2 to the Answer to Motion for Discretionary
Review filed in this Court**

FILED

2012 DEC 12 PM 1:30

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

DEC 12 2012

COMMITMENT ISSUED

PRESENTENCING STATEMENT & INFORMATION ATTACHED

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 11-C-07884-8 SEA

Vs.

JUDGMENT AND SENTENCE
FELONY (FJS)

JOHN WESLEY JACKSON, JR

Defendant,

979212
12/14/12

I. HEARING

I.1 The defendant, the defendant's lawyer, Daniel Folker, and the deputy prosecuting attorney were present at this sentencing hearing conducted today. Others present were: Victoria Anthony Narancio

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 09/12/2012 by plea of:

Count No.: I Crime: Attempted Assault in the First Degree
RCW 9A.28.020 and 9A.36.011(1)(c) Crime Code: 11014
Date of Crime: 10/4/2011 Incident No. SPD 11-3210576

Count No.: II Crime: Felony Harassment
RCW 9A.46.020(1), (2)(b) Crime Code: 00498
Date of Crime: 10/4/2011 Incident No. SPD 11-3210576

Count No.: _____ Crime: _____
RCW _____ Crime Code: _____
Date of Crime: _____ Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code: _____
Date of Crime: _____ Incident No. _____

Additional current offenses are attached in Appendix A

SPECIAL VERDICT or FINDING(S):

- (a) While armed with a firearm in count(s) _____ RCW 9.94A.533(3).
- (b) While armed with a deadly weapon other than a firearm in count(s) _____ RCW 9.94A.533(4).
- (c) With a sexual motivation in count(s) _____ RCW 9.94A.835.
- (d) A V.U.C.S.A. offense committed in a protected zone in count(s) _____ RCW 69.50.435.
- (e) Vehicular homicide Violent traffic offense DUI Reckless Disregard.
- (f) Vehicular homicide by DUI with _____ prior conviction(s) for offense(s) defined in RCW 46.61.5055, RCW 9.94A.533(7).
- (g) Non-parental kidnapping or unlawful imprisonment with a minor victim. RCW 9A.44.128, .130.
- (h) Domestic violence as defined in RCW 10.99.020 was pled and proved for count(s) _____
- (i) Current offenses encompassing the same criminal conduct in this cause are count(s) _____ RCW 9.94A.589(1)(a).
- (j) Aggravating circumstances as to count(s) _____

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

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

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

2.4 SENTENCING DATA:

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range to 238 Term	Maximum
Count I	12	XII	240 to 318	75% of Standard	180 months Months	10 Yrs and/or \$20,000
Count II	12	III	51 to 60		51 to 60 Months	5 Yrs and/or \$10,000

Additional current offense sentencing data is attached in Appendix C.

2.5 EXCEPTIONAL SENTENCE

- Findings of Fact and Conclusions of Law as to sentence above the standard range:
Finding of Fact: The jury found or the defendant stipulated to aggravating circumstances as to Count(s) _____
Conclusion of Law: These aggravating circumstances constitute substantial and compelling reasons that justify a sentence above the standard range for Count(s) _____. The court would impose the same sentence on the basis of any one of the aggravating circumstances.

An exceptional sentence above the standard range is imposed pursuant to RCW 9.94A.535(2) (including free crimes or the stipulation of the defendant). Findings of Fact and Conclusions of Law are attached in Appendix D.

An exceptional sentence below the standard range is imposed. Findings of Fact and Conclusions of Law are attached in Appendix D.

The State did did not recommend a similar sentence (RCW 9.94A.480(4)).

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.
 The Court DISMISSES Count(s) _____

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION, VICTIM ASSESSMENT, AND DNA FEE:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix B.
- Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(5), sets forth those circumstances in attached Appendix B.
- Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
- Date to be set.
- Defendant waives right to be present at future restitution hearing(s).
- Restitution is not ordered.

Defendant shall pay Victim Penalty Assessment in the amount of \$500 (RCW 7.68.035 - mandatory).
Defendant shall pay DNA collection fee in the amount of \$100 (RCW 43.43.7541 - mandatory).

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

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

4.3 PAYMENT SCHEDULE: The TOTAL FINANCIAL OBLIGATION set in this order is \$ 400. Restitution may be added in the future. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month;
 On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied. Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.
 Court Clerk's trust fees are waived.
 Interest is waived except with respect to restitution.

4.4 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: immediately; (Date): _____ by _____ m.

120 months/days on count I; _____ months/days on count _____; _____ months/day on count _____

60 months/days on count II; _____ months/days on count _____; _____ months/day on count _____

The above terms for counts I + II are consecutive concurrent.

The above terms shall run consecutive concurrent to cause No.(s) _____

The above terms shall run consecutive concurrent to any previously imposed sentence not referred to in this order.

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

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

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

The TOTAL of all terms imposed in this cause is: 180 months.

Credit is given for time served in King County Jail or BHD solely for confinement under this cause number pursuant to RCW 9.94A.505(6): _____ day(s) or _____ days determined by the King County Jail.

For nonviolent, nonsex offense, credit is given for days determined by the King County Jail to have been served in the King County Supervised Community Option (Enhanced CCAP) solely under this cause number.

For nonviolent, nonsex offense, the court authorizes earned early release credit consistent with the local correctional facility standards for days spent in the King County Supervised Community Option (Enhanced CCAP).

4.5 NO CONTACT: For the maximum term of 10 years, defendant shall have no contact with Anthony Narancia
Clinton "Dinah" Warren, Jacob Granger, Ed Jones

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

HIV TESTING: The defendant shall submit to HIV testing as ordered in APPENDIX G.
RCW 70.24.340.

4.7 (a) COMMUNITY CUSTODY for qualifying crimes committed before 7-1-2000, is ordered for one year (for a drug offense, assault 2, assault of a child 2, or any crime against a person where there is a finding that defendant or an accomplice was armed with a deadly weapon); 18 months (for any vehicular homicide or for a vehicular assault by being under the influence or by operation of a vehicle in a reckless manner); two years (for a serious violent offense).

(b) COMMUNITY CUSTODY for any SEX OFFENSE committed after 6-5-96 but before 7-1-2000, is ordered for a period of 36 months.

(c) **COMMUNITY CUSTODY** - for qualifying crimes committed after 6-30-2008 is ordered for the following established range or term:

- Sex Offense, RCW 9.94A.030 - 36 months—when not sentenced under RCW 9.94A.507
 - Serious Violent Offense, RCW 9.94A.030 - 36 months**
 - If crime committed prior to 8-1-09, a range of 24 to 36 months.
 - Violent Offense, RCW 9.94A.030 - 18 months
 - Crime Against Person, RCW 9.94A.411 or Felony Violation of RCW 69.50/52 - 12 months
 - If crime committed prior to 8-1-09, a range of 9 to 12 months.
- _____ months (applicable mandatory term reduced so that the total amount of incarceration and community custody does not exceed the maximum term of sentence).

Sanctions and punishments for non-compliance will be imposed by the Department of Corrections or the court.
 APPENDIX H for Community Custody conditions is attached and incorporated herein.
 APPENDIX J for sex offender registration is attached and incorporated herein.

4.8 **WORK ETHIC CAMP:** The court finds that the defendant is eligible for work ethic camp, is likely to qualify under RCW 9.94A.690 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the defendant shall be released to community custody for any remaining time of total confinement, subject to the conditions set out in Appendix E.

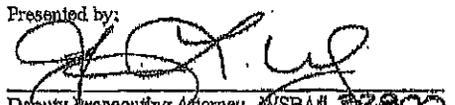
4.9 **ARMED CRIME COMPLIANCE, RCW 9.94A.475, 480.** The State's plea/sentencing agreement is attached as follows:

The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

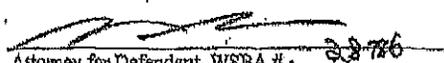
Date: December 12, 2012



JUDGE
Print Name: MICHAEL C. HAYDEN

Presented by:


Deputy Prosecuting Attorney, WSBA# 32800
Print Name: Shirley L. Wiley

Approved as to form:


Attorney for Defendant, WSBA # 23786
Print Name: Don Norman

FINGERPRINTS

BEST AVAILABLE IMAGE POSSIBLE



RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE:
DEFENDANT'S ADDRESS:

JOHN WESLEY JACKSON

DATED: 12/12/12
Wanda and Hazel
JUDGE, KING COUNTY SUPERIOR COURT

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK
BY: [Signature]
DEPUTY CLERK

CERTIFICATE

OFFENDER IDENTIFICATION

I, _____,
CLERK OF THIS COURT, CERTIFY THAT
THE ABOVE IS A TRUE COPY OF THE
JUDGEMENT AND SENTENCE IN THIS
ACTION ON RECORD IN MY OFFICE.
DATED: _____

S. I. D. NO. WA14164975

DOB: _____

SEX: M

RACE: B

CLERK

BY: _____
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 11-C-07884-8 SEA

vs.

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

JOHN WESLEY JACKSON, JR.

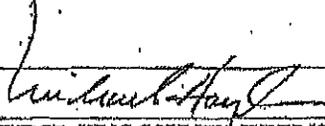
Defendant,

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

Crime	Sentencing Date	Adult or Juv. Crims.	Cause Number	Location
VUCSA Possession of Cocaine		Adult		Texas
Felony Harassment	08/06/1993	Adult	931030891	King Co.
Assault 3 DV	08/06/1993	Adult	931030891	King Co.
VUCSA Solicitation Cocaine	09/13/1996	Adult	951061938	King Co.
VUCSA Possession Cocaine	03/18/1997	Adult	951005505	Snohomish Co.
Unlawful Possession of a Firearm 1	02/17/1993	Adult	941082471	King Co.
VUCSA Possession Cocaine	09/13/1996	Adult	951079101	King Co.
VUCSA Possession Cocaine	09/13/1996	Adult	961030381	King Co.
VUCSA Possession Cocaine	04/03/1998	Adult	981001549	King Co.
VUCSA Possession Cocaine	12/28/1999	Adult	991077373	King Co.
VUCBA Section D	04/21/2003	Adult	031100630	King Co.
Bail Jumping	04/21/2003	Adult	031100630	King Co.

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

Date: 12/12/12


JUDGE, KING COUNTY SUPERIOR COURT

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 11-C-07884-8 SEA

vs.

APPENDIX G
ORDER FOR BIOLOGICAL TESTING
AND COUNSELING

JOHN WESLEY JACKSON, JR.

Defendant,

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

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

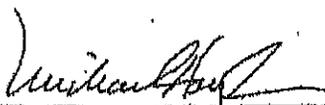
(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 205-7837 to make arrangements for the test to be conducted within 30 days.

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

Date:

12/12/12



JUDGE, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 11-C-07884-S SEA

vs.

JUDGMENT AND SENTENCE
APPENDIX H
COMMUNITY CUSTODY

JOHN WESLEY JACKSON, JR.

Defendant,

The Defendant shall comply with the following conditions of community custody, effective as of the date of sentencing unless otherwise ordered by the court.

- 1) Report to and be available for contact with the assigned community corrections officer as directed;
- 2) Work at Department of Corrections-approved education, employment, and/or community restitution;
- 3) Not possess or consume controlled substances except pursuant to lawfully issued prescriptions;
- 4) Pay supervision fees as determined by the Department of Corrections;
- 5) Receive prior approval for living arrangements and residence location; and
- 6) Not own, use, or possess a firearm or ammunition. (RCW 9A.706)
- 7) Notify community corrections officer of any change in address or employment;
- 8) Upon request of the Department of Corrections, notify the Department of court-ordered treatment;
- 9) Remain within geographic boundaries, as set forth in writing by the Department of Corrections Officer or as set forth with SODA order.

The defendant shall not consume any alcohol.

Defendant shall have no contact with: _____

Defendant shall remain within outside of a specified geographical boundary, to wit: _____

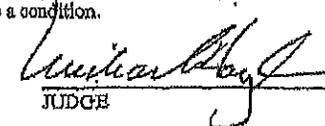
The defendant shall participate in the following crime-related treatment or counseling services: _____

The defendant shall comply with the following crime-related prohibitions: _____

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

Community Custody shall begin upon completion of the term(s) of confinement imposed herein, or at the time of sentencing if no term of confinement is ordered. The defendant shall remain under the supervision of the Department of Corrections and follow explicitly the instructions and conditions established by that agency. The Department may require the defendant to perform affirmative acts deemed appropriate to monitor compliance with the conditions and may issue warrants and/or detain defendants who violate a condition.

Date: 12/12/12


JUDGE

APPENDIX B

“Jail Certification”

King County Superior Court Cause No. 11-1-07884-8-SEA

**Originally filed as Exhibit 1 to the Personal Restraint Petition filed in the
Court of Appeals Cause No. 73980-8-I**

**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 ⁹⁷⁹²¹² CCN: 1515276

CHARGE	CAUSE#	FROM	TO
ATT ASLT 1	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 MCLELLAN
Date 121212

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

APPENDIX C

**“Personal Restraint Petition”
Court of Appeals Cause No. 73980-8-I**

Originally filed in the Court of Appeals Division I

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No. 73980-8

COURT OF APPEALS
STATE OF WASHINGTON
DIVISION ONE

In Re

PERSONAL RESTRAINT PETITION

of:

JOHN WESTLY JACKSON, JR.,
Petitioner.

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2015 JUN -1 AM 11:28

PERSONAL RESTRAINT PETITION

John Westly Jackson, Jr.
Petitioner, pro se
979212 : CRCC : H-A-27
CONNELL WA 99326

6-2-15
PETITIONER MAY FILE PETITION
WITHOUT PAYMENT OF FILING FEE

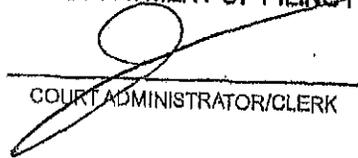

COURT ADMINISTRATOR/CLERK

TABLE OF CONTENTS

Table of Authorities	11
Status of Petitioner	..±	1
Grounds for Relief	2

THE DEPARTMENT OF CORRECTIONS ERRED
WHEN IT RECALCULATED MY SENTENCE:
AND REDUCED THE EARNED EARLY-RELEASE
CREDITS AWARDED BY THE COUNTY JAIL
PURSUANT TO SECOND ENGROSSED
SUBSTITUTE SENATE BILL 5892.

Statement of the Case	2 - 5
Statement of Relief Sought	5
Statement of Finances	6
Verification of Petition	7

Appendix -A-

Judgment & Sentence

Attachment Two

Exhibits #1, #2, and #3

TABLE OF AUTHORITIES

BARTON V. DEP'T OF TRANSPORTATION	
178 Wn 2d 193 (2013)	3
HAVILAND, ESTATE OF,	
177 Wn 2d 68 (2013)	3
Lilyblad, State v.,	
163 Wn 2d 1 (2008)	3
POLETTI V. OVERLAKE HOSPITAL & MED. CTR.,	
175 Wn App 828 (2013, Div-1)	4
SWANSON, DETENTION OF,	
115 WN 2d 21 (1990)	4
WILLIAMS, In re,	
121 Wn 2d 655 (1994)	2
<u>Statutes</u>	
RCW 9.94A.729	2
<u>Session Laws</u>	
2ESSB 5892	
Laws of 2013, 2nd Spec. Sess., Ch. 14	2, 5

I - STATUS OF PETITIONER

I, John Westly Jackson, Jr., petitioner, pro se,
and currently residing at 1301 N. Ephrata Ave.,
Conell, Washington, 99326, apply for release from
confinement.

1.1 I am now in custody serving a sentence upon con-
viction of a crime.

1.2 The court in which I was sentenced is the Superior
Court of King County.

1.3 I was convicted of the crimes: Count (1) Attempt:
Assault in the first degree (9A.28.020 and 9A.36.011
(1)(c)); and count (2) Felony Harassment (9A.46.020)

1.4 I was sentenced after plea of guilty on the 12th
day of December, 2012. The judge who imposed sen-
tence was the honorable Michael C. Hayden.

[A copy of my judgment and sentence is attached
as Appendix - A].

1.5 My trial court lawyer was Dan Norman.

1.6 I did not appeal from the decision of the trial
court.

1.7 Since my conviction I have not asked any court
for any type of relief.

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II - GROUNDS FOR RELIEF

I claim that I have one ground upon which this court should grant me relief from confinement:

Ground One

THE DEPARTMENT OF CORRECTIONS
ERRED WHEN IT RECALCULATED MY
SENTENCE AND REDUCED THE
EARNED EARLY-RELEASE CREDITS
AWARDED BY THE COUNTY JAIL
PURSUANT TO SECOND ENGROSSED
SUBSTITUTE SENATE BILL 5892.

III - STATEMENT OF THE CASE

3.1 On 12 December 2012, the King County Jail certified to the Department of Corrections that I served 438 days of actual confinement, and in accord with In re Williams, 121 Wn 2d 655 (1994) certified an additional 219 days of earned early-release credits. [See Attachment Two, Exhibit #1, "Jail Certification and Authorization for Earned Early Release Credit, Washington State Department of Corrections"].

3.2 In accord with 2ESSB 5892 [effective 1 July 2013] section 4, a new section was created which stated:

"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 cont-

1 ract. The earned release date shall be
2 recalculated whether the offender is
3 currently incarcerated or is sentenced
4 after the effective date of this section,
5 and regardless of the offender's date of
6 offense. For offenders whose offense
7 was committed prior to the effective date
8 of this section, the recalculation shall
9 not extend a term of incarceration beyond
10 that to which an offender is currently
11 subject." [My emphasis].

12 3.3 Pursuant to that foregoing section, the department
13 recalculated my earned early-release credits.
14 However, and contrary to the emphasized, after
15 that recalculation my release date was changed
16 from 30 August 2023 to 5 January 2024.

17 3.4 The interpretation of a statute is a matter of law
18 and is reviewed de novo. Barton v. Dep't of Trans-
19 portation, 178 Wn 2d 193, ¶ 15 (2013).

20 3.5 The court's fundamental objective in interpreting
21 statutes is to give effect to the legislature's
22 intent. Estate of Haviland, 177 Wn 2d 68, ¶ 11
23 (2013). If the statute's meaning is plain on its
24 face, then the court must give effect to that plain
25 meaning as an expression of legislative intent.
26 Id.

3.6 In other words, "If the plain words of a statute
are unambiguous, the court need not inquire further."
State v. Lilyblad, 163 WN 2d 1, 6; (2008).

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3.7 In the matter presently being presented to this court, 2ESSB 5892 clearly and unambiguously provides that "[f]or 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." [My emphasis]. [See Attachment Two, Ex #3].

3.8 Therefor, and in accord with the terms of this act, the Department lacked the legal authority to extend my released date from 30 August 2023 to 5 January 2024.

3.9 However, in response to this petitioner's inquiry, the Department specifically cited this act as its authority for re-calculating and imposing the change in early release credits otherwise authorized by the King County Certification. [Attachment Two, Ex #2]

3.10 Statutes involving a deprivation of liberty are to be strictly construed. In re Det. of Swanson, 115 Wn 2d 21, 27 (1990). Use of the word "shall" in a statute generally requires a mandatory construction. See Poletti v. Overlake Hosp. Med. Ctr., 175 Wn App 828, ¶ 12 (2013, Div-1).

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3.11 Under the facts of the current matter, King County certified 219 days of earned early-release credits. Although 2ESSB 5892 authorized the department to recalculate the earned time credits, it specifically provided that "the recalculation shall not extend the term of incarceration beyond that to which [this Petitioner was] currently subject."

3.12 In accord with the plain meaning of the mandatory language, the department was prohibited from extending Petitioner's release date based upon the recalculation of earned early release credits authorized by the same statutory provision.

IV - Statement of Relief Sought

Based upon the foregoing facts and argument, and the record and file to date, Petitioner asks this court to order the Department of Corrections to restore the earned early release credits inadvertently taken in accord with its recalculation pursuant to 2ESSB 5892.

Date: 20 May 2015

John Westly Jackson, Jr.
Petitioner, Pro se

V - STATEMENT OF FINANCES

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5.1 I am currently unemployed, and have been for more than the preceding six (6) months.

5.2 In the past twelve months, have not received any money from any of the following sources:

- a. Business, profession, or self-employment;
- b. Rent payments, interest, or dividends;
- c. Pensions, annuities, or life insurance;
- d. disability, or workers compensation payments;
- e. Gifts or inheritances;
- f. any other sources.

5.3 I have \$ 0 in my prison trust account.

5.4 I do not own any real estate, stocks, bonds, securities, other financial instruments, automobiles, or other valuable property.

5.5 I do not own any other assets.

5.6 I do not have any persons who are dependent upon me to support them while I am incarcerated.

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VI - VERIFICATION OF PETITION

State of Washington)
) SS:
County of Franklin)

I, John Westly Jackson, Jr., do depose and say:

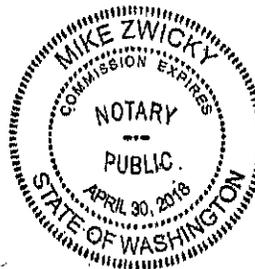
- (1) I am the petitioner in the above-entitled action;
- (2) I have read the petition, I know its contents, and believe the same to be true to the best of my knowledge, belief, and understanding.

Date: 5-28-15

John Jackson
 John Westly Jackson, Jr.
 Petitioner, Pro se
 979212 : CRCC :. H-A-27
 PO Box 769
 Connell WA 99326

SUBSCRIBE AND SWORN TO BEFORE ME by the person above-named
after providing sufficient proof of identity on this 28
day of MAY, 2015.

[Signature]
 Notary Public
 State of Washington
 Residing at: Connell, WA
 My commission expires: 4/30/2018



APPENDIX D

**“Order of Dismissal”
Court of Appeals Cause No. 73980-8-I**

Originally filed in the Court of Appeals Division I

No. 73980-8-1/2

"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, § 4.

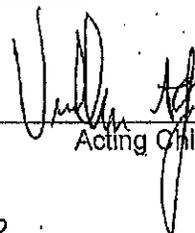
RCW 9.94A.729(1)(b) requires DOC to "adjust an offender's rate of early release listed on the jail certification to be consistent with the rate applicable to offenders in [DOC] facilities." According to RCW 9.94A.729(1)(c), for an offender convicted of a serious violent offense after July 1, 2003, "the aggregate earned release time may not exceed ten percent of the sentence." Attempted assault in the first degree is a "serious violent offense." RCW 9.94A.030(45)(a)(v), (ix).

Jackson does not contend or establish that he was entitled to earned early release credit on his jail time at a rate of more than 10%. And he fails to identify any authority or cogent explanation for his claim that DOC's recalculation of his earned early release date extended his incarceration beyond the term of 180 months to which he is currently subject. His bare assertions and conclusory allegations do not warrant relief in a personal restraint petition. In re Pers. Restraint of Rice, 118 Wn.2d 876, 886, 828 P.2d (1086) (1992). Because Jackson fails to identify grounds for relief, his petition must be dismissed.

Now, therefore, it is hereby

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

Done this 29th day of July, 2015.



Acting Chief Judge

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