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WASHINGTON STATE
SUPREME COURT

NO. 92412-1

SUPREME COURT OF THE
STATE OF WASHINGTON

IN Re PERSONAL RESTRAINT OF

EDUARDO SANDOVAL, PETITIONER

Review from the Superior Court of Pierce County
The Honorable Linda C.J. Lee

No. 10-1-04055-4

Supplemental Brief of Respondent

MARK LINDQUIST
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ORIGINAL

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A. ISSUE PRESENTED BY THE COURT.

1. Did the discrepancy between the statutory citation in the amended Information and the jury instructions regarding murder by extreme indifference have an impact on the current personal restraint petition?
2. Was the statutory citation in Count III a clerical error, cured by the court's answer/instruction in response to the jury question?
3. Was the petitioner prejudiced by this clerical error?

B. STATEMENT OF THE CASE/STATUS OF THE PETITIONER.

1. Procedure

The status of the petitioner and the general procedural history is set forth in the State's original response to this personal restraint petition (PRP).

The petitioner went to trial on an amended Information, which charged him with one count of murder in the first degree (extreme indifference) (RCW 9A.32.030(1)(b)), one count of assault in the first degree (RCW 9A.36.011(1)(a)), and one count of conspiracy to commit murder in the first degree. Appendix C. As this Court points out, the statutory citation written in the amended Information for Count III, the

conspiracy to murder is, RCW 9A.32.030(1)(a), which is premeditated murder.

During deliberations, the jury sent out a written question. The jury asked if it should “use the definition of ‘murder in the first degree’ as written in Instruction #12?” Appendix E. After consulting counsel, the court replied in the affirmative. Appendices G, F. Soon thereafter, the jury reached the verdicts.

C. ARGUMENT.

1. THE DISCREPANCY BETWEEN THE STATUTORY CITATION IN THE AMENDED INFORMATION AND THE CRIME DESCRIBED IN THE JURY INSTRUCTIONS WAS A RESULT OF CLERICAL ERROR, WHICH WAS CURED BY THE COURT’S ADDITIONAL INSTRUCTION.

The purpose of an Information or charging document is to give the accused notice of charges against him, so that he may prepare his defense. *See State v. Kjorsvik*, 117 Wn. 2d 93, 812 P. 2d 86 (1991). While the statutory citation is an important part of the charging document, the document is constitutionally sufficient “only if all essential elements of a crime, statutory and nonstatutory, are included.” *State v. Vangerpen*, 125 Wn.2d 782, 787, 888 P.2d 1177 (1995). Merely citing to a statute, even the proper one, and naming the offense is insufficient to charge a crime. *Id.*

The discovery of a deficiency or discrepancy in a charging document is not dispositive. Because the purpose of the document is

notice, “[w]ords in a charging document are read as a whole, construed according to common sense, and include facts which are necessarily implied.” *State v. Porter*, 186 Wn. 2d 85, 89, 375 P. 3d 664 (2016), quoting *Kjorsvik*, 117 Wn.2d at 109. For the same reason, the sooner accused objects, the more favorable the review. If the defendant fails to challenge the information until the appeal, the charging document is construed “quite liberally.” *Porter*, at 89.

Sometimes, mistakes are made in the charging document. Oftentimes, these mistakes are clerical errors such as a mistaken citation to the RCW. Error in a numerical statutory citation is not reversible error unless it prejudiced the accused. CrR 2.1(a)(1); *Vangerpen*, at 788. See also *State v. Hopper*, 118 Wn.2d 151, 159-160, 822 P. 2d 775 (1992). Where a mistake in the charging document is discovered, the State may move to amend or correct the Information. CrR 2.1(d) permits amendment “any time before verdict or finding if substantial rights of the defendant are not prejudiced.”

In *Hopper*, there was an erroneous statutory citation. The defendant was originally charged with assault in the third degree on a police officer. The State later amended the charge to assault in the second degree. Trial resulted in a hung jury. 118 Wn. 2d at 154. On retrial, the State charged the same assault in the second degree in a new charging document. By that time, though, the second degree assault statute, RCW 9A.36.020 had recently been recodified as .021. *Id.* The new charging

document referenced the new statute, which had gone into effect after the crime was committed. On appeal, Hooper challenged the charging document, in part, because of the erroneous citation. The Supreme Court held that the erroneous citation did not render the information defective, and the defendant was not prejudiced. *Hopper*, 118 Wn. 2d at 160.

In *Vangerpen*, the defendant was charged with attempted murder in the first degree. The information cited to the statutes defining that crime, RCW 9A.32.030(1)(a) and RCW 9A.28.020. But, the information omitted the statutory element of premeditation. Therefore, although the charging document purported to charge “attempted murder in the first degree”, the information failed to contain all the essential elements of that crime. When the State rested, Vangerpen moved to dismiss for lack of evidence of premeditation and insufficiency of the information. 125 Wn. 2d at 785. Over defense objection, the court permitted the State to amend to add the element of premeditation. Because the State failed to allege an essential element, premeditation, the State could only amend to a lesser offense after it had rested. *Id.*, at 787. The charge was dismissed without prejudice. *Id.*, at 798.

Here, the statutory citation in Count III of the amended Information is clearly a clerical error. The other charging language in Count III refers to the other counts:

...a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme

or plan, and/or so closely connected in respect to time, place, or occasion, that it would be difficult to separate proof of one charge from proof of the others...

Appendix C.

The jury question alerted the parties and the court that the means of murder for the conspiracy charge was unclear. The court summoned the parties, who agreed that the court should answer and instruct the jurors by referring them to Instruction 12, which was “extreme indifference” the same as charged in Count I. *See* Appendices F, G.

However, apparently neither the court, nor the parties, reviewed the amended Information after the jury question. This is not surprising, in that the State’s case was only about murder by extreme indifference; a violent gang retaliation on a target of convenience. *See e.g.* 32 RP 3679. The State’s conspiracy case was that the petitioner had been present when the plan for that retaliation was discussed and, through his actions, agreed to it. 32 RP 3681, 3709-3710.

In turn, the defense was only about murder by extreme indifference; gang retaliation without a specific target. *See* 32 RP 3724. Trial counsel argued that the petitioner was a non-participant and actually avoided participating. 32 RP 3728-3729.

The record reflects that the erroneous statutory citation did not result in prejudice. The conduct of the trial, including extensive evidence, testimony, and argument was solely about gang retaliation with an

unspecified target of opportunity. There was no evidence, argument, or even mention of premeditated intent to kill an individual. This demonstrates that all parties were on notice of the offense charged in Count III.

The understanding and belief regarding that the means of murder alleged in the conspiracy was extreme indifference extended to post-conviction. The appeal and the current PRP both “assumed” that the conspiracy was for murder by extreme indifference. Unlike Vangerpen and Hopper, the present petitioner did not challenge the amended Information in his appeal or initial PRP. It was not until the case was examined by this Court that the error in the RCW citation was discovered.

The original jury instructions, including those regarding murder by extreme indifference, were correct. *See* Appendix D. The defendant had no objections to them¹. The instructions were unchallenged in the appeal, the first PRP, or in the present PRP. The court correctly answered the question posed by the deliberating jury. There has been no allegation, much less showing, that the citation error prejudiced the petitioner.

¹ The defendant excepted to declining to give his proposed instructions regarding reasonable doubt/abiding belief (32 RP 3656), testimony of a co-conspirator (32 RP 3660), and lesser included offenses (32 RP 3674). He had no other objections. 32 RP 3675.

2. ANY ERROR REGARDING THE SUPPLEMENTAL INSTRUCTION OR ANSWER WAS INVITED BY THE PETITIONER.

Under the invited error doctrine, a party may not request or agree to an instruction and then complain of it on appeal. See *City of Seattle v. Patu*, 147 Wn.2d 717, 58 P. 3d 273 (2002); *State v. Corbett*, 158 Wn. App. 576, 592, 242 P.3d 52 (2010); see also *State v. Studd*, 137 Wn.2d 533, 546–547, 973 P.2d 1049 (1999). Likewise, a party who agrees to the language of the court’s answer to a question submitted by a deliberating jury may not assign error to that answer on appeal. See *State v. Barnett*, 104 Wn. App. 191, 200, 16 P.3d 74 (2001).

Here, when the deliberating jury submitted its question, the court called the parties in to consult regarding the appropriate answer. 33 RP 3768; Appendix G. The defense answer was:

[DEFENSE COUNSEL]: Real quickly. Your Honor, after review of the instructions and talking with my client, we would agree that the response should be “yes” or something to that effect.

33 RP 3769. If error by the court, it was invited.

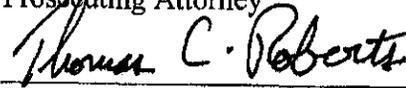
D. CONCLUSION.

The discrepancy between the statutory citation in Count III of the amended Information and the jury instructions does not impact this petition. The petitioner was not prejudiced by the clerical error in the

statutory citation in Count III of the amended Information. The court's answer to the jury question cured the issue.

DATED: October 7, 2016.

MARK LINDQUIST
Pierce County
Prosecuting Attorney



Thomas C. Roberts
Deputy Prosecuting Attorney
WSB # 17442

Certificate of Service:

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

10/10/16 Heleen Kar
Date Signature

APPENDIX "A"

Part of Original Petition

APPENDIX "B"

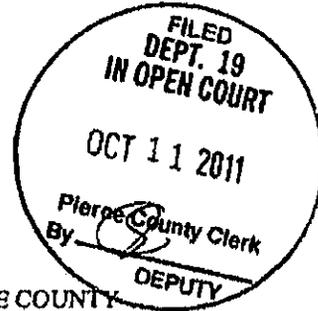
Part of Original Petition

APPENDIX "C"

Case Number: 10-1-04055-4 Date: October 10, 2016
SerialID: 87135892-666A-483A-A4305854A89C0B06
Certified By: Kevin Stock Pierce County Clerk, Washington



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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 10-1-04055-4

vs.

EDUARDO SANDOVAL,

Defendant.

SECOND AMENDED INFORMATION

DOB: 2/14/1989
PCN#: 540233446

SEX : MALE
SID#: 23074686

RACE: WHITE
DOL#: UNKNOWN

COUNT I

I, MARK LINDQUIST, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse EDUARDO SANDOVAL of the crime of MURDER IN THE FIRST DEGREE, committed as follows:

That EDUARDO SANDOVAL, in the State of Washington, on or about the 7th day of February, 2010, did unlawfully and feloniously, under circumstances manifesting an extreme indifference to human life, engage in conduct which created a grave risk of death, thereby causing the death of Camille Love, a human being, on or about the 7th day of February, 2010, contrary to RCW 9A.32.030(1)(b), and in the commission thereof the defendant, or an accomplice, was armed with a firearm, to-wit: a handgun, that being a firearm as defined in RCW 9.41.010, and invoking the provisions of RCW 9.94A.530, and adding additional time to the presumptive sentence as provided in RCW 9.94A.533, and the crime was aggravated by the following circumstance: pursuant to RCW 9.94A.535(3)(aa), the defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership, and against the peace and dignity of the State of Washington.

COUNT II

And I, MARK LINDQUIST, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse EDUARDO SANDOVAL of the crime of ASSAULT IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That EDUARDO SANDOVAL, in the State of Washington, on or about the 7th day of February, 2010, did unlawfully and feloniously, with intent to inflict great bodily harm, intentionally assault Joshua Love with a

SECOND AMENDED INFORMATION- 1

ORIGINAL

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1 firearm or deadly weapon or by any force or means likely to produce great bodily harm or death, contrary to RCW
2 9A.36.011(1)(a), and in the commission thereof the defendant, or an accomplice, was armed with a firearm, to-wit: a
3 handgun, that being a firearm as defined in RCW 9.41.010, and invoking the provisions of RCW 9.94A.530, and
4 adding additional time to the presumptive sentence as provided in RCW 9.94A.533, and the crime was aggravated
5 by the following circumstance: pursuant to RCW 9.94A.535(3)(aa), the defendant committed the offense with the
6 intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal
street gang as defined in RCW 9.94A.030, its reputation, influence, or membership, and against the peace and
dignity of the State of Washington.

COUNT III

7 And I, MARK LINDQUIST, Prosecuting Attorney for Pierce County, in the name and by the authority of
8 the State of Washington, do accuse EDUARDO SANDOVAL of the crime of CONSPIRACY TO COMMIT
9 MURDER IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same
10 conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely
connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof
of the others, committed as follows:

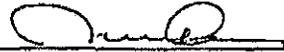
11 That EDUARDO SANDOVAL, in the State of Washington, on or about the 7th day of February, 2010,
12 with intent that conduct constituting the crime of MURDER IN THE FIRST DEGREE, as prohibited by RCW
13 9A.32.030(1)(a), be performed, agree with one or more persons, to engage in or cause the performance of such
14 conduct, and any one of the persons involved in the agreement did take a substantial step in pursuance of the
15 agreement, and in the commission thereof the defendant, or an accomplice, was armed with a firearm, to-wit: a
16 handgun, that being a firearm as defined in RCW 9.41.010, and invoking the provisions of RCW 9.94A.530, and
17 adding additional time to the presumptive sentence as provided in RCW 9.94A.533, contrary to RCW 9A.28.040,
18 and the crime was aggravated by the following circumstance: pursuant to RCW 9.94A.535(3)(aa), the defendant
committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or
other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or
membership, and against the peace and dignity of the State of Washington.

19 DATED this 11th day of October, 2011.

20 TACOMA POLICE DEPARTMENT
21 WA02703

MARK LINDQUIST
Pierce County Prosecuting Attorney

22 mms

23 By:  32719
GREGORY L GREER
Deputy Prosecuting Attorney
24 WSB#: 22936

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 10 day of October, 2016



Kevin Stock, Pierce County Clerk

By /S/Rebecca Ahquin, Deputy.

Dated: Oct 10, 2016 10:23 AM



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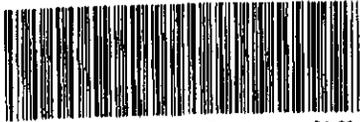
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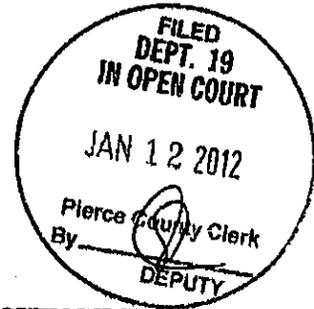
APPENDIX "D"

1/23/2012 16202 330356

Case Number: 10-1-04055-4 Date: October 10, 2010
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
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10-1-04055-4 37860272 CTINJY 01-23-12



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

STATE OF WASHINGTON,

Plaintiff,

v.

EDUARDO SANDOVAL,

Defendant.

Case No. 10-1-04055-4

COURT'S INSTRUCTIONS TO THE JURY

DATED this 10th day of January, 2012.

[Signature]
Judge Linda C.J. Lee

ORIGINAL

INSTRUCTION NO. 1

It is your duty to decide the facts in this case based upon the evidence presented to you during this trial. It also is your duty to accept the law from my instructions, regardless of what you personally believe the law is or what you personally think it should be. You must apply the law from my instructions to the facts that you decide have been proved, and in this way decide the case.

Keep in mind that a charge is only an accusation. The filing of a charge is not evidence that the charge is true. Evidence of incarceration is also not evidence that the charge is true. Your decisions as jurors must be made solely upon the evidence presented during these proceedings.

The evidence that you are to consider during your deliberations consists of the testimony that you have heard from witnesses and the exhibits that I have admitted during the trial. If evidence was not admitted or was stricken from the record, then you are not to consider it in reaching your verdict.

Exhibits may have been marked by the judicial assistant and given a number, but they do not go with you to the jury room during your deliberations unless they have been admitted into evidence. The exhibits that have been admitted will be available to you in the jury room.

One of my duties has been to rule on the admissibility of evidence. Do not be concerned during your deliberations about the reasons for my rulings on the evidence. If I have ruled that any evidence is inadmissible, or if I have asked you to disregard any evidence, then you must not discuss that evidence during your deliberations or consider it in reaching your verdict. Do not speculate whether the evidence would have favored one party or the other.

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In order to decide whether any proposition has been proved, you must consider all of the evidence that I have admitted that relates to the proposition. Each party is entitled to the benefit of all of the evidence, whether or not that party introduced it.

You are the sole judges of the credibility of each witness. You are also the sole judges of the value or weight to be given to the testimony of each witness. In considering a witness's testimony, you may consider these things: the opportunity of the witness to observe or know the things he or she testifies about; the ability of the witness to observe accurately; the quality of a witness's memory while testifying; the manner of the witness while testifying; any personal interest that the witness might have in the outcome or the issues; any bias or prejudice that the witness may have shown; the reasonableness of the witness's statements in the context of all of the other evidence; and any other factors that affect your evaluation or belief of a witness or your evaluation of his or her testimony.

The lawyers' remarks, statements, and arguments are intended to help you understand the evidence and apply the law. It is important, however, for you to remember that the lawyers' statements are not evidence. The evidence is the testimony and the exhibits. The law is contained in my instructions to you. You must disregard any remark, statement, or argument that is not supported by the evidence or the law in my instructions.

You may have heard objections made by the lawyers during trial. Each party has the right to object to questions asked by another lawyer, and may have a duty to do so. These objections should not influence you. Do not make any assumptions or draw any conclusions based on a lawyer's objections.

Our state constitution prohibits a trial judge from making a comment on the evidence. It would be improper for me to express, by words or conduct, my personal opinion about the value

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of testimony or other evidence. I have not intentionally done this. If it appeared to you that I have indicated my personal opinion in any way, either during trial or in giving these instructions, you must disregard this entirely.

You have nothing whatever to do with any punishment that may be imposed in case of a violation of the law. You may not consider the fact that punishment may follow conviction except insofar as it may tend to make you careful.

The order of these instructions has no significance as to their relative importance. They are all important. In closing arguments, the lawyers may properly discuss specific instructions. During your deliberations, you must consider the instructions as a whole.

As jurors, you are officers of this court. You must not let your emotions overcome your rational thought process. You must reach your decision based on the facts proved to you and on the law given to you, not on sympathy, prejudice, or personal preference. To assure that all parties receive a fair trial, you must act impartially with an earnest desire to reach a proper verdict.

1723/2012 15202 330368

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INSTRUCTION NO. 2

A separate crime is charged in each count. You must decide each count separately. Your verdict on one count should not control your verdict on any other count.

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INSTRUCTION NO. 3

The defendant has entered a plea of not guilty. That plea puts in issue every element of each crime charged. The State is the plaintiff and has the burden of proving each element of each crime beyond a reasonable doubt. The defendant has no burden of proving that a reasonable doubt exists.

A defendant is presumed innocent. This presumption continues throughout the entire trial unless during your deliberations you find it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly, and carefully considering all of the evidence or lack of evidence. If, from such consideration, you have an abiding belief in the truth of the charge, you are satisfied beyond a reasonable doubt.

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INSTRUCTION NO. 4

The evidence that has been presented to you may be either direct or circumstantial. The term "direct evidence" refers to evidence that is given by a witness who has directly perceived something at issue in this case. The term "circumstantial evidence" refers to evidence from which, based on your common sense and experience, you may reasonably infer something that is at issue in this case.

The law does not distinguish between direct and circumstantial evidence in terms of their weight or value in finding the facts in this case. One is not necessarily more or less valuable than the other.

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INSTRUCTION NO. 5

A witness who has special training, education, or experience may be allowed to express an opinion in addition to giving testimony as to facts.

You are not, however, required to accept his or her opinion. To determine the credibility and weight to be given to this type of evidence, you may consider, among other things, the education, training, experience, knowledge, and ability of the witness. You may also consider the reasons given for the opinion and the sources of his or her information, as well as considering the factors already given to you for evaluating the testimony of any other witness.

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INSTRUCTION NO. 6

A person is guilty of a crime if it is committed by the conduct of another person for which he or she is legally accountable. A person is legally accountable for the conduct of another person when he or she is an accomplice of such other person in the commission of the crime.

A person is an accomplice in the commission of a crime if, with knowledge that it will promote or facilitate the commission of the crime, he or she either:

(1) solicits, commands, encourages, or requests another person to commit the crime; or

(2) aids or agrees to aid another person in planning or committing the crime.

The word "aid" means all assistance whether given by words, acts, encouragement, support, or presence. A person who is present at the scene and ready to assist by his or her presence is aiding in the commission of the crime. However, more than mere presence and knowledge of the criminal activity of another must be shown to establish that a person present is an accomplice.

A person who is an accomplice in the commission of a crime is guilty of that crime whether present at the scene or not.

1/23/2012 16282 338965

Case Number: 10-1-04056-4 Date: October 10, 2016

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INSTRUCTION NO. 7

The defendant is not required to testify. You may not use the fact that the defendant has not testified to infer guilt or to prejudice him in any way.

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INSTRUCTION NO. 8

The defense of duress is not available if the defendant intentionally or recklessly placed himself in a situation in which it was probable that he would be subject to duress.

The defense of duress is not available if the crime charged is murder or conspiracy to commit murder.

1/23/2012 10:01 328367

Case Number: 10-1-04055-4 Date: October 10, 2018

SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9

Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 9

A person acts with intent or intentionally when acting with the objective or purpose to accomplish a result that constitutes a crime.

Case Number: 10-1-04055-4 Date: October 10, 2016
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 10

A person is reckless or acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur and this disregard is a gross deviation from conduct that a reasonable person would exercise in the same situation.

When recklessness as to a particular result or fact is required to establish an element of a crime, the element is also established if a person acts intentionally or knowingly as to that result fact.

Case Number: 10-1-04055-4 Date: October 10, 2016
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 11

Evidence of the two phone calls made by Jarrod Messer on September 27, 2010 and September 30, 2010 was introduced as evidence against Jarrod Messer. You may not consider this evidence against Eduardo Sandoval in any way.

1/23/2013 15202 330370

Case Number: 10-1-04055-4 Date: October 10, 2016
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 12

A person commits the crime of murder in the first degree when, under circumstances manifesting an extreme indifference to human life, he or she engages in conduct which creates a grave risk of death to any person and thereby causes the death of a person.

Case Number: 10-1-04055-4 Date: October 10, 2016
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 13

A person knows or acts knowingly or with knowledge with respect to a fact or circumstance when he or she is aware of that fact or circumstance. It is not necessary that the person know that the fact or circumstance is defined by law as being unlawful or an element of a crime.

If a person has information that would lead a reasonable person in the same situation to believe that a fact exists, the jury is permitted but not required to find that he or she acted with knowledge of that fact.

When acting knowingly as to a particular fact is required to establish an element of a crime, the element is also established if a person acts intentionally as to that fact.

INSTRUCTION NO. 14

To convict the defendant Eduardo Sandoval of the crime of murder in the first degree as charged in Count I, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the 7th day of February, 2010, the defendant or an accomplice created a grave risk of death to another person;
- (2) That the defendant or an accomplice knew of and disregarded the grave risk of death;
- (3) That the defendant or an accomplice engaged in that conduct under circumstances manifesting an extreme indifference to human life;
- (4) That Camille Love died as a result of defendant's or an accomplice's acts; and
- (5) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

1/23/2012 16282 996379

Case Number: 10-1-04055-4 Date: October 10, 2016

SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9

Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 15

A person commits the crime of assault in the first degree when, with intent to inflict great bodily harm, he or she assaults another with a firearm.

1/23/2012 16202 330374

Case Number: 10-1-04055-4 Date: October 10, 2016

SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9

Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 16

An assault is an intentional shooting of another person that is harmful or offensive regardless of whether any physical injury is done to the person. A shooting is offensive if the shooting would offend an ordinary person who is not unduly sensitive.

172372812 16282 354375

Case Number: 10-1-04055-4 Date: October 10, 2016

SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9

Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 17

A "firearm" is a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

Case Number: 10-1-04055-4 Date: October 10, 2018
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 18

Great bodily harm means bodily injury that creates a probability of death, or that causes significant serious permanent disfigurement, or that causes a significant permanent loss or impairment of the function of any bodily part or organ.

Case Number: 10-1-04055-4 Date: October 10, 2016
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 19

To convict the defendant Eduardo Sandoval of the crime of assault in the first degree as charged in Count II, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the 7th day of February, 2010, the defendant or an accomplice assaulted Joshua Love;
- (2) That the assault was committed with a firearm;
- (3) That the defendant or an accomplice acted with intent to inflict great bodily harm; and
- (4) That this act occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

Case Number: 10-1-04055-4 Date: October 10, 2016
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 10

A person commits the crime of conspiracy to commit murder in the first degree, when, with intent that conduct constituting the crime of murder in the first degree be performed, he or she agrees with one or more persons to engage in or cause the performance of such conduct, and any one of them takes a substantial step in pursuance of such agreement.

1/23/2012 16:42 335379

Case Number: 10-1-04065-4 Date: October 10, 2016
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 21

A substantial step is conduct that strongly indicates a criminal purpose.

INSTRUCTION NO. 22

To convict the defendant Eduardo Sandoval of the crime of conspiracy to commit murder in the first degree as charged in Count III, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the 7th day of February, 2010, the defendant agreed with one or more persons to engage in or cause the performance of conduct constituting the crime of murder in the first degree;
- (2) That the defendant made the agreement with the intent that such conduct be performed;
- (3) That any one of the persons involved in the agreement took a substantial step in pursuance of the agreement; and
- (4) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if after weighing all the evidence you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 13

When you begin deliberating, you should first select a presiding juror. The presiding juror's duty is to see that you discuss the issues in this case in an orderly and reasonable manner, that you discuss each issue submitted for your decision fully and fairly, and that each one of you has a chance to be heard on every question before you.

During your deliberations, you may discuss any notes that you have taken during the trial, if you wish. You have been allowed to take notes to assist you in remembering clearly, not to substitute for your memory or the memories or notes of other jurors. Do not assume, however, that your notes are more or less accurate than your memory.

You will need to rely on your notes and memory as to the testimony presented in this case. Testimony will rarely, if ever, be repeated for you during your deliberations.

If, after carefully reviewing the evidence and instructions, you feel a need to ask the court a legal or procedural question that you have been unable to answer, write the question out simply and clearly. In your question, do not state how the jury has voted. The presiding juror should sign and date the question and give it to the judicial assistant. I will confer with the lawyers to determine what response, if any, can be given.

You will be given the exhibits admitted in evidence, these instructions and the verdict forms for recording your verdict. Some exhibits and visual aids may have been used in court but will not go with you to the jury room. The exhibits that have been admitted into evidence will be available to you in the jury room.

You must fill in the blank provided in each verdict form the words "not guilty" or the word "guilty", according to the decision you reach.

Case Number: 10-1-04055-4 Date: October 10, 2018
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

Because this is a criminal case, each of you must agree for you to return a verdict.
When all of you have so agreed, fill in the verdict forms to express your decision. The
presiding juror must sign the verdict forms and notify the judicial assistant. The judicial
assistant will bring you into court to declare your verdict.

Case Number: 10-1-04055-4 Date: October 10, 2016

SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9

Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 24

You will also be given special verdict forms for the crimes charged in Counts I, II and III. If you find the defendant not guilty of the particular crime charged in Count I, Count II or Count III, do not use the special verdict forms for that count or those counts. If you find the defendant guilty of a particular crime charged in Counts I, Count II or Count III, you will then use the special verdict form for that count or those counts and fill in the blank with the answer "yes" or "no" according to the decision you reach. In order to answer any special verdict form "yes," you must unanimously be satisfied beyond a reasonable doubt that "yes" is the correct answer. If any one of you has a reasonable doubt that "yes" is the correct answer, then you must answer "no."

Case Number: 10-1-04056-4 Date: October 10, 2016
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 15

For purposes of a special verdict as to Count I, Count II and Count III, the State must prove beyond a reasonable doubt that the defendant was armed with a firearm at the time of the commission of the crime for that count or those counts.

A person is armed with a firearm if, at the time of the commission of the crime, the firearm is easily accessible and readily available for offensive or defensive use. The State must prove beyond a reasonable doubt that there was a connection between the firearm and the defendant or an accomplice. The State must also prove beyond a reasonable doubt that there was a connection between the firearm and the crime. In determining whether these connections existed, you should consider, among other factors, the nature of the crime and the circumstances surrounding the commission of the crime.

If one participant in a crime is armed with a firearm, all accomplices to that participant are deemed to be so armed, even if only one firearm is involved.

A "firearm" is a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

Case Number: 10-1-04055-4 Date: October 10, 2018
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 26

If you find the defendant guilty of the particular crime charged in Count I, Count II, or Count III, then you must determine if the following aggravating circumstance exists for that count or those counts:

Whether the defendant committed the offense with the intent to directly or indirectly cause any benefit; aggrandizement, gain, profit, or other advantage to or for a criminal street gang, its reputation, influence, or membership.

Case Number: 10-1-04055-4 Date: October 10, 2018
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 27

“Criminal street gang” means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity.

“Criminal street gang member or associate” means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

Case Number: 10-1-04056-4 Date: October 10, 2018
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 28

The State has the burden of proving the existence of each aggravating circumstance beyond a reasonable doubt. In order for you to find the existence of an aggravating circumstance in this case, you must unanimously agree that the aggravating circumstance has been proved beyond a reasonable doubt.

The defendant has no burden of proving that a reasonable doubt exists as to these additional facts. It is presumed that these additional facts do not exist. This presumption continues throughout this entire proceeding unless during your deliberations you find that it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly, and carefully considering all of the evidence or lack of evidence. If, from such consideration, you have an abiding belief in the truth of the allegation, you are satisfied beyond a reasonable doubt.

Case Number: 10-1-04055-4 Date: October 10, 2010
SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9
Certified By: Kevin Stock Pierce County Clerk, Washington

INSTRUCTION NO. 29

As jurors, you have a duty to discuss the case with one another and to deliberate in an effort to reach a unanimous verdict. Each of you must decide the case for yourself, but only after you consider the evidence impartially with your fellow jurors. During your deliberations, you should not hesitate to re-examine your own views and to change your opinion based upon further review of the evidence and these instructions. You should not, however, surrender your honest belief about the value or significance of evidence solely because of the opinions of your fellow jurors. Nor should you change your mind just for the purpose of reaching a verdict.

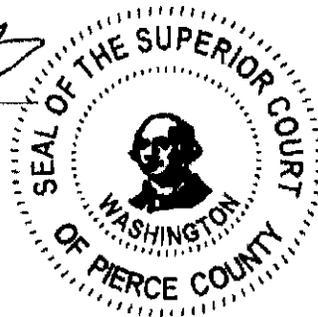
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 10 day of October, 2016



Kevin Stock, Pierce County Clerk

By /S/Rebecca Ahquin, Deputy.

Dated: Oct 10, 2016 10:23 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter SerialID: 2DCF977B-F8DB-43C3-AE2C9FBFF91A43C9.

This document contains 33 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

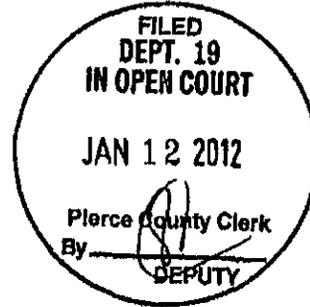
APPENDIX "E"

1-23-2012 16:28:32 328943

Case Number: 10-1-04055-4 Date: October 10, 2018
SerialID: 6DA4B61B-5059-4EA3-A3303DE4771FFBB3
Certified By: Kevin Stock Pierce County Clerk, Washington



10-1-04055-4 37860188 JYN 01-23-12



IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,
Plaintiff,

vs.

EDUARDO SANDOVAL,
Defendants.

Case No. 10-1-04055-4

Question from Jury 01/12/12, Noon

To clarify Instruction #20, may we use the definition of "murder in the first degree" as written in Instruction #10B?

Jan 12, 2012
12:00 pm

Nathan Broderick

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 10 day of October, 2016



Kevin Stock, Pierce County Clerk

By /S/Rebecca Ahquin, Deputy.

Dated: Oct 10, 2016 12:59 PM

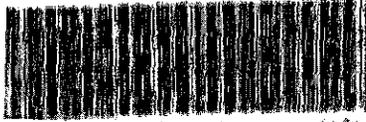


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APPENDIX "F"



10-1-04055-4 37660221 AN 01-29-12

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

STATE OF WASHINGTON,
Plaintiff,

vs

EDUARDO SANDOVAL,
Defendant

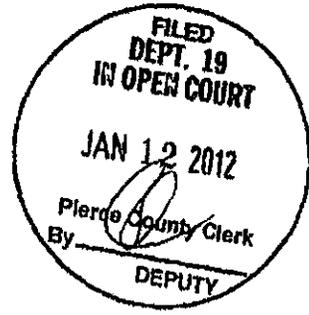
Case No. 10-1-04055-4

COURT'S ANSWER TO
JURY QUESTION

Regarding the question dated January 12, 2012, at approximately noon, the Court's answer is, Yes.

DATED this 12 day of January, 2012.


JUDGE LINBA CJ LEE



State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 10 day of October, 2016



Kevin Stock, Pierce County Clerk

By /S/Linda Fowler, Deputy.

Dated: Oct 10, 2016 10:29 AM



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APPENDIX "G"



10-1-04055-4 Date: October 10, 2016
Serial: LEE1AD0A-B440-4657-9F3B77DB2ACC3A16
County: Pierce County, Washington

10-1-04055-4 38800725 VRPT2 07-24-12

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE
DEPARTMENT 19

FILED
IN COUNTY CLERK'S OFFICE
AM JUL 24 2012 PM

STATE OF WASHINGTON,

Plaintiff,

vs.

EDUARDO SANDOVAL,

Defendant.

PIERCE COUNTY WASHINGTON
KEVIN STOCH County Clerk
BY DEPUTY

No. 10-1-04055-4

COA No.
43039-8-II

VERDICT

VERBATIM TRANSCRIPT OF PROCEEDINGS

VOLUME 33

January 12, 2012

Pierce County Courthouse

Tacoma, Washington

before the

HONORABLE LINDA CJ LEE

REPORTED BY: KELLIE A. SMITH, CCR, RPR

For the State: GREGORY L. GREER
JARED AUSSERER
Deputy Prosecuting Attorneys

For the Defendant: STEPHEN JOHNSON
Attorney at Law

ORIGINAL

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January 12, 2012

THE COURT: We are on the record in State vs. Sandoval, cause number 10-1-04055-4. I've asked everyone to be here, as the jury has sent out a question. The question that was sent out reads -- and I believe my assistant has made each of you a copy -- "To clarify Instruction No. 20, may we use the definition of Murder in the First Degree as written in Instruction No. 12?"

I don't know if you may have your instructions with you or not, but Instruction 20, which they refer to, is the definition of Conspiracy to Commit Murder in the First Degree. Instruction No. 12 is the definition of Murder in the First Degree. So I will -- my inclination is to answer the question simply, "yes." And I believe that's proper, but I am open to other thoughts. I'll hear from the State first, Mr. Ausserer.

MR. AUSSERER: Thank you, Your Honor. I think that's what's anticipated. We don't give the definition twice when the definition's the same. I believe the Conspiracy to Murder in the First Degree requires the giving of the definition of Murder in the First Degree; so I think the Court's position is appropriate.

THE COURT: Mr. Johnson? And if it will be

1 helpful to counsel, I will hand down the Court's copy of
2 the jury instructions for everyone's reference.

3 MR. JOHNSON: Real quickly.

4 Your Honor, after review of the instructions and
5 talking with my client, we would agree that the response
6 should be "yes," or something to that effect.

7 THE COURT: Thank you. And if there's any
8 question about how the Court arrived at its decision, if
9 you will look at WPIC 110.01, which is the definition of
10 criminal conspiracy, which is what was given in
11 Instruction No. 20, the notes under "Use" refers to the
12 use of WPIC 4.24, which is definition of the crime form,
13 which is the form utilized to define Murder in the First
14 Degree in Instruction No. 12. And so there is an
15 appropriate basis upon which to actually answer this.
16 Not -- not usual, because usually we can't answer the
17 questions. But this is a clarification question, and it
18 is well within the intent and the correct legal
19 interpretation of the jury instructions. So the Court
20 is going to answer the jury's question as follows:
21 "Regarding the question dated January 12, 2012, at
22 approximately noon, the Court's answer is yes."

23 Any objections to that?

24 MR. AUSSERER: No objection, Your Honor.

25 MR. JOHNSON: No objection, Your Honor. So

1 Your Honor's going to be sending back a note drafted by
2 the JA. Did you want counsel's signature?

3 THE COURT: Normally we don't. These are the
4 Court's instructions, but I will give counsel the
5 opportunity to see it before I send it back.

6 With counsel's review and approval, the Court is
7 dating and signing this Court's answer to the jury
8 question and will be sending it back to the jury with
9 the judicial assistant. We will call you if we hear
10 anything more from our jury. Thank you for coming in.

11 MR. JOHNSON: Thank you, Your Honor.

12 (Court at recess.)

13 (Court reconvened.)

14 THE COURT: Back on the record in State vs.
15 Sandoval, cause number 10-1-04055-4. Counsel, the jury
16 has informed the Court that they have reached a verdict.
17 Is there anything we need to address before we bring our
18 jury out for the reading of the verdict?

19 MR. AUSSERER: Not from the State, Your Honor.

20 MR. JOHNSON: Not from the defendant. Thank
21 you.

22 THE COURT: Then let's get our jury.

23 (Jury enters.)

24 THE COURT: Ladies and gentlemen of the jury,
25 I understand that you have reached a verdict. At this

1 time, if I could ask that the presiding juror stand.

2 Mr. Broderick, has the jury reached its verdict?

3 PRESIDING JUROR: We have, Your Honor.

4 THE COURT: If you could hand the verdict to
5 the judicial assistant, and if you could please have a
6 seat. Thank you.

7 Mr. Sandoval, if I could ask you to stand while the
8 Court reads the verdicts reached by the jury.

9 Verdict Form A, Count I, Murder in the First
10 Degree: We the jury find the defendant, Eduardo
11 Sandoval, guilty of the crime of Murder in the First
12 Degree, as charged in Count I.

13 Special Verdict Form 1A to Count I, Murder in the
14 First Degree: We the jury return a special verdict by
15 answering as follows. Question: Was the defendant,
16 Eduardo Sandoval, armed with a firearm at the time of
17 the commission of the crime, as charged in Count I?

18 Answer: Yes.

19 Special Verdict Form 1B to Count I, Murder in the
20 First Degree. We the jury, having found the defendant
21 guilty of Murder in the First Degree, as charged in
22 Count I, return a special verdict by answering as
23 follows. Question: Did the defendant commit the
24 offense with the intent to directly or indirectly cause
25 any benefit, aggrandizement, gain, profit or other

1 advantage to or for a criminal street gang, its
2 reputation, influence, or membership?

3 Answer: Yes.

4 Verdict Form B to Count II, Assault in the First
5 Degree: We the jury find the defendant, Eduardo
6 Sandoval, guilty of the crime of Assault in the First
7 Degree, as charged in Count II.

8 Special Verdict Form 2A to Count II, Assault in the
9 First Degree: We the jury return a special verdict by
10 answering as follows. Question: Was the defendant,
11 Eduardo Sandoval, armed with a firearm at the time of
12 the commission of the crime, as charged in Count II?

13 Answer: Yes.

14 Special Verdict Form 2B to Count II, Assault in the
15 First Degree: We the jury, having found the defendant
16 guilty of Assault in the First Degree, as charged in
17 Count II, return a special verdict by answering as
18 follows. Question: Did the defendant commit the
19 offense with the intent to directly or indirectly cause
20 any benefit, aggrandizement, gain, profit or other
21 advantage to or for a criminal street gang, its
22 reputation, influence, or membership?

23 Answer: Yes.

24 Verdict Form C to Count III, Conspiracy to Commit
25 Murder in the First Degree: We the jury find the

1 defendant, Eduardo Sandoval, guilty of the crime of
2 Conspiracy to Commit Murder in the First Degree, as
3 charged in Count III.

4 Special Verdict Form 3A as to Count III, Conspiracy
5 to Commit Murder in the First Degree, we the jury return
6 a special verdict by answering as follows. Question:
7 Was the defendant, Eduardo Sandoval, armed with a
8 firearm at the time of the commission of the crime, as
9 charged in Count III?

10 Answer: Yes.

11 Special Verdict Form 3B to Count III, Conspiracy to
12 Commit Murder in the First Degree: We the jury, having
13 found the defendant guilty of Conspiracy to Commit
14 Murder in the First Degree, as charged in Count III,
15 return a special verdict by answering as follows.
16 Question: Did the defendant commit the offense with the
17 intent to directly or indirectly cause any benefit,
18 aggrandizement, gain, profit, or other advantage to or
19 for a criminal street gang, its reputation, influence,
20 or membership?

21 Answer: Yes.

22 Thank you, Mr. Sandoval. You may take a seat.

23 Ladies and gentlemen of the jury, at this time, I am
24 going to do a process that we call polling the jury.
25 And what this will consist of, I will be asking each

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juror two questions. The first question I will be asking is, "Were these verdicts your verdict?" And the second question is, "Were they the verdicts of the jury?"

So I'll start with Mr. Broderick. Were these verdicts your verdicts?

JUROR NO. 1: Yes.

THE COURT: Were these the verdicts of the jury?

JUROR NO. 1: Yes.

THE COURT: Ms. Hurn, were these verdicts your verdicts?

JUROR NO. 2: Yes.

THE COURT: Were these the verdicts of the jury?

JUROR NO. 2: Yes.

THE COURT: And Ms. Schaaf, were these verdicts your verdicts?

JUROR NO. 3: Yes.

THE COURT: Were these the verdicts of the jury?

JUROR NO. 3: Yes.

THE COURT: Ms. Koch, were these verdicts your verdicts?

JUROR NO. 4: Yes.

1 THE COURT: Were these the verdicts of the
2 jury?

3 JUROR NO. 4: Yes.

4 THE COURT: Mr. Kirsch, were these verdicts
5 your verdicts?

6 JUROR NO. 5: Yes.

7 THE COURT: Were these the verdicts of the
8 jury?

9 JUROR NO. 5: Yes.

10 THE COURT: Ms. Sims, were these verdicts your
11 verdicts?

12 JUROR NO. 6: Yes.

13 THE COURT: Were these verdicts the verdicts
14 of the jury?

15 JUROR NO. 6: Yes.

16 THE COURT: Ms. Laudenglos, were these
17 verdicts your verdicts?

18 JUROR NO. 7: Yes.

19 THE COURT: Were these the verdicts of the
20 jury?

21 JUROR NO. 7: Yes.

22 THE COURT: Ms. Cowan, were these verdicts
23 your verdicts?

24 JUROR NO. 8: Yes.

25 THE COURT: Were these the verdicts of the

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jury?

JUROR NO. 8: Yes.

THE COURT: Mr. Gales, were these verdicts the verdicts of the jury?

JUROR NO. 9: Yes.

THE COURT: Were these verdicts your verdicts?

JUROR NO. 9: Yes.

THE COURT: And Mr. Brees, were these verdicts your verdicts?

JUROR NO. 10: Yes.

THE COURT: Were these verdicts the verdicts of the jury?

JUROR NO. 10: Yes.

THE COURT: Mr. Barto, were the verdicts that the Court read out your verdicts?

JUROR NO. 11: Yes.

THE COURT: Were these the verdicts of the jury?

JUROR NO. 11: Yes.

THE COURT: And Ms. Maida, were these verdicts your verdicts?

JUROR NO. 12: Yes.

THE COURT: And were these verdicts the verdicts of the jury?

JUROR NO. 12: Yes.

1 THE COURT: Thank you, ladies and gentlemen of
2 the jury. Given the jury's answers, the Court will
3 receive and file the verdicts reached by the jury, and
4 at this time, ladies and gentlemen of the jury, I am
5 discharging you as our jurors, which means my cautionary
6 instruction, which you probably all repeat in your sleep
7 now after your time in this trial, will no longer apply.
8 You are free to speak about this case. It has been a
9 long process, a lot longer than we had anticipated at
10 the beginning. We try our best to anticipate how long a
11 case will be. Unfortunately real-life trials are not
12 scripted like TV so we can't get them done in an hour
13 like we see on TV. Things happen, and you have been
14 very patient. You've been very attentive. You have
15 gone above and beyond in your civic duty serving as
16 jurors in this case, and I thank you sincerely for
17 fulfilling your jury duty service to this Court.

18 I recognize that you may have seen and heard things
19 that may be difficult. We are all different people, and
20 some people are better able to take in some of the
21 information that they receive during the trial than
22 others. I want to inform you that Pierce County
23 Superior Court has services of a counselor if you feel,
24 because of your jury service, you may want to talk to
25 someone, please let Sandi know. She will put you in

1 contact with our services, because it was a difficult
2 and a long process that we've gone through. And please
3 feel free. You don't have to announce it. Just pull
4 Sandi aside or call her, and we'll be more than happy to
5 assist you in that regard.

6 At this time, I would like to invite you -- I know
7 it's been a long three months, but I'd like to invite
8 you, if you want to, to remain in the jury room for a
9 few minutes to talk with the attorneys in this case.
10 You know, in this judicial system, it's very difficult
11 and very rare for attorneys to be able to get feedback
12 from people about how they're doing. What about their
13 presentation, about their case that they could improve
14 on to become a better attorney. And so I offer the jury
15 the opportunity once they're done with jury service to
16 stay if they wish. You don't have to. But stay if you
17 wish to give feedback to the attorneys that are in the
18 courtroom that have been in this case, that have
19 presented their case to you, and give them good
20 constructive feedback. Because it can only make the
21 system better because it will make them better lawyers.
22 So I do invite you to do that. Again, you don't have
23 to. If you don't wish to do that, then you are free to
24 leave. And again, I thank you sincerely for your
25 service. You have gone above and beyond. Thank you.

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(Jury excused.)

THE COURT: We need to set a sentencing date and conditions of release. I'm not sure if the State wishes to have this case sentenced at the same time the other co-defendants are scheduled to be sentenced.

MR. AUSSERER: February 3rd, Your Honor?

THE COURT: It is February 3rd. It's quickly becoming quite an afternoon at 1:30 in this courtroom.

MR. AUSSERER: Thank you. Your Honor, I prepared an Order Establishing Conditions of Release. I'm asking the Court to hold Mr. Sandoval without bail pending sentencing.

MR. JOHNSON: No objection.

THE COURT: I will see you all on February 3rd, 1:30 p.m., for sentencing. The Court is at recess.

(Court at recess.)

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 10 day of October, 2016



Kevin Stock, Pierce County Clerk

By /S/Linda Fowler, Deputy.

Dated: Oct 10, 2016 10:29 AM



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Please see attached the Supplemental Brief of Respondent in the below matter:

PRP Sandoval
No. 92412-1
Submitted by: T. Roberts
WSB # 17442

Please call me at 253/798-7426 if you have any questions.

Therese Kahn
Legal Assistant to T. Roberts