

No. 94175-1

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Division III
State of Washington

No. 32002-2-III

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

30

IN THE MATTER OF THE PERSONAL RESTRAINT OF
STEVEN LOUIS CANHA,
Petitioner

APPEAL FROM THE SUPERIOR COURT
FOR BENTON COUNTY
SUPERIOR COURT NO. 07-1-01052-5

SUPPLEMENTAL RESPONSE TO
PERSONAL RESTRAINT PETITION

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In response to the Personal Restraint Petition herein, State of Washington alleges as follows:

I. STATEMENT OF FACTS

The defendant was found guilty after jury trial of two counts of Assault in the Second Degree and two counts of Unlawful Possession of a Firearm in the First Degree on July 30, 2008. Response to Personal Restraint Petition (PRP), Appendix A – Felony Judgment and Sentence. The jury returned special verdicts that the defendant used a firearm in the commission of both of the Assault in the Second Degree counts. Response to PRP, Appendix B – Special Verdict Forms for County I and II. At the sentencing hearing on August 7, 2008, the defendant’s offender score was calculated using out-of-state criminal convictions which included:

2.2 CRIMINAL HISTORY RCW 9.94A.525:

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
1	Hindering Prosecution	January 6, 2005	Jackson County Circuit Court, Oregon	November 9, 2004	A	NV
2	Criminal Mischief in the First Degree	November 20, 2001	Klamath County Circuit Court, Oregon	July 22, 2001	A	NV
3	Felon in Possession of a Firearm	September 29, 2000	Jackson County Circuit Court, Oregon	August 4, 2000	A	NV
4	Manslaughter	August 5, 1991	California	October 18, 1990	A	SV

Felony Judgment and Sentence at 3.

The defendant was sentenced to 154 months in prison. The defendant filed a first appeal on September 8, 2008, Court of Appeals number 27426-8-III, alleging numerous errors including, 1) the search of the defendant's home without his consent constituted an illegal search; 2) trial counsel was ineffective for failing to request a voluntary intoxication instruction; and 3) the imposition of the firearm enhancements for second degree assault with a handgun violated the constitutional prohibitions on double jeopardy. The defendant also asserted in his Statement of Additional Grounds filed in the same case on July 1, 2009, that his constitutional rights under the Washington State and Federal Constitutions were violated when he was deprived of his right to due process and to a fair and speedy trial. The convictions were affirmed by the Court of Appeals in an unpublished opinion filed on January 27, 2011. The defendant then filed a petition for review with the Supreme Court of Washington on February 28, 2011, under case number 85670-2. The petition for review was denied by the Supreme Court of Washington on June 7, 2011. Thereafter, the defendant filed a first Personal Restraint Petition on February 6, 2012, under case number 30598-8-III. The defendant alleged ineffective assistance of counsel regarding failure to request a lesser included offense instruction. The Court of Appeals dismissed the PRP on July 11, 2012, under case number 30598-8-III.

On October 14, 2013, the defendant filed a Motion to Modify or Correct Judgement and Sentence (J&S) in Superior Court. The Superior Court entered an order transferring the motion to the Court of Appeals as a Personal Restraint Petition that same date, case number 32002-2. The Court of Appeals dismissed the PRP as untimely, frivolous and improperly successive on January 28, 2014. The defendant sought review by the Washington State Supreme Court in case number 89944-4. The Supreme Court remanded the case to the Court of Appeals to review, on the merits, the issues raised in the second PRP.

II. AUTHORITY AND ARGUMENT

A. THE DEFENDANT'S PERSONAL RESTRAINT PETITION IS TIME BARRED.

This personal restraint petition was filed more than one year after the judgment and sentence became final and is thus barred as untimely under RCW 10.73.090(1). Additionally, pursuant to RCW 10.73.140, the Court shall not consider a successive petition unless the petitioner has certified that he has not filed a previous petition on similar grounds and shows good cause why he did not raise the new grounds in the previous petition. The defendant has failed to satisfy either grounds.

Collateral attack by personal restraint petition of a criminal conviction and sentence cannot simply be a reiteration of issues finally

resolved at trial and upon appellate review. Personal restraint petitions must raise new points of fact and law that were not or could not have been raised in the principal action. *In re Personal Restraint of Gentry*, 137 Wn.2d 378, 388, 972 P.2d 1250 (1999). An issue that was raised or could have been raised in a previous appeal may not be raised in a later appeal of the same case. *State v. Bailey*, 35 Wn. App. 592, 594, 668 P.2d 1285 (1983). This is true even where the issue is constitutional. *State v. Sauve*, 100 Wn.2d 84, 666 P.2d 894 (1983). The defendant could have brought the issues set forth in this personal restraint petition in either his first appeal or first personal restraint petition and thus is precluded from bringing them forth now. However, if the court finds that the defendant is not barred from bringing the issues set forth in his petition, the matter should be remanded back to the trial court for a comparability analysis to determine whether the defendant's out of state convictions listed in his judgment and sentence are comparable to Washington felonies and were correctly included in his offender score.

B. COMPARABILITY ANALYSIS

In determining whether foreign convictions are comparable to Washington offenses, the court has devised a two part test for comparability. *State v. Morley*, 134 Wn.2d 588, 952 P.2d 167 (1998). In *Morley*, the court determined that for the purposes of determining

comparability of crimes, the court must first compare the elements of the crimes. *Morley*, 134 Wn.2d at 605-06. In cases in which the elements of the Washington crime and the foreign crime are not substantially similar, the sentencing court may look at the defendant's conduct, as evidence by the indictment or information, to determine if the conduct itself would have violated a comparable Washington statute. *Morley*, 134 Wn.2d at 606. However, the Supreme Court held that,

[w]hile it may be necessary to look into the record of a foreign conviction to determine its comparability to a Washington offense, the elements of the charged crime must remain the cornerstone of the comparison. Facts or allegations contained in the record, if not directly related to the elements of the charged crime, may not have been sufficiently proven in the trial.

Id.

The purpose of the offender score statute "is to ensure that defendants with equivalent prior convictions are treated 'the same way, regardless of whether their prior convictions were incurred in Washington or elsewhere.'" *State v. Villegas*, 72 Wn. App. 34, 38-39, 863 P.2d 560 (1993) (quoting *State v. Weiland*, 66 Wn. App. 29, 34, 831 P.2d 749 (1992)). The trial court's calculation of a defendant's offender score is reviewed de novo. *State v. Bergstrom*, 162 Wn.2d 87, 92, 169 P.3d 816 (2007) (citing *State v. Tili*, 148 Wn.2d 350, 358, 60 P.3d 1192 (2003)).

1. California Conviction

a. Voluntary Manslaughter Conviction

The defendant had a prior California conviction for Voluntary Manslaughter which the sentencing court compared to this State's Murder in the Second Degree statute. The defendant was originally charged by Felony Complaint in Municipal Court of Los Angeles Judicial District, County of Los Angeles, State of California, under Cause No.: NA005106, with Murder pursuant to California Penal Code Section 187(a), which states: "187. (a) Murder is the unlawful killing of a human being, or a fetus, with malice aforethought." Response to Personal Restraint Petition, Appendix H – Los Angeles County Case No. NA 005106 Felony Complaint.

The California Penal Code Section 188 defines Malice

Aforethought as:

188. Such malice may be express or implied. It is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow creature. It is implied, when no considerable provocation appears, or when the circumstances attending the killing show an abandoned and malignant heart.

When it is shown that the killing resulted from the intentional doing of an act with express or implied malice as defined above, no other mental state need be shown to establish the mental state of malice aforethought. Neither an awareness of the obligation to act within the general body of laws regulating society nor acting despite such awareness is included within the definition of malice.

The felony complaint in Los Angeles County Case No.: NA

005106 stated:

On and between October 17, 1990 and October 18, 1990, in the County of Los Angeles, the Crime of MURDER, in violation of PENAL CODE SECTION 187(a), a Felony, was committed by STEVEN LOUIS CANHA, who did willfully, unlawfully, and with malice aforethought murder John Spaw, a human being. It is further alleged that the above offense is a seriously felony within the meaning of Penal Code Section 1192.7(c)(1).

It is further alleged that in the commission and attempted commission of the above offense, the said defendant(s), STEVEN LOUIS CANHA, personally used a firearm(s) within the meaning of Penal Code Sections 1203.06(a)(1) and 12022.5 and also causing the above offense to become a serious felony pursuant to Penal Code Section 1192.7(c)(8).

The defendant entered a plea in the above referenced matter to the lesser included offense of Voluntary Manslaughter under California Penal Code 192(a). Response to PRP, Appendix I – Abstract Judgment – Prison Commitment, Los Angeles County Case No. NA005106. The defendant also pled guilty to the use of a firearm pursuant to California Penal Code Section 12022.5(a)(1). *Id.*

California Penal Code Section 192(a), states in part:

“Manslaughter is the unlawful killing of a human being without malice. It is of three kinds: (a) Voluntary—upon a sudden quarrel or heat of passion
....”

When the defendant entered his plea to Voluntary Manslaughter on August 5, 1991, the Deputy District Attorney made the following record: "The people's reasoning for this sentencing on this murder case is that apparently there was a lot of contact between victim and the defendant and that this appears to be a homicide that took place during a sudden quarrel." Response to PRP, Appendix J at 2 -Transcript of 08/05/1991 Guilty Plea and State Prison hearing in Los Angeles Superior Court Case No. NA005106.

The California Manslaughter Penal Code 192(a) is comparable to the Washington Murder in the Second Degree statute which reads as follows:

(1) A person is guilty of murder in the second degree when:

(a) With intent to cause the death of another person but without premeditation, he or she causes the death of such person or of a third person; or

(b) He or she commits or attempts to commit any felony, including assault, other than those enumerated in RCW 9A.32.030(1)(c), and, in the course of and in furtherance of such crime or in immediate flight therefrom, he or she, or another participant, causes the death of a person other than one of the participants; except that in any prosecution under this subdivision (1)(b) in which the defendant was not the only participant in the underlying crime, if established by the defendant by a preponderance of the evidence, it is a defense that the defendant:

(i) Did not commit the homicidal act or in any way solicit, request, command, importune, cause, or aid the commission thereof; and

(ii) Was not armed with a deadly weapon, or any instrument, article, or substance readily capable of causing death or serious physical injury; and

(iii) Had no reasonable grounds to believe that any other participant was armed with such a weapon, instrument, article, or substance; and

(iv) Had no reasonable grounds to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

(2) Murder in the second degree is a class A felony.

RCW 9A.32.050.

During sentencing in the instant matter, the State addressed the defendant's prior criminal history to determine offender points:

That's based upon the fact that the defendant had previously been convicted of manslaughter. I had a chance to review those police reports, and they're frighteningly similar to the incident in this case in that he got into an argument with a gentleman. He bludgeoned him with a two by four and then shot him.

In this case obviously Kevin Price wasn't shot, and I don't know if it was because he was able to get the firearm away or because his mother was standing in the way when the defendant got the second firearm. What's more troubling is the defendant has already been convicted out of Oregon of felon in possession of a firearm.

So despite being convicted of manslaughter, he was once again in possession of a firearm out of Oregon.

Appendix A attached hereto – Verbatim Report of Proceedings at Sentencing on 08/08/2008 at 579.

Contrary to the defendant's assertion, defense counsel did not merely mention the previous manslaughter conviction, but rather addressed the issue with the court. Defense counsel stated,

I haven't actually allocuted at all yet, your Honor, and . . . the court doesn't have before it the facts of the manslaughter. I mean, the court obviously can take into account there was a manslaughter conviction, but it doesn't have the facts. So, I'm not sure how much I want the court to rely on those.

App. A at 585-86.

The State provided defense counsel with copies of the defendant's prior criminal convictions and police reports regarding the manslaughter during discovery and there had been a previous hearing as to the admissibility of the manslaughter conviction during trial if certain testimony was elicited. App. B – Verbatim Report of Proceedings 07/25/2008 at 10-16, 29. The Court, in accepting the offender points calculated by the State, determined that the California Manslaughter offense comparable to the Washington State crime of Murder in the Second Degree.

If this court finds that the California Voluntary Manslaughter offense is not comparable to the Washington Murder in the Second Degree offense, the State requests the matter be remanded back to the trial court to make a comparability analysis for both Manslaughter in the First Degree and Manslaughter in the Second Degree offenses.

2. Oregon Convictions

a. Criminal Mischief in the First Degree Conviction

The defendant had a prior Oregon conviction for Criminal Mischief in the First Degree, which the sentencing court compared to this State's Malicious Mischief in the Second Degree statute. The Revised Code of Oregon 164.365 that was in effect at the time the defendant was charged with the crime of Criminal Mischief in the First Degree states in part:

- (1) A person commits the crime of criminal mischief in the first degree who, with intent to damage property, and having no right to do so nor reasonably ground to believe that the person has such a right:
 - (a) Damages or destroys property of another;
 - (b) In an amount exceeding \$500:

The information under which the defendant was charged alleged that:

The said defendant on or about 7/22/01 in Klamath County, Oregon, with intent to damage property, did unlawfully damage windows, in an amount exceeding five hundred dollars, the property of Jeff Polly, by breaking the windows, the said defendant having no right to do so nor reasonable ground to believe that defendant had such right, said act of defendant being contrary to the statutes in such cases made and provided and against the peace and dignity of the State of Oregon.

Response to PRP, Appendix D at 2 – Information of District Attorney,
Klamath County Case No. 01-2147CR.

The above-referenced statute is comparable to the Washington Malicious Mischief in the Second Degree statute that was in effect at the time the defendant committed the criminal acts that are the basis for his appeal. That statute reads in part: “Malicious mischief in the second degree. (1) A person is guilty of malicious mischief in the second degree if he or she knowingly and maliciously: (a) Causes physical damage to the property of another in an amount exceeding two hundred fifty dollars;” RCW 9A.48.080 (2001) (See Appendix E of Response to PRP).

WPIC 2.13 defines Malice – Maliciously as: “Malice and maliciously mean an evil intent, wish, or design to vex, annoy, or injure another person.”

Additionally, the Knowledge – Knowingly definition contained in WPIC 10.02 states in part as follows: “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.”

Thus, the defendant would have had to have done an intentional act in Oregon to have been convicted of Malicious Mischief in the First Degree. Since the defendant committed an intentional act, that intentional act would satisfy the “knowingly” requirement in Washington State’s Malicious Mischief in the Second Degree crime.

Therefore, the Oregon Criminal Mischief in the First Degree elements are comparable to the elements of the Washington State Malicious Mischief in the Second Degree felony offense, and thus the Criminal Mischief in the First Degree conviction was lawfully included as a point in the defendant's offender score.

b. Felon in Possession of a Firearm Conviction

The defendant had a prior Oregon conviction for Felon in Possession of a Firearm which the sentencing court compared to this State's Unlawful Possession of a Firearm statute. The Revised Code of Oregon 166.270, under which the defendant was charged with Felon in Possession of a Firearm, states:

(1) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the persons possession or under the persons custody or control any firearm commits the crime of felon in possession of a firearm.

The Circuit Court of the State of Oregon for the County of Jackson's District Attorney's Information under which the defendant was charged with Felon in Possession of a Firearm states:

The said defendant, on or about the 4th day of August, 2000, in Jackson County, Oregon, then and there being, having previously been convicted in California in August 1991, of the felony of Voluntary Manslaughter, did unlawfully and knowingly have in the defendant's

possession a firearm, contrary to the statutes in such cases made and provided, and against the peace and dignity of the State of Oregon.

Response to Personal Restraint Petition, Appendix F -- District Attorney's Information, Case No. EPPD00-2242.

This is comparable to the Revised Code of Washington 9A.41.040

Unlawful Possession of a Firearm statute, which states as follows:

(1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any serious offense as defined in this chapter.

(b) Unlawful possession of a firearm in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(2)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under subsection (1) of this section for the crime of unlawful possession of a firearm in the first degree and the person owns, has in his or her possession, or has in his or her control any firearm:

(i) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any felony not specifically listed as prohibiting firearm possession under subsection (1) of this section, or any of the following crimes when committed by one family or household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040)

At trial in this matter, the defendant stipulated that he had previously been convicted of a Serious Offense. Response to PRP, Appendix G – Stipulation. Thus, the Felon in Possession of a Firearm conviction elements were comparable to the Washington State Unlawful Possession of a Firearm in the First Degree as well as Unlawful Possession of a Firearm in the Second Degree and was thus properly included as a point in calculating the defendant's offender score.

c. Hindering Prosecution

The Revised Code of Oregon 162.325, under which the defendant was charged with Hindering Prosecution, states:

(1) A person commits the crime of hindering prosecution if, with intent to hinder the apprehension, prosecution, conviction or punishment of a person who has committed a crime punishable as a felony, or with the intent to assist a person who has committed a crime punishable as a felony in profiting or benefiting from the commission of the crime, the person:

(a) Harbors or conceals such person;

The indictment in the Circuit Court of the State of Oregon for the County of Jackson, Case No.: 04-5744-FE, attached as Appendix C to the Response to PRP, in which the defendant was charged with Hindering Prosecution, states:

That said defendant, on or about the 9th day of November, 2004, in the said County of Jackson and State of Oregon, then and there being, did unlawfully, with intent to hinder the apprehension of Shonna Coleman-George, a person who had committed a crime punishable as a felony, harbor

the said Shonna Coleman-George, contrary to the statutes in such cases made and provided, and against the peace and dignity of the State of Oregon.

The Oregon record is silent as to the level of felony offense Ms. Coleman-George committed or was being sought for and thus the matter would need to be brought back before the sentencing court to review Ms. Coleman-George's Triple I and a certified judgment and sentence showing what felony offense she was charged with. If the felony offense was a class B or C, the Oregon Hindering Prosecution offense would be comparable to the Washington Rendering Criminal Assistance in the Second Degree charges, RCW 9A.76.080, which states:

(1) A person is guilty of rendering criminal assistance in the second degree if he or she renders criminal assistance to a person who has committed or is being sought for a class B or class C felony or an equivalent juvenile offense or to someone being sought for violation of parole, probation, or community supervision.

(2)(a) Except as provided in (b) of this subsection, rendering criminal assistance in the second degree is a gross misdemeanor.

However, if Ms. Coleman-George's felony offense was found to be Murder or a Class A Felony, it would be comparable to Washington's felony offense of Rendering Criminal Assistance in the First Degree. Thus, properly included in the defendant's offender score.

C. INEFFECTIVE ASSISTANCE OF COUNSEL

To demonstrate ineffective assistance of counsel, a defendant must make two showings: (1) defense counsel's representation was deficient, i.e., it fell below an objective standard of reasonableness based on consideration of all the circumstances; and (2) defense counsel's deficient representation prejudiced the defendant, i.e., there is a reasonable probability that, except for counsel's unprofessional errors, the result of the proceeding would have been different. *State v. Thomas*, 109 Wn.2d 222, 225–26, 743 P.2d 816 (1987) (applying the 2–prong test in *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)). Competency of counsel is determined based upon the entire record below. *State v. White*, 81 Wn.2d 223, 225, 500 P.2d 1242 (1972) (citing *State v. Gilmore*, 76 Wn.2d 293, 456 P.2d 344 (1969)). Courts engage in a strong presumption counsel's representation was effective. *State v. Brett*, 126 Wn.2d 136, 198, 892 P.2d 29 (1995); *Thomas*, 109 Wn.2d at 226.

There has been no showing in this matter that both trial counsel and prior appellate counsel reviewed the defendant's criminal history and found that all the out-of-state convictions were in fact comparable to Washington state offenses and as such were not required to bring forth frivolous and/or meritless issues at sentencing and in the appeal progress.

Furthermore, in reviewing the judgment and sentence in the instant matter, it appears the defendant was erroneously sentenced to 154 months. He should have actually been sentenced to 197 months. The defendant was sentenced to 43 months on the Assault in the Second Degree convictions with two 36-month firearm enhancements. Pursuant to RCW 9.94A.533, the two 36-month firearm enhancements should have run consecutive to each other and all other crimes. Thus, the defendant should have been sentenced to 115 months on counts one and two (43 months plus 72 months for firearm enhancements). The sentencing court held that the Assault in the Second Degree convictions and firearm enhancements should run consecutive to the Unlawful Possession of Firearm in the First Degree convictions contained in Counts III and IV, which were 41 months each. Thus, the defendant should have received a sentence of 115 months plus 82 months for a total of 197 months. Perhaps this 43 month increase in the defendant's incarceration time was the legitimate strategy in not bringing forth the possibility of point calculation errors to the court's attention. However, now that the error has been identified, the State requests that the matter be remanded back to the trial court for correction.

III. CONCLUSION

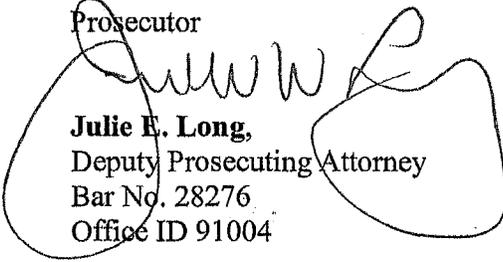
Based upon the aforementioned rationale, the State requests the matter be remanded back to the trial court for re-sentencing wherein a

comparability hearing may be heard on the defendant's four out-of-state convictions and he be correctly sentenced within the appropriate sentencing range.

RESPECTFULLY SUBMITTED this 16th day of May, 2016.

ANDY MILLER

Prosecutor



Julie E. Long,

Deputy Prosecuting Attorney

Bar No. 28276

Office ID 91004

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this day I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

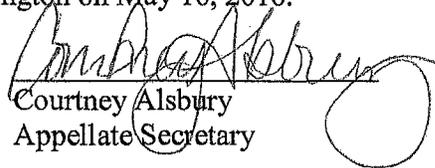
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Signed at Kennewick, Washington on May 16, 2016.


Courtney Alsbury
Appellate Secretary

APPENDIX A

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF BENTON

DEPARTMENT B HON. CAMERON MITCHELL, JUDGE

STATE OF WASHINGTON,)	
)	
Plaintiff,)	COA NO. 27426-8-III
)	
vs.)	NO. 07-1-01052-5
)	
STEVEN L. CANHA,)	
)	
Defendant.)	

Kennewick, Washington Thursday August 08, 2008

TRANSCRIPT OF THE VERBATIM
REPORT OF PROCEEDINGS

APPEARANCES:

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Reported by: RENEE L. MUNOZ, CCR 2330, RPR, CRR

1 Thursday, August 8, 2008, at 4:00 p.m.

2 Kennewick, Washington

3
4 MR. SWABY: Can I call number 14, Canha. I
5 understand the State's witnesses are here. They want to
6 address the court.

7 MS. LONG: Your Honor, the victims are present
8 today in court, but they do not wish to address the
9 court.

10 THE COURT: Nothing you wish to say?

11 THE AUDIENCE: (Nodded head.)

12 THE COURT: Ms. Long?

13 MS. LONG: Your Honor, this is kind of a little
14 bit confusing. I've indicated in the judgment and
15 sentence Counts I and II encompass the same criminal
16 conduct and count as one crime in determining the
17 offender score. I've also indicated that on I and II the
18 jury returned a special verdict. Therefore, the standard
19 ranges for Counts I and II would be 43 to 57 months.
20 However, the firearm enhancement raises that to 79 to 93
21 months.

22 We also have Counts III and IV. I've indicated in
23 the J and S that those pursuant to statute run
24 consecutive to each other. So, the standard ranges on
25 those would be 41 to 54, those consecutive to each other,

1 as well as the firearm enhancement. So based upon the
2 defendant's criminal history, which is set forth on page
3 three, the State is requesting the maximum sentence in
4 this matter, which would be 144 months.

5 That's based upon the fact that the defendant had
6 previously been convicted of manslaughter. I had a
7 chance to review those police reports, and they're
8 frighteningly similar to the incident in this case in
9 that he got into an argument with a gentleman. He
10 bludgeoned him with a two by four and then shot him.

11 In this case obviously Kevin Price wasn't shot, and
12 I don't know if it was because he was able to get the
13 firearm away or because his mother was standing in the
14 way when the defendant got the second firearm. What's
15 more troubling is the defendant has already been
16 convicted out of Oregon of felon in possession of a
17 firearm.

18 So despite being convicted of manslaughter, he was
19 once again in possession of a firearm out of Oregon. It
20 looks like he was sentenced in 2000, and now again he's
21 here with two firearms. He doesn't seem to get the fact
22 that he's a danger, and he's not supposed to be in
23 possession of a firearm.

24 Counts I and II also carry 18 to 36 months of
25 community custody. There's no restitution. We would ask

1 for the standard fines and fees.

2 THE COURT: Before you begin, Mr. Swaby, I'm
3 trying to follow again your calculation of the months.
4 You asked for 93 on Counts I and II.

5 MS. LONG: I think it's -- right.

6 THE COURT: 57 plus 36?

7 MS. LONG: Right, and I think the firearm, the
8 three years runs consecutive to the 108.

9 THE COURT: So, we have --

10 MR. SWABY: I'm comin' up with 211 -- I'm sorry
11 201 is what I'm comin' up with at the top end. The 108
12 plus the 93.

13 MS. LONG: I think the 43 to 57 runs concurrent
14 with the 82 to 108, and then the 36 runs consecutive to
15 the 108.

16 MR. BLOOR: The way I understood it, your Honor,
17 the unusual thing is the firearm charges, Counts III and
18 IV. I think if -- I don't know if the court has the
19 statute up there.

20 THE COURT: I don't unfortunately.

21 MR. BLOOR: I don't have it with me, but I know
22 on the consecutive and concurrent statute under the
23 Sentencing Reform Act there's a special provision
24 regarding -- I know that there is a provision -- do you
25 care if I take a moment?

1 THE COURT: No, please do. On 99.4A.589 it
2 provides that in the case an offender convicted of
3 unlawful possession of a firearm first or second degree,
4 the sentences for those crimes are served consecutive for
5 each conviction, and let me read the actual quote. All
6 right, it's actually Subsection C. "If the offender is
7 convicted under 94.040 for possession of a firearm in the
8 first or second degree, the standard sentence range for
9 each of these current offenses shall be determined by
10 using all the other current and prior convictions except
11 for other convictions, those types of felonies."

12 So, we had the assault charge in calculating the
13 offender score for the firearm possessions that we don't
14 count those against each other. So the defendant had
15 four priors, and then we're suggesting that the two
16 assault charges are in the same course of criminal
17 conduct. So, that would be five.

18 THE COURT: Right.

19 MR. BLOOR: So, we listed an offender score on
20 III and IV as an offender score of five.

21 THE COURT: I follow you.

22 MR. BLOOR: Those are supposed to run
23 consecutive to each other.

24 THE COURT: Okay.

25 MR. BLOOR: Your Honor, I'll hand up, if you

1 want to see this, you probably do.

2 THE COURT: Thank you.

3 MR. BLOOR: Can I just approach the bench?

4 THE COURT: Thank you.

5 MR. BLOOR: Reading from Subsection C.

6 THE COURT: Thank you.

7 MR. BLOOR: And then we're saying that the
8 firearms charges do count in determining the standard
9 range of the assault charges.

10 THE COURT: Correct. I follow that.

11 MR. BLOOR: So, the range on that is 43 to 57,
12 and those do run concurrently with the other current
13 offenses. However, the three months -- three years
14 that's imposed as a firearm requirement, I think under
15 the statute just has to be run -- the defendant just has
16 to do three years on that.

17 So, our recommendation is for the high end of the
18 range on counts -- on all the counts. So, it would be 54
19 months on Counts I and II, 54 months and 54 months, those
20 two counts would have to run consecutively. So, that's
21 108 months, and then he'd also get three years, 36 months
22 for the firearms enhancement.

23 THE COURT: So the two possession of firearm
24 enhancements would run consecutively for 108 months but
25 concurrently with the assault.

1 MR. BLOOR: Yes.

2 THE COURT: So the 98 months would be subsumed
3 in the 108 and then add 96 for the firearm enhancement.

4 MR. BLOOR: Right.

5 THE COURT: That's how you get to --

6 MR. BLOOR: At least that will be my explanation
7 to the Department of Corrections when we get a letter.

8 THE COURT: Mr. Swaby, are you following that?
9 There is the maximum penalty is ten years.

10 MR. BLOOR: I think -- I know there's a
11 provision on the enhancement.

12 THE COURT: Can the enhancement can go beyond?

13 MR. BLOOR: Yes.

14 THE COURT: Okay. I think I'm following.

15 Mr. Swaby?

16 MR. SWABY: I'm thinking about it, your Honor.
17 The idea that the 57 months would be consumed in the two
18 consecutive counts on III and IV?

19 THE COURT: Correct.

20 MR. SWABY: But because the three-year firearm
21 enhancement has to be run consecutively anyway, it runs
22 consecutive to the other consecutive counts?

23 THE COURT: That's the way I'm understanding it.

24 MR. SWABY: It's logically consistent, your
25 Honor, and any other reading -- well, I guess it made --

1 your Honor, that seems like a reasonable reading of the
2 statutes as Mr. Bloor just read them, and the 43 to 57
3 being the same criminal conduct I understand how that
4 merges into the other larger sentences.

5 So any argument I would make about the calculation
6 would end up with more than the 120 months, and I'm
7 certainly not gonna make an argument the proper sentence
8 is more than 120 months. So, we're willing to accept
9 that iteration of the various counts.

10 THE COURT: Based on the State's calculations,
11 the top of the standard range is 144 months total.

12 MS. LONG: Correct, your Honor.

13 MR. SWABY: But they can go over -- they can
14 go -- the statute allows for going over the maximum in
15 connection with an enhanced sentence.

16 THE COURT: They can.

17 MS. LONG: I think

18 MR. BLOOR: I think we're in agreement.

19 MR. SWABY: I think we are.

20 MR. BLOOR: I have to say Ms. Delvin might have
21 the best legal mind on this side of the bench and table
22 and pointed out there is a provision saying that the
23 firearms enhancements have to be consecutive to each
24 other. So, that's under -- I think I was wrong in
25 advising Ms. Long about this, but there's a section

1 99.4A.533 and I'm looking at 4(e), "All firearms
2 enhancements under this section are mandatory."

3 MS. LONG: So, that would add another 36 months,
4 and he's looking at 180 at the top of the range.

5 THE COURT: Honestly, I think that is my
6 understanding. That issue has been raised, that firearm
7 enhancements are consecutive to each other.

8 MR. SWABY: There's a merger argument to be
9 made, your Honor, where they're separate incidents, but I
10 think in this particular case the State's argument would
11 be, and I think the way they've proposed it as I
12 understood it at trial, was that there were actually two
13 separate guns.

14 So even though there is the same complainant, which
15 is why I believe the two assault charges would merge,
16 there are two separate firearms of which he was
17 convicted, and that would lead to the two separate
18 enhancements and those enhancements can't be run
19 concurrently.

20 THE COURT: Okay. Mr. Swaby, anything else
21 you'd like to say?

22 MR. SWABY: I haven't actually allocuted at all
23 yet, your Honor, and I -- the court doesn't have before
24 it the facts of the manslaughter. I mean, the court
25 obviously can take into account there was a manslaughter

1 conviction, but it doesn't have the facts. So, I'm not
2 sure how much I want the court to rely on those.

3 You heard the trial. You heard what is alleged to
4 have happened. You heard my client I think very candidly
5 say at trial, "What they're saying isn't impossible. I
6 do not believe I did that, but I'm not saying it's
7 impossible."

8 This is not a person who had bad feelings for
9 these -- for the complainants. He had arguably a healthy
10 and happy relationship with all. They did with him.
11 What happened is tragic here, if everyone is to be
12 believed, and firearms are used. No firearm was fired.
13 Nobody was hurt substantially, save perhaps my client.

14 I don't think this warrants the top of the range.
15 My client didn't buy the guns. The guns weren't my
16 clients. 180 months just seems, even if it is legal,
17 seems grossly disproportionate to what happened here. I
18 do not think anybody would have contemplated this kind of
19 time. For someone my client's age, while it's not a life
20 count, it's truly the better part of what remains of his
21 life.

22 36 of those months will be done without any -- no,
23 I'm sorry, 72 of those months will be done without any
24 good time. Wow, that's -- I'm gonna ask the court for
25 the bottom of the range, the 41 months on each. I guess

1 you can't do anything about the 72, your Honor. If I'm
2 not wrong, that's 154 months, and that's a goodly amount
3 of time, your Honor.

4 THE COURT: Mr. Canha, anything you'd like to
5 say, sir?

6 THE DEFENDANT: I don't believe there's anything
7 I really can say.

8 THE COURT: The court is going to impose a
9 sentence of 43 months on Count I, 43 months on Count II,
10 41 months on Count III, 41 months on Count IV, 41 months
11 on Count III and Count IV will be run consecutive for a
12 total of 82 months. 43 months on Counts I and II will
13 run concurrently with those 82 months. So, that will be
14 a total of 82 months. An additional 36 months for
15 firearm enhancement in Count I. Additional 36 months for
16 the firearm enhancement in Count II. A total of 154
17 months.

18 Sir, you'll also be responsible for crime victim's
19 assessment of \$500.00, \$500.00 fine, \$100.00 felony DNA
20 collection fee, and subject to community custody for a
21 period of 18 to 36 months on each of Counts I and II.

22 MS. LONG: Your Honor, on page six at the top of
23 the page we would ask that you check the box saying the
24 confinement time on Counts I and II is 36 months
25 enhancement for a firearm, 36 I guess plus 36.

1 MR. SWABY: Where?

2 MS. LONG: On page six at the top. I think you
3 would write out 41 plus 41 plus 36 plus 36.

4 THE COURT: On top of the time on Counts I and
5 II includes 72 months as enhancements for a firearm,
6 correct?

7 MS. LONG: Yes.

8 THE COURT: 36 plus 36?

9 MS. LONG: Correct.

10 THE COURT: Then we go down to --

11 MS. LONG: The actual number of months of total
12 confinement ordered is?

13 THE COURT: The 154 months, correct?

14 MS. LONG: Okay.

15 THE COURT: I also would indicate, Mr. Canha,
16 you are also responsible for the amount of attorneys fees
17 in the amount of \$600.00, court costs in the amount of
18 \$776.10. Excuse me, I'm just gonna say the cost bill
19 because there are a number of amounts to be added. So,
20 process that out in the cost bill. You are subject to
21 the period of community custody for the period of 18 to
22 36 months on Counts I and II.

23 Mr. Canha, you have the right to appeal your
24 conviction. If you wish to do so, you must file your
25 notice of appeal within 30 days or you will forever waive

1 your right to appeal conviction. Also, sir, if you are
2 unable to afford a lawyer one will be appointed to assist
3 you with the appeal, you also have the right to have the
4 clerk of the court file for you any documents necessary
5 to perfect your appeal, and you have the right to have
6 any portions of the transcript necessary to perfect your
7 appeal transcribed at no cost to you.

8 Again, sir, if you wish to appeal, you need to file
9 your appeal within 30 days of today's date. Any
10 collateral attack on this judgment and sentence must be
11 filed within one year of today's date.

12 Any questions about that, sir?

13 THE DEFENDANT: No. Is this where I say I
14 want --

15 MR. SWABY: I'm gonna do it. I'll be filing a
16 notice of appeal in the morning.

17 THE COURT: Thank you.

18 MR. SWABY: There is a no contact order that's
19 been signed and proposed for the court. Mr. Canha has
20 items still at the home and would like to be able to have
21 his parents pick them up. I hope that's not going to be
22 considered a violation of the no contact order.

23 They will have his power of attorney. So, any
24 disposition of the home I guess they would act in
25 Mr. Canha's behalf in the disposition of that home. He

1 still has an ownership interest there, and I guess it
2 won't be resolvable with him in prison without someone on
3 the outside being able to communicate. I do not think
4 the no contact order contemplates a bar to contact to
5 resolve legal matters.

6 I guess I'd inquire of the State if it feels
7 differently about that.

8 MS. LONG: I believe that the victim's family
9 would like the sheriff or some deputy to stand by while
10 that occurred.

11 MR. SWABY: I guess that doesn't -- I mean, if
12 the deputies are willing to be there, that seems
13 reasonable, but someone -- someone would have to -- to
14 get the property it seems someone would have to go there,
15 the person would be coming on my client's behalf. I
16 suppose the argument could be made that's third party
17 violative contact. I don't think that's what the State
18 means in the no contact order.

19 MS. LONG: No. Ms. Price had already contacted
20 me about what to do with the defendant's items. So, we
21 anticipated them being taken from the house.

22 THE COURT: Okay. Thank you, Ms. Long. Thank
23 you very much.

24

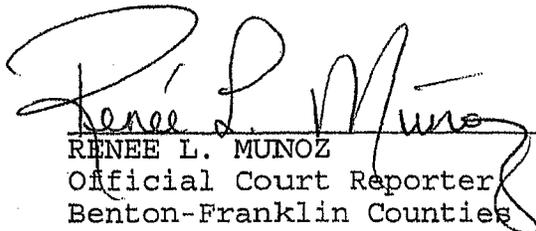
25 (Whereupon the proceedings concluded at 4:25 p.m.)

1 STATE OF WASHINGTON)
2 COUNTY OF BENTON) SS.

3
4 I, RENEE L. MUNOZ, Official Court Reporter of the
5 Superior Court of the Kennewick Judicial District, State
6 of Washington, in and for the County of Benton, hereby
7 certify that the foregoing pages comprise a full, true
8 and correct transcript of the proceedings had in the
9 within-entitled matter, recorded by me in stenotype on
10 the date and at the hour herein written, and thereafter
11 transcribed by me into typewriting.

12
13 That I am certified to report Superior Court
14 proceedings in the State of Washington.

15
16 WHEREFORE, I have affixed my official signature this
17 9th day of February, 2009.

18
19
20
21
22
23 
24 RENE L. MUNOZ
25 Official Court Reporter
Benton-Franklin Counties
Superior Court

APPENDIX B

COPY

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON RECEIVED

2 IN AND FOR THE COUNTY OF BENTON MAR 22 2010

3 DEPARTMENT A HON. CAMERON MITCHELL, JUNEAU COUNTY PROSECUTOR

4	STATE OF WASHINGTON,)	
)	
5	Plaintiff,)	COA NO. 27426-8-III
)	
6	vs.)	NO. 07-1-01052-5
)	
7	STEVEN L. CANHA,)	
)	
8	Defendant.)	
)	

9
10 Kennewick, Washington Friday July 25, 2008

11
12
13 TRANSCRIPT OF THE VERBATIM
14 REPORT OF PROCEEDINGS

15
16
17 APPEARANCES:

18	For the Plaintiff:	JULIE LONG
		Deputy Prosecuting Attorney
19		7122 W. Okanogan Place, Bldg. A
		Kennewick, WA 99336
20		
21	For the Defendant:	CHRISTOPHER SWABY
		Attorney at Law
22		P.O. Box 771
		Richland, WA 99352
23		
24		

25 Reported by: RENEE L. MUNOZ, CCR, RPR, CRR.

1 him, I will ask to approach the court to reconsider this
2 information in light of that because I think that if
3 Mr. Price can't get into it, if the deputy denies having
4 been told this, I certainly think I'd be able to -- I'd
5 certainly argue I should be able to bring out the charge,
6 even though it was dismissed, because he, in fact, wrote
7 out the citation. So, he must have been told information
8 at that time consistent with his decision to write him
9 the citation.

10 THE COURT: You did indicate that is, in fact,
11 in Deputy Runge's report?

12 MR. SWABY: Absolutely.

13 THE COURT: I guess I would allow you to reraise
14 that motion.

15 MR. SWABY: Thank you.

16 THE COURT: If that's the case, but it seems to
17 me that certainly the report itself can be pointed out to
18 the deputy to verify that he was told that information.

19 MR. SWABY: Yes, your Honor.

20 THE COURT: I will, I guess, wait to hear how
21 that unfolds, and I will allow you to reraise that issue,
22 if necessary.

23 MR. SWABY: Thank you, your Honor.

24 THE COURT: Next the State moves to exclude
25 testimony of a prior incident between defendant and the

1 victim that occurred over two years ago wherein the
2 victim wrote the defendant's name on a bullet and told
3 the defendant if he didn't treat his mother right, the
4 bullet was his.

5 Ms. Long?

6 MS. LONG: Again, your Honor, I think it would
7 be relevant in this matter if the defense had been
8 self-defense, but it's not. It's a general denial, and I
9 stated the rules of evidence where it would be excluded.
10 It doesn't go to show -- he can't raise the issue of
11 self-defense now that it's general denial.

12 So, it's not admissible to show that he was fearful
13 of the victim in this matter or the victim's propensity
14 for violence or anger in this matter. In fact, the
15 victim in this matter has never been charged. He has no
16 criminal record whatsoever. It happened over two years
17 ago. They continued to reside in the same home. There
18 were no other incidences.

19 I don't believe it's admissible in this matter nor
20 is it relevant.

21 THE COURT: Mr. Swaby?

22 MR. SWABY: I think it's extremely relevant,
23 your Honor, because my client acts out of fear. We're
24 not saying self-defense. What my client would be saying
25 on the stand is that after being struck by Mr. Price, he

1 was so concerned for his safety that he runs upstairs to
2 the telephone.

3 There's a telephone upstairs that's within feet of
4 where they allege the guns were recovered, and my client
5 is going to do that. There's only one reason somebody --
6 my client wants to explain to the jury how it is that
7 he's running for a phone after only being punched in the
8 face once.

9 I mean, why are -- these are two men. It's a fist
10 fight. Why is it that he behaves in the way he does?
11 It's in large part because upon initial contact or very
12 soon after dating Ms. Price, Mr. Price's mother, he is
13 shown a bullet with his name on it. Now, there are some
14 statements made by people that this was a joke or it was
15 supposed to be understood as a joke, but that's a fairly
16 piece of -- that's a fairly serious exchange.

17 If someone showed me a bullet with my name on it,
18 even if they said it was a joke, I'm not so sure I would
19 think it was a joke, and even if I thought it was a joke
20 before, I wouldn't when someone was hitting me in this
21 kitchen, and the court has to -- the facts are such, your
22 Honor, that Mr. Price -- Ms. Price is gonna say there was
23 an argument going on between myself and Mr. Canha.

24 There wasn't any physicality to it. "My son
25 entered, and he thinks something is going on." He says

1 something to the effect of, you know, "Don't shove my
2 mom. Don't push my mom. You shouldn't touch my mom,"
3 and then hauls off and hits my client, and it will be
4 fairly said, Mr. Price is a fairly large man and bigger
5 than Mr. Canha. It looks like he comes in at around 300,
6 and he hits Mr. Canha.

7 It is of moment that there was this bullet with a
8 name on it shown to my client and said, "If you ever do
9 anything to my mother, here you go (indicating)." So, it
10 explains why my client's first move isn't to hit him
11 back. It is to run and get this phone, and so we're
12 obviously going to be challenging whether a gun was drawn
13 or not.

14 So I think it's of value, and it is expletive of
15 this relationship. Mr. Price is going to get on the
16 stand and also say, "We were pals. We'd have beers in
17 the evening after work. We went and did archery
18 together. We went and did all these things." That
19 belies a friendly relationship. With a bullet with your
20 name on it, with someone else's name on it belies
21 friendship.

22 It just -- it's not consistent with and it's
23 informative of, and I really think that this is something
24 the jury -- they have a response to it. Mr. Price says
25 it was a joke. Mrs. Price says it was a joke. There's a

1 telephone conversation in which my client says, "Yeah, it
2 was supposed to be a joke, but it's not a joke," and it
3 is not prejudicial except to the extent it may inform the
4 jury. It would inform the jury of what's really
5 happening here.

6 You don't say, "This guy's my pal and, by the way, I
7 wrote his name on a bullet." They're not consistent.
8 So, I think it should come in.

9 THE COURT: Ms. Long?

10 MS. LONG: Your Honor, if your Honor does allow
11 the bullet information to come in, then I believe that
12 the State gets to rebut that with, you know, if he had
13 knowledge that the defendant has been previously
14 convicted of manslaughter. You know, I think it would
15 come in to go to the victim's state of mind regarding why
16 perhaps he wrote his name on a bullet.

17 Additionally, he said that it was a joke. They
18 continued to reside as a family and do things, and at
19 least two different jail calls the defendant talks to his
20 mother and says that, "Yes, it was meant as a joke. We
21 talked about it for months after. Laughed about it. It
22 was a joke." So, I don't think it's relevant in this
23 matter.

24 Again, had the defense been self-defense I think
25 that it would have come in to show a state of mind, but.

1 it doesn't. He didn't claim self-defense in this matter.
2 It's a general denial. So I don't think it's admissible
3 or relevant in this matter, and I think it's highly
4 prejudicial.

5 THE COURT: At this point the court is going to
6 grant the motion in limine regarding the information, and
7 again I think, Mr. Swaby, if the witness does get up on
8 the stand and testify that, "We had a great relationship.
9 That we were the best of the friends," etc., then I think
10 it might be relevant regarding his credibility of his
11 statements, but absent that, I don't see that it's
12 relevant.

13 Again, the court's going to grant the motion, and
14 maybe reconsider that if, in fact, the testimony is that
15 they were best of friends, etc.

16 Then of course, Ms. Long, if that's the case, then
17 you'd be able to bring in rebuttal evidence regarding the
18 nature of that event, whether that was meant to be a
19 joke, etc.

20 MR. SWABY: If we could, your Honor, I don't
21 think, and certainly before the State would be allowed to
22 bring out anything about my client's manslaughter
23 conviction, I'd like to at least be able to address that
24 at a side bar. The joke response I think would be an
25 appropriate response to any cross-examination about the

1 bullet. The manslaughter, I think that's different.

2 THE COURT: Perhaps I was unclear, and I did not
3 specifically address that. The court is not at this
4 point ruling that would necessarily make the manslaughter
5 conviction admissible, but my ruling is if, in fact,
6 there was testimony they were best of friends, I think
7 the defense should be allowed to bring this information
8 in to rebut that testimony and certainly then the State
9 could bring in information regarding evidence that this
10 was meant to be a joke, but I have not -- I am not at
11 this point allowing the admission of the conviction
12 regarding manslaughter.

13 I guess if that needs to be argued later, Ms. Long,
14 I ask you approach side bar before addressing any of that
15 information.

16 MS. LONG: I will, your Honor.

17 Additionally, I had two other motions in limine that
18 I did not put in writing but I previously discussed them
19 with Mr. Swaby.

20 MR. SWABY: That's me.

21 MS. LONG: Sorry.

22 MR. SWABY: That's all right.

23 MS. LONG: The night of this incident the law
24 enforcement officers arrived Ms. Price, Karen Price came
25 out of the home and she advised the officers that the

1 think it would be admissible in giving the State an
2 argument as to why it still believes that it's not. I
3 certainly would never violate the court's order and
4 willy-nilly start asking questions on something the court
5 has ruled inadmissible.

6 THE COURT: Thank you.

7 Does the State have any other motions you'd like me
8 to address?

9 MS. LONG: Your Honor, it's my understanding the
10 defense in lieu of the State producing testimony
11 regarding his conviction of manslaughter they're gonna
12 stipulate to the fact that the defendant has previously
13 been convicted of a seriously violent offense.

14 MR. SWABY: Yes.

15 THE COURT: Okay.

16 MS. LONG: And I don't know if your Honor wants
17 that in written form or when we want to address that with
18 the jury at the close of my case. I don't know if your
19 Honor wants to announce it. We've stipulated that --

20 MR. SWABY: You know typically, your Honor, I
21 haven't had this come up here, but typically in that
22 other place I used to practice we would do that right
23 before the close of the State's case. We'd look at the
24 evidence and decide what was gonna be admitted. I think
25 the stipulation would come in as a piece of evidence.

BENTON COUNTY PROSECUTOR

FILED
MAY 17, 2016
Court of Appeals
Division III
State of Washington

May 16, 2016 - 5:11 PM

Transmittal Letter

Document Uploaded: 320022-32002-2 Canha - Supp Response to PRP.pdf
Case Name: In the Matter of the Personal Restraint of Steven Louis Canha
Court of Appeals Case Number: 32002-2
Party Represented: Respondent
Is This a Personal Restraint Petition? Yes No
Trial Court County: Benton - Superior Court # 07-1-01052-5

Type of Document being Filed:

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

Comments:

No Comments were entered.

Proof of service is attached and an email service by agreement has been made to nodblspk@rcabletv.com and wa.appeals@gmail.com.

Sender Name: Courtney S Alsbury - Email: prosecuting@co.benton.wa.us