73872-1 73872-1

No. 94280-3

NO. 73872-1-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

IN RE: THE PERSONAL RESTRAINT OF
MATTHEW RAY DOUGLAS SCHLEY,

Petitioner,

ON APPEAL FROM THE WASHINGTON STATE DEPARTMENT
OF CORRECTIONS, RISK MANAGEMENT DIRECTOR

PETITIONER/APPELLANT'S BRIEF

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A. SUMMARY OF ARGUMENT

Matthew Schley needs chemical dependency treatment to remain crime-free. However, his drug offender sentencing alternative (DOSA) sentence was revoked in error because the Department of Corrections (DOC) hearing officer relied on a lower standard of proof than constitutionally required, he was not afforded his due process right to counsel, the revocation exceeded the hearing officer's authority to impose a single sanction for a single incident, even if that incident constitutes multiple violations, and DOC is not authorized to revoke a DOSA based on conduct unrelated to chemical dependency. Each of these errors requires reversal of the DOSA revocation.

B. ASSIGNMENTS OF ERROR

1. The hearing officer erred in revoking Mr. Schley's DOSA because it applied the wrong evidentiary standard.

2. Mr. Schley was denied due process when the hearing officer based his DOSA revocation on an infraction and administrative termination proved only by "some evidence."

3. The Department of Corrections (DOC) violated Mr. Schley's due process rights when it failed to inform him that he had a right to

request counsel and failed to make a case-by-case determination as to whether he was entitled to appointed counsel.

4. DOC exceeded its authority when it imposed multiple punishments for a single incident: 15 days segregation plus loss of 15 days good conduct time, termination from chemical dependency treatment, and revocation of a DOSA sentence.

5. DOC does not have authority to revoke a DOSA sentence for conduct unrelated to chemical dependency.

C. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Due process requires application of the preponderance of the evidence standard during DOSA revocation hearings. Did the hearing officer violate Mr. Schley's constitutional due process rights when it found the preponderance of the evidence standard satisfied by events proved to only the some evidence standard?

2. Due process requires DOC to inform those subject to DOSA revocation proceedings that they have a right to request counsel, and then, to determine on a case-specific basis whether counsel must be appointed. Were Mr. Schley's due process rights violated when he was not informed he had a right to request counsel and DOC failed to

consider the specifics of his case in determining whether he was entitled to appointed counsel?

3. Where one incident leads to multiple violations, WAC 137-28-350 authorizes DOC to impose only a single sanction. Did DOC exceed its authority by imposing three distinct punishments for Mr. Schley's alleged fighting?

4. The Legislature has granted DOC limited authority to revoke a court-imposed DOSA sentence. This authority does not extend to conduct unrelated to chemical treatment and dependency. Did DOC exceed its authority by revoking Mr. Schley's DOSA based on alleged fighting that was unrelated to chemical dependency?

D. STATEMENT OF THE CASE

Having pled guilty, Matthew Schley is serving concurrent DOSA sentences agreed to by the State and entered by the Superior Court. App. 1-22 (judgments).[1] Under these sentences, he was to spend 29.75 months undergoing chemical dependency treatment while incarcerated. *Id.* He then would serve out the remainder of his

[1] An appendix attached to this brief compiles documents attached to Mr. Schley's PRP and DOC's response. Citations are to page numbers affixed to the appendix. A table of contents is provided at the end of this brief. This brief also cites to the single-volume report of proceedings that transcribes the DOC revocation hearing at issue here.

sentence, an additional 29.75 months, in the community on community custody with conditions to encourage his chemical dependency recovery. *Id.*

Once he was incarcerated, DOC informed Mr. Schley that he would be terminated from the program if he acted violently. App. 23-26..

Less than a week later, he was charged with fighting, a serious infraction, enumerated 505. App. 27. Mr. Schley contended there had been no fight, but that he had received the scratch to his lower back in his sleep. *Id.*; *accord* RP 15-17 (Schley told psychiatrist about injury that derived from exiting bunk during sleep). At a DOC disciplinary hearing, evidence was presented. App. 27; *see* RP 6-7. He was found guilty under the "some evidence" standard. RP 27-28; App. 27. The finding was upheld on appeal. App. 61 (disciplinary hearing appeal decision); RP 29-30.

Mr. Schley was terminated from the chemical dependency treatment program due to this serious infraction. App. 28; *see* RP 22-23.

A hearing officer then revoked Mr. Schley's DOSA because he had been terminated from the chemical dependency treatment program.

RP 33-35; *see* App. 29-41. At the revocation hearing, Mr. Schley again argued no fight occurred. RP 15-19. The hearing officer refused to reevaluate the evidence underlying the termination. RP 6-7, 19-21; App. 36. Mr. Schley was ordered to serve the remainder of his sentence, both 29.75-month halves in DOC custody.

An appeals panel affirmed the revocation, emphasizing it lacked jurisdiction to review the 505 infraction or its evidentiary underpinnings. App. 42-54. A risk management director affirmed the appeals panel and hearing officer's decisions. App. 55-60.

Mr. Schley filed a personal restraint petition requesting reinstatement of his DOSA sentence, and this Court appointed counsel to submit additional briefing.

E. ARGUMENT

1. DOC applied a lower standard than the constitutionally-required preponderance of the evidence when it revoked Mr. Schley's DOSA sentence.

a. The findings revoking a DOSA must be supported by a preponderance of the evidence to pass constitutional muster.

Under his DOSA sentence, Mr. Schley was confined to prison for half his sentence and released to community custody to serve the other half. App. at 4, 15 (judgments); RCW 9.94A.662(1). The DOSA

sentence was "created to encourage offenders to participate in drug treatment while incarcerated" and to resolve underlying addiction-based roots of crime. *In re Pers. Restraint of McKay*, 127 Wn. App. 165, 168, 110P.3d 856 (2005). DOC has authority to revoke the sentence, which results in Mr. Schley remaining confined, rather than released to community custody, for both halves of his sentence. RCW 9.94A.662(3). In light of these grave consequences, Mr. Schley has "a significant liberty interest in the expectation of community custody as opposed to incarceration, including the ability to be with family and friends, be employed or attend school, and to live a relatively normal life." *McKay*, 127 Wn. App. at 170; *accord Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972) (due process protections required where grievous loss is at stake); *Wolff v. McDonnell*, 418 U.S. 539, 556-61, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974) (discussing due process protections).

Society at large likewise "has a stake in whatever may be the chance of restoring [Mr. Schley] to normal and useful life within the law." *Id.* (quoting *Morrissey*, 408 U.S. at 484). In short, both Mr. Schley and the State have "an interest in ensuring that DOSA revocations are founded upon verified facts and accurate knowledge."

Id.; *cf.* RP 24-25 (Schley tells hearing officer of shared interest in continuance of DOSA sentence and treatment).

In light of these interests, due process dictates the "proper standard of proof at DOSA revocations is a preponderance of the evidence." *McKay*, 127 Wn. App. at 170; *see* Const. art. I, § 3; U.S. Const. amend. XIV.

b. Relying on facts demonstrated by merely some evidence does not satisfy the preponderance of the evidence standard.

The preponderance of the evidence standard is rigorous. It requires a showing that is more probable than not. *Kennedy v. Southern California Edison Co.*, 268 F.3d 763, 770 (9th Cir. 2001). A preponderance finding must be supported by "verified facts . . . and accurate knowledge." *Morrissey*, 408 U.S. at 484. To revoke a DOSA, due process requires more than just any evidence in the record, it requires that the evidence makes the underlying events more likely than not to actually exist. *See* RP 7 (hearing officer indicates DOC's "evidence will need to meet the standard of 51 percent more evidence than not").

On the other hand, the "some evidence" standard is minimal. The "some evidence" standard permits findings as long as they are supported by "any evidence in the record." *McKay*, 127 Wn. App. at

169 (emphasis in original). If there is any scintilla of evidence to support it, a finding may be made. DOC uses this minimal, some evidence standard to decide infractions.

Findings supported by some evidence, however, do not satisfy the more rigorous preponderance of the evidence standard.

c. The hearing officer's decision was based on findings supported by some evidence, not a preponderance of the evidence.

The hearing officer relied on findings supported only by some evidence in revoking Mr. Schley's DOSA. Because this constitutes findings supported by less than a preponderance of the evidence, the decision does not comport with due process.

Using the some evidence standard, a hearing officer found Mr. Schley guilty of fighting, a 505 infraction. App. 27; *see* App. 36 (noting some evidence standard was applied at infraction hearing). The existence of this infraction alone caused Mr. Schley to be terminated from his in-prison chemical dependency treatment program. App. 29; RP 10-13. In turn, his DOSA sentence was revoked because he had been administratively terminated from treatment. App. 30-41; RP 22-23, 33-35. After the some evidence-based finding of the 505 infraction, that evidence was never reevaluated or held to the higher

preponderance of the evidence standard. RP 6-7, 19-21. In fact, the revocation hearing officer "asked Mr. Schley if he understood that the major infraction #505 was not the matter at hand for this current [DOSA revocation] hearing process and that the evidence presented during the major infraction hearing concerning the #505 could not be in essence re-heard today." App. 36; *accord* RP 6-7, 19-21 (stating in part, "I can do absolutely nothing about the mere fact that you were found guilty by another hearing officer and your appeal was upheld. . . . I can't do anything with that."). The hearing officer's decision credits the fact of the 505 infraction as the "most significant witness testimony and evidence presented at the hearing":

> The most significant witness testimony and evidence presented at the hearing came from CDPM Zander who testified why a #762 major infraction was considered the appropriate means of addressing the actions of Mr. Schley. CDPM Zander testified that based on the physical violence Mr. Schley was found guilty of [under the some evidence standard], this action is what put him in direct violation of the treatment program's cardinal rule: "no tolerance for violence."

App. 37.

She also found that the infraction "met the expectations of DOC's policies for addressing infractions." *Id.* That is, it was proved to the minimal level: a scintilla of evidence supported it. RP 28

(testimony at hearing by CUS Lawson, "I absolutely believe that there was some evidence there that he participated in a fight."), 33. The hearing officer essentially turned away while Mr. Schley argued the preponderance of the evidence standard must be applied to the bases for terminating a DOSA under *McKay*, 127 Wn. App. 165. RP 23 (expressing regret that she forgot her coffee to drink while Schley related his arguments); *see also* RP 32 (hearing officer acknowledged DOC has only presented some evidence of infraction but stated she is "the preponderance person").

The hearing officer found Mr. Schley guilty of a 762 administrative termination through faulty logic. She apparently thought she was applying the preponderance standard. RP 35. But what she found was that the some evidence was satisfied for the 505 infraction, that was affirmed on appeal (by a panelist reviewing application of the some evidence standard), it led to automatic termination from chemical dependency treatment, and "there's where they have met the preponderance standard." RP 33-35. The hearing officer found that the more you look at the some evidence standard, the more it becomes a preponderance. This is plainly false.

The Appeals Panel decision makes the bootstrapping even more apparent. The panel explained,

> The Hearing Officer also explained to you that the evidence you were presenting at this hearing was already addressed [under the some evidence standard] at your 505 infraction hearing. The Hearing Officer has no jurisdiction regarding the evidence presented at the 505 hearing.
>
> On 01/26/15 you were found guilty at a Disciplinary Hearing for a 505 infraction for fighting. On 02/17/15, the findings were affirmed upon your appeal for this infraction. The Appeals Panel wants to let you know the Hearing Officer and this Appeals Panel does not have any jurisdiction regarding the 505 infraction hearing or the appeal finding that was made on 02/17/15. The Hearing Officer did inform you several times that the only violation that was being addressed at this hearing was the violation for failure to complete or being administratively terminated from your DOSA substance abuse treatment program on 02/10/15.

App. 53.

As the Appeals Panel summarized, "because [some evidence showed Mr. Schley] violated a mandatory treatment program requirement and [he was] terminated from [his] chemical dependency treatment program, the Hearing Officer had no other option but to revoke your DOSA sentence." App. 54; *see* App. 60 (decision of Risk Management Director affirming Hearing Officer and Appeals Panel

decisions); *cf.* RP 11-13 (DOC argues for revocation based on fighting infraction that caused termination from treatment).

It is plain no reviewer ever determined that it was more probable than not that Mr. Schley engaged in fighting. It was only shown that some evidence showed he engaged in fighting. Due process requires more protection before 29.75 months could be added to Mr. Schley's incarceration.

DOC's response to Mr. Schley's petition argues that the revocation satisfied due process because it was based on a finding that Mr. Schley was terminated from treatment, not that he received a 505 infraction based on some evidence. Attenuation does not cause the some evidence standard to morph into the required preponderance of the evidence standard. The termination from treatment was based on the 505 infraction and that termination was the support for Mr. Schley's revocation. Allowing a revocation hearing officer to treat the some evidence finding as a preponderance of the evidence would render due process protections meaningless. *See* RP 37-38 (Schley discusses propensity for inmates to make false claims against each other that result in DOSA revocations).

Applying DOC's theory to criminal prosecutions makes the absurdity plain. Crimes must be proved in court beyond a reasonable doubt. DOC's theory would allow the State to prove the elements underlying the crime by probable cause to a magistrate, hearing officer, or any other venue then bring those findings into superior court and assert that those findings support a conclusion beyond a reasonable doubt that the defendant committed the crime, and that the superior court cannot reevaluate the probable cause findings. The some evidence finding does not become a preponderance of the evidence because it was upheld on appeal and formed the basis of termination from treatment.

RCW 9.94A.662(3) cannot be read otherwise. A statute cannot override constitutionally-required protections. To read RCW 9.94A.662(3) in harmony with due process, the statute must be read to require the bases underlying the administrative termination from treatment be supported by a preponderance of the evidence. In other words, the Hearing Officer was constitutionally required to re-evaluate the fighting infraction to ensure it was more probable than not that Mr. Schley engaged in fighting.

d. Applying the correct burden of proof has practical effects here.

Application of the more rigorous preponderance of the evidence standard is critical here. Mr. Schley contested the charge that he engaged in fighting. He was unrepresented at the 505 infraction hearing. Yet the finding relies on confidential sources to which Mr. Schley had no access. It is likely that there is a scintilla, any or some, evidence that Mr. Schley engaged in fighting, but not evidence that it is more probable than not that he did so. Due process requires Mr. Schley only be terminated from his DOSA sentence, adding over two years in incarceration, if a preponderance of the evidence shows he violated the conditions.

That burden was not satisfied here because the hearing officer did not review the evidence that Mr. Schley engaged in fighting. The officer merely took the some evidence finding, and its attendant consequences, as true.

The order revoking Mr. Schley's DOSA sentence should be reversed because the hearing officer applied a lower standard than the constitutionally-required preponderance of the evidence standard.

2. The DOSA revocation must be reversed on the additional basis that Mr. Schley was not informed of his right to a case-by-case determination of whether he was entitled to counsel.

Mr. Schley's due process rights were violated on the independent basis that DOC failed to inform him of his right to counsel. DOC has a clear duty to consider whether a particular offender is entitled to counsel in a DOSA revocation hearing. *Grisby v. Herzog*, 190 Wn. App. 786, 796-97, 805-06, 362 P.3d 763 (2015).

DOC apparently never determined whether Mr. Schley was entitled to counsel. *See generally* RP 2-39. In addition, Mr. Schley was never told he may have the right to counsel. *See generally id.* DOC violated its constitutionally-mandated duties. *Gagnon v. Scarpelli*, 411 U.S. 778, 790, 93 S. Ct. 1756, 36 L. Ed. 2d 656 (1973) (individual must be informed of his right to request counsel, triggering agency's case-by-case determination); *Grisby*, 190 Wn. App. at 805-06 (DOC must determine right to counsel on a case-by-case basis).

It seems likely that if DOC had informed Mr. Schley and engaged in this inquiry—its "clear duty"—it would have found Mr. Schley entitled to counsel. Mr. Schley contested the allegation that he engaged in fighting. *Scarpelli*, 411 U.S. at 790 (noting a colorable claim that the alleged violation had not been committed as a basis for

providing counsel). The fighting allegation relied upon evidence from confidential sources, to whom Mr. Schley was denied access that his attorney could have gained. Appointed counsel also would have been more skilled in presenting disputed facts, proposing questions for examining witnesses, and assembling or refuting documentary evidence. *Scarpelli*, 411 U.S. at 786-87. Moreover, with regard to the DOSA revocation in particular, counsel could have helped Mr. Schley present information mitigating the need for revocation. *Id.* at 790 (counsel should be provided if "there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, and that the reasons are complex or otherwise difficult to develop or present").

The Court should hold that, on remand, DOC must first consider whether Mr. Schley is entitled to counsel before it holds a new hearing under the proper preponderance of the evidence standard.

3. The DOSA revocation exceeds DOC's authority because it is one of three sanctions imposed for a single incident, in violation of WAC 137-28-350.

The DOSA revocation must be reversed on the additional ground that it exceeds DOC's authority to impose a single sanction for a single incident. WAC 137-28-350 provides that "If the hearing

officer determines that more than one violation occurred as a result of the same incident, he/she shall not impose sanctions for the separate violations, but shall consider them together and impose penalties based on the most serious violation in the group." Based on a single incident of alleged fighting, three discrete sanctions were imposed against Mr. Schley. First, he was found guilty of fighting, a 505 serious infraction, and subjected to 15 days segregation and loss of 15 days good conduct time. Second, DOC terminated Mr. Schley from his in-custody chemical dependency treatment program. Finally, Mr. Schley's DOSA sentence was revoked, causing him to be incarcerated for an additional 29.75 months that he should be entitled to spend in the community.

Imposing three sanctions for a single act of fighting violates WAC 137-28-350. The hearing officer accordingly exceeded her authority when she revoked Mr. Schley's DOSA; he had already been sanctioned twice. On this additional basis, the DOSA revocation should be reversed.

4. DOC lacks authority to revoke a DOSA sentence for conduct unrelated to chemical dependency, such as fighting.

The revocation of Mr. Schley's DOSA sentence should be reversed on the final, independent basis that DOC's authorization to

administratively terminate DOSA participants cannot extend to non-chemically related violations.

The Legislature has provided that "[a]n offender . . . who is administratively terminated from the [drug offender sentencing alternative] program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court." RCW 9.94A.662(3); *McKay*, 127 Wn. App. at 168 (citing former version of statute). The provision demonstrates the Legislature contemplated administrative termination from the program. *Id.* Chapter 9.94A RCW does not delineate bases for administrative termination from the program. However, the Legislature has granted DOC authority "to make its own rules for the proper execution of its powers." RCW 72.01.090.

With regard to prison disciplinary procedures, the Legislature has authorized DOC to adopt a system that links an inmate's behavior and participation in work and education with the receipt or denial of earned early release days and other privileges. RCW 72.09.130(1); *State v. Simmons*, 152 Wn. 2d 450, 455, 98 P.3d 789 (2004); *State v. Brown*, 142 Wn.2d 57, 60, 11 P.3d 818 (2000). This provision "deals only with maintaining internal prison discipline by creating a system of

incentives for conforming behavior and disincentives for nonconforming behavior." *Brown*, 142 Wn.2d at 62. DOC's infraction policy, under which Mr. Schley was sanctioned with 15 days segregation plus loss of 15 days good conduct time, fulfills this delegation of authority. The Legislature, however, has not authorized DOC to revoke a DOSA sentence based on non-program related activity.

The Legislature cannot be deemed to have authorized DOC, based on unrelated conduct, to override the sentencing court's determination that the offender and society will be best served by the offender completing appropriate substance abuse treatment. *See McKay*, 127 Wn. App. at 169-70 (discussing joint interest in successful DOSA sentences). This is not to say that DOC cannot implement policies and rules to regulate the assaultive conduct of inmates. DOC has implemented a series of policies and rules, such as the 505 infraction and attendant sanctions imposed on Mr. Schley. Chapter 137-28 WAC. An infraction is the appropriate way to deal with the general conduct of prisoners. DOC "must still exercise delegated authority under the restraints of the statutes delegating the authority." *Brown*, 142 Wn.2d at 62. The ultimate penalty of revoking an

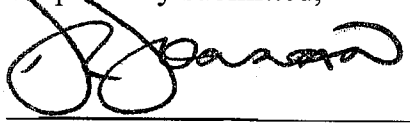
offender's DOSA—a penalty which harms not only the offender, but our society at large—must be limited to grievous circumstances related to chemical dependency.

F. CONCLUSION

The revocation of Mr. Schley's DOSA must be reversed because (1) the hearing officer relied on the some evidence standard, rather than the stricter preponderance of the evidence standard, to find sufficient basis for revocation, (2) Mr. Schley was denied his right to counsel, (3) the revocation is a multitudinous sanction in violation of WAC 137-28-350, and (4) it exceeds DOC's authority by being premised on conduct unrelated to chemical dependency.

DATED this 5th day of May, 2016.

Respectfully submitted,



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APPENDIX

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APPENDIX

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KING COUNTY, WASHINGTON

OCT 10 2014

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COMMITMENT ISSUED OCT 13 2014

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff, vs. MATTHEW RAYDOUGLAS SCHLEY, Defendant.	)	No. 13-1-15302-1 KNT **JUDGMENT AND SENTENCE FELONY (FJS)**

746992
10.14.14
(A)

I. HEARING

I.1 The defendant, the defendant's lawyer, Teri R. Kemp, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: DONALD SCHLEY, ABIGL DRAEGER

II. FINDINGS

There being no reason why judgment should not be pronounced, the court finds:
2.1 **CURRENT OFFENSE(S):** The defendant was found guilty on 09/12/2014 by Plea of:

Count No.: I Crime: Burglary In The Second Degree
RCW: 9A.52.030 Crime Code: 02316
Date of Crime: 08/08/2013 through 08/09/2013

☐ Additional current offenses are attached in Appendix A

EXHIBIT 1

SPECIAL VERDICT or FINDING(S):

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

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

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

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

2.4 **SENTENCING DATA:**

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count I	14	III			51 to 68 months	10 yrs. and/or $20,000

☐ Additional current offense sentencing data is attached in Appendix C.

2.5 **EXCEPTIONAL SENTENCE**

☐ Findings of Fact and Conclusions of Law as to sentence above the standard range:

Finding of Fact: The jury found or the defendant stipulated to aggravating circumstances as to Count(s) _____.

Conclusion of Law: These aggravating circumstances constitute substantial and compelling reasons that justify a sentence above the standard range for Count(s) _____. ☐ The court would impose the same sentence on the basis of any one of the aggravating circumstances.

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

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

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

III. JUDGMENT

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

IV. ORDER

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

[ ] This offense is a felony firearm offense (defined in RCW 9.41.010). Having considered relevant factors, including criminal history, propensity for violence endangering persons, and any prior NGI findings, the Court requires that the defendant register as a firearm offender, in compliance with 2013 Laws, Chapter 183, section 4. The details of the registration requirements are included in the attached Appendix L.

4.1 **RESTITUTION, VICTIM ASSESSMENT, AND DNA FEE:**

☐ Defendant shall pay restitution to the Clerk of this Court as set forth in attached **Appendix E.**

☐ Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(5), sets forth those circumstances in attached Appendix E.

☒ Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.

☒ Date to be set.

☒ Defendant waives right to be present at future restitution hearing(s).

☐ Restitution is not ordered.

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

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

(a) ☐ $_____, Court costs (RCW 9.94A.030, RCW 10.01.160); ☒ Court costs are waived;

(b) ☐ $_____, Recoupment for attorney's fees to King County Public Defense Programs (RCW 9.94A.030); ☒ Recoupment is waived;

(c) ☐ $_____, Fine ; ☐ $1,000 Fine for VUCSA ☐ $2,000, Fine for subsequent VUCSA (RCW 69.50.430); ☒ VUCSA fine waived;

(d) ☐ $_____, King County Interlocal Drug Fund (RCW 9.94A.030); ☒ Drug Fund payment is waived;

(e) ☐ $_____, $100 State Crime Laboratory Fee (RCW 43.43.690); ☒ Laboratory fee waived;

(f) ☐ $_____, Incarceration costs (RCW 9.94A.760(2)); ☒ Incarceration costs waived;

(g) ☐ $_____, Other costs for: _____

4.3 **PAYMENT SCHEDULE:** The **TOTAL FINANCIAL OBLIGATION** set in this order is $ 100
Restitution may be added in the future. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: ☐ Not less than $_____ per month;
☒ On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. **The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied.** Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.
☒ Court Clerk's trust fees are waived. ☒ Interest is waived except with respect to restitution.

4.4 (a) **PRISON-BASED** SPECIAL DRUG OFFENDER SENTENCING ALTERNATIVE (DOSA)(for sentences imposed after 10-1-05) : The Court finds the defendant eligible pursuant to RCW 9.94A.660 and, having reviewed an examination report and concluded that a DOSA sentence is appropriate, waives imposition of sentence within the standard range and sentences the defendant as follows:

The defendant is sentenced to the following term(s) of confinement in the custody of the Dept. of Corrections (DOC) to commence ☒ immediately; ☐ by _____ at _____ a.m./p.m.:

29.75 months (if crime after 6/6/06, 12 month minimum) on Count No. 2;

_____ months (if crime after 6/6/06, 12 month minimum) on Count No. _____;

_____ months (if crime after 6/6/06, 12 month minimum) on Count No. _____;

The above term(s) of confinement represents one-half of the midpoint of the standard range or, if the crime occurred after 6-6-06, twelve months if that is greater than one-half of the midpoint.

The terms imposed herein shall be served concurrently.
The term(s) imposed herein shall run ☐ CONSECUTIVE ☒ CONCURRENT to cause No(s) _____
14-C-01874-2 KNT

The term(s) imposed herein shall run ☐ CONSECUTIVE ☐ CONCURRENT to any previously imposed commitment not referred to in this judgment.

Credit is given for time served in King County Jail or EHD solely for confinement under this cause number pursuant to RCW 9.94A.505(6): ☐ _____ day(s) or ☒ days determined by the King County Jail.
☐ Credit is given for days determined by the King County Jail to have been served in the King County Supervised Community Option (Enhanced CCAP) solely under this cause number.
☐ The court authorizes earned early release credit consistent with the local correctional facility standards for days spent in the King County Supervised Community Option (Enhanced CCAP).
☐ Jail term is satisfied; defendant shall be released under this cause.

While incarcerated in the Department of Corrections the defendant shall undergo a comprehensive substance abuse assessment and receive, within available resources, appropriate treatment services.

COMMUNITY CUSTODY: The court further imposes 29.75 months, one-half of the midpoint of the standard range, as a term of community custody during which time the defendant shall comply with the instructions, rules and regulations promulgated by the Department for conduct of the defendant during community custody; shall perform affirmative acts necessary to monitor compliance, shall obey all laws and comply with the following mandatory statutory requirements:

(1) The defendant shall undergo and successfully complete a substance abuse program approved by the Division of Alcohol and Substance Abuse of the Dept. of Social and Health Services;
(2) The defendant shall not use illegal controlled substances and shall submit to urinalysis or other testing to monitor compliance.

NON-COMPLIANCE. RCW 9.94A.660(5): If the defendant fails to complete the Department's special drug offender sentencing alternative program or is administratively terminated from the program, he/she shall be reclassified by the Department to serve the balance of the unexpired term of sentence. If the defendant fails to comply with the conditions of supervision as defined by the Department, he/she shall be sanctioned. Sanctions may include reclassification by the Department to serve the balance of the unexpired term of sentence.

The court further imposes an additional term of Community Custody of 12 months upon failure to complete or administrative termination from DOSA program if any of these offenses is a crime against a person (RCW 9.94A.411) or a felony violation of RCW 69.50/52. The defendant in this event shall comply with the conditions of Community Custody set forth in section 4.7 herein.

4.4 (b) **RESIDENTIAL TREATMENT-BASED SPECIAL DRUG OFFENDER SENTENCING ALTERNATIVE (DOSA)(for sentences imposed after 10-1-05) (available if the midpoint of the standard range is 24 months or less):** The Court finds the defendant eligible pursuant to RCW 9.94A.660 and, having reviewed an examination report and concluded that a DOSA sentence is appropriate, waives imposition of sentence within the standard range and sentences the defendant on Count(s) _____ as follows:

The defendant shall serve 24 months in community custody under the supervision of the DOC, on the condition that the defendant enters and remains in residential chemical dependency treatment certified under RCW Ch. 70.96 for _____ (between 3 and 6) months. The DOC shall make chemical dependency assessment and treatment services available during the term of community custody, within available resources.

Pending DOC placement in residential chemical dependency treatment, the defendant is ordered to attend a DOC day reporting center and follow all applicable rules. The defendant shall report to DOC to begin the DOC day reporting program within 24 hours of release.

The defendant shall comply with the treatment and other conditions proposed in the examination report, as mandated by RCW 9.94A.665(2)(a). Frequency and length of treatment and monitoring plan are specified in the **EXAMINATION REPORT ATTACHED AS APPENDIX 1.**

A progress hearing is set in this court, during the residential treatment, for _____ (90 days from sentencing date). Additional progress hearings may be set.

A treatment termination hearing is set in this court three months before the expiration of the community custody term, for _____ (date).

Before the progress hearing and the treatment termination hearing, the treatment provider and the DOC shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, including recommendations regarding termination from treatment.

NON-COMPLIANCE. RCW 9.94A.665(4): At the progress hearing or treatment termination hearing, the court may modify the conditions of community custody, authorize termination of community custody status on expiration of the community custody term, or impose a term of total confinement equal to one-half the midpoint of the standard range, along with a term of community custody.

4.5 **ADDITIONAL COMMUNITY CUSTODY CONDITIONS OF DOSA SENTENCE:** The court further imposes the following non-mandatory conditions of Community Custody (if checked):

☒ The defendant shall not use illegal controlled substances and shall submit to urinalysis or other testing to monitor compliance.
☒ The defendant shall not use any alcohol or controlled substances without prescription and shall undergo testing to monitor compliance.
☐ Devote time to a specific employment or training.
☐ Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment.
☒ Report as directed to a community corrections officer.
☒ Pay all court ordered legal financial obligations.
☐ Perform _____ community restitution hours on a schedule set by DOC.
☐ Stay out of designated areas as follows: _____

☐ Other conditions as set forth in **APPENDIX F.**

4.6 **ADDITIONAL CONFINEMENT:** The court may order the defendant to serve a term of total confinement within the standard range at any time during the period of community custody if the defendant violates the conditions of sentence or if the defendant is failing to make satisfactory progress in treatment.

4.7 **CONDITIONS OF COMMUNITY CUSTODY IMPOSED AFTER TERMINATION OF DOSA:**

☒ The defendant shall not use illegal controlled substances and shall submit to urinalysis or other testing to monitor compliance.

☒ The defendant shall not use any alcohol or controlled substances without prescription and shall undergo testing to monitor compliance.

☐ Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment.

☒ Report as directed to a community corrections officer.

☒ Pay all court ordered legal financial obligations.

☐ Stay out of designated areas as follows: _____

☐ Other conditions: _____

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

☐ **HIV TESTING:** For sex offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in **APPENDIX G.**

4.9 ☐ **OFF-LIMITS ORDER:** The defendant, having been found to be a known drug trafficker, shall neither enter nor remain in the protected against drug trafficking area(s) as described in **APPENDIX I** during the term of community supervision. **APPENDIX I** is attached and incorporated by reference into this Judgment and Sentence.

5.0 ☒ **NO CONTACT:** For the maximum term of 10 years, defendant shall have no contact with PUBLIC STORAGE (1801 R STREET SE, AUBURN)

Date: 10.10.14

JUDGE

Print Name: _____

Presented by:

35411

Deputy Prosecuting Attorney, WSBA#

Print Name: _____

Approved as to form:

Attorney for Defendant, WSBA# 24701

Print Name: _____

10/10/2014

FINGER PRINTS

RIGHT HAND
FINGERPRINTS OF:
MATTHEW RAYDOUGLAS
SCHLEY

DEFENDANT'S SIGNATURE: M Schley
DEFENDANT'S ADDRESS: DOC

Dated: 10/10/14

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK

By: Karla Gabuelson
DEPUTY CLERK

JUDGE

CERTIFICATE

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

CLERK

By: _____
DEPUTY CLERK

OFFENDER IDENTIFICATION

S.I.D. NO. WA15150497

DOB: [redacted]

SEX: Male

RACE: White/Caucasian

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff,	)	No. 13-1-15302-1 KNT
vs.	)	JUDGMENT AND SENTENCE, (FELONY) - APPENDIX B, CRIMINAL HISTORY
MATTHEW RAYDOUGLAS SCHLEY, Defendant.	)	

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

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
Felon In Possession Of Firearm And Ammunition	12-17-2002	AF	01-cr-02093	U.S. District Court Spokane WA
Cont Subst Viol - Section (A)	02-20-2002	AF	01-1-00148-4	Kittitas Superior Court WA
cont subst viol - section (d)	12-30-1999	AF	99-1-00899-0	Lewis Superior Court WA
explosive lic required	12-30-1999	AF	99-1-00899-0	Lewis Superior Court WA
cont subst viol - section (d)	06-28-1999	AF	99-1-00396-3	Lewis Superior Court WA
cont subst vio a: mfg/delvr/p	08-01-1997	AF	97-1-04072-4	King Superior Court WA
burglary 2nd degree	02-09-1996	AF	95-1-00779-8	King Superior Court WA
burg 2	09-22-1993	JF	93-8-02375-0	King Superior Court WA
burg 2	11-09-1990	JF	90-8-00162-3	Mason Superior Court WA
cont subst viol	08-30-1990	JF	90-8-00115-1	Mason Superior Court WA
burg 2	09-22-1989	JF	89-8-00106-9	Mason Superior Court WA
burg 2	09-22-1989	JF	89-8-00106-9	Mason Superior Court WA
burg 2	09-22-1989	JF	89-8-00106-9	Mason Superior Court WA

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

Date: 12-10-04

JUDGE, KING COUNTY SUPERIOR COURT

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff, vs. MATTHEW RAYDOUGLAS SCHLEY, Defendant.	)	No. 13-1-15302-1 KNT APPENDIX G ORDER FOR BIOLOGICAL TESTING AND COUNSELING

(1) **DNA IDENTIFICATION (RCW 43.43.754):**

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

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

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

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

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

Date: 10·10·14

JUDGE, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

State of Washington, #3 Plaintiff, vs. MATTHEW RAYDOUGLAS SCHLEY Defendant.	No. 13-1-15302-1 KNT FELONY WARRANT OF COMMITMENT 1. (X) DEPARTMENT OF CORRECTIONS

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF KING COUNTY

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of King, that the defendant be punished as specified in the Judgment and Sentence, a full true and correct copy of which is attached hereto.

(X) 1. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody.)

YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the State pending delivery to the proper officers of the Department of Social and Health Services.

YOU, THE PROPER OFFICERS OF THE SECRETARY OF THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES, ARE COMMANDED to receive the defendant for evaluation as ordered in the Judgment and Sentence.

Dated: ***October 13, 2014***

By direction of the Honorable

Bill A. Bowman

Judge

BARBARA MINER, Clerk

By: O. Arceo,

Deputy Clerk

DOC 746592

JAIL LOCATION RJ-029L

BA# 214006879

CCN# 1654508

SID# WA15150497

DOB [redacted]

DOC
COMMITMENT ISSUED OCT 13 2014

FILED
KING COUNTY, WASHINGTON

OCT 10 2014

SUPERIOR COURT CLERK
BY Karla Gabrielson
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff, vs. MATTHEW RAYDOUGLAS SCHLEY, Defendant.	No. 14-C-01874-2 KNT **JUDGMENT AND SENTENCE FELONY (FJS)**

746992
10.14.14
B

I. HEARING

I.1 The defendant, the defendant's lawyer, Teri R. Kemp, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: ABIGAIL DENEGER, DONALD SCHLEY

II. FINDINGS

There being no reason why judgment should not be pronounced, the court finds:
2.1 **CURRENT OFFENSE(S):** The defendant was found guilty on 09/16/2014 by Plea of:

Count No. I Crime: Theft In The First Degree
RCW: 9A.56.030(1)(b) and 9A.56.020(1)(a) Crime Code: 02518
Date of Crime: 03/03/2014 through 03/04/2014

☐ Additional current offenses are attached in Appendix A

SPECIAL VERDICT or FINDING(S):

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

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

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

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

2.4 **SENTENCING DATA:**

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count I	11	II			43 to 57 months	10 yrs. and/or $20,000

☐ Additional current offense sentencing data is attached in **Appendix C.**

2.5 **EXCEPTIONAL SENTENCE**

☐ Findings of Fact and Conclusions of Law as to sentence above the standard range:

Finding of Fact: The jury found or the defendant stipulated to aggravating circumstances as to Count(s) _____.

Conclusion of Law: These aggravating circumstances constitute substantial and compelling reasons that justify a sentence above the standard range for Count(s) _____. ☐ The court would impose the same sentence on the basis of any one of the aggravating circumstances.

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

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

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

III. JUDGMENT

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

IV. ORDER

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

[ ] This offense is a felony firearm offense (defined in RCW 9.41.010). Having considered relevant factors, including criminal history, propensity for violence endangering persons, and any prior NGI findings, the Court requires that the defendant register as a firearm offender, in compliance with 2013 Laws, Chapter 183, section 4. The details of the registration requirements are included in the attached **Appendix L**.

4.1 **RESTITUTION, VICTIM ASSESSMENT, AND DNA FEE:**

☐ Defendant shall pay restitution to the Clerk of this Court as set forth in attached **Appendix E**.

☐ Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(5), sets forth those circumstances in attached Appendix E.

☒ Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.

☒ Date to be set.

☒ Defendant waives right to be present at future restitution hearing(s).

☐ Restitution is not ordered.

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

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

(a) ☐ $_____, Court costs (RCW 9.94A.030, RCW 10.01.160); ☒ Court costs are waived;

(b) ☐ $_____, Recoupment for attorney's fees to King County Public Defense Programs (RCW 9.94A.030); ☒ Recoupment is waived;

(c) ☐ $_____, Fine ; ☐ $1,000, Fine for VUCSA ☐ $2,000, Fine for subsequent VUCSA (RCW 69.50.430); ☒ VUCSA fine waived;

(d) ☐ $_____, King County Interlocal Drug Fund (RCW 9.94A.030); ☒ Drug Fund payment is waived;

(e) ☐ $_____, $100 State Crime Laboratory Fee (RCW 43.43.690); ☒ Laboratory fee waived;

(f) ☐ $_____, Incarceration costs (RCW 9.94A.760(2)); ☒ Incarceration costs waived;

(g) ☐ $_____, Other costs for: _____.

4.3 **PAYMENT SCHEDULE:** The **TOTAL FINANCIAL OBLIGATION** set in this order is $ 600
Restitution may be added in the future. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: ☐ Not less than $_____ per month;
☒ On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. **The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied.** Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.
☒ Court Clerk's trust fees are waived. ☒ Interest is waived except with respect to restitution.

4.4 (a) . **PRISON-BASED** SPECIAL DRUG OFFENDER SENTENCING ALTERNATIVE (DOSA)(for sentences imposed after 10-1-05) : The Court finds the defendant eligible pursuant to RCW 9.94A.660 and, having reviewed an examination report and concluded that a DOSA sentence is appropriate, waives imposition of sentence within the standard range and sentences the defendant as follows:

The defendant is sentenced to the following term(s) of confinement in the custody of the Dept. of Corrections (DOC) to commence ☒ immediately; ☐ by _____ at _____ a.m./p.m.:

25 months (if crime after 6/6/06, 12 month minimum) on Count No. 2;

_____ months (if crime after 6/6/06, 12 month minimum) on Count No. _____;

_____ months (if crime after 6/6/06, 12 month minimum) on Count No. _____;

The above term(s) of confinement represents one-half of the midpoint of the standard range or, if the crime occurred after 6-6-06, twelve months if that is greater than one-half of the midpoint.

The terms imposed herein shall be served concurrently.
The term(s) imposed herein shall run ☐ CONSECUTIVE ☒ CONCURRENT to cause No(s) 13-1-15302-1 FNT

The term(s) imposed herein shall run ☐ CONSECUTIVE ☐ CONCURRENT to any previously imposed commitment not referred to in this judgment.

Credit is given for time served in King County Jail or EHD solely for confinement under this cause number pursuant to RCW 9.94A.505(6): ☐ _____ day(s) or ☒ days determined by the King County Jail.
☐ Credit is given for days determined by the King County Jail to have been served in the King County Supervised Community Option (Enhanced CCAP) solely under this cause number.
☐ The court authorizes earned early release credit consistent with the local correctional facility standards for days spent in the King County Supervised Community Option (Enhanced CCAP).
☐ Jail term is satisfied; defendant shall be released under this cause.

While incarcerated in the Department of Corrections the defendant shall undergo a comprehensive substance abuse assessment and receive, within available resources, appropriate treatment services.

COMMUNITY CUSTODY: The court further imposes 25 months, one-half of the midpoint of the standard range, as a term of community custody during which time the defendant shall comply with the instructions, rules and regulations promulgated by the Department for conduct of the defendant during community custody; shall perform affirmative acts necessary to monitor compliance, shall obey all laws and comply with the following mandatory statutory requirements:

(1) The defendant shall undergo and successfully complete a substance abuse program approved by the Division of Alcohol and Substance Abuse of the Dept. of Social and Health Services;
(2) The defendant shall not use illegal controlled substances and shall submit to urinalysis or other testing to monitor compliance.

NON-COMPLIANCE. RCW 9.94A.660(5): If the defendant fails to complete the Department's special drug offender sentencing alternative program or is administratively terminated from the program, he/she shall be reclassified by the Department to serve the balance of the unexpired term of sentence. If the defendant fails to comply with the conditions of supervision as defined by the Department, he/she shall be sanctioned. Sanctions may include reclassification by the Department to serve the balance of the unexpired term of sentence.

The court further imposes an additional term of Community Custody of 12 months upon failure to complete or administrative termination from DOSA program if any of these offenses is a crime against a person (RCW 9.94A.411) or a felony violation of RCW 69.50/52. The defendant in this event shall comply with the conditions of Community Custody set forth in section 4.7 herein.

4.4 (b) **RESIDENTIAL TREATMENT-BASED SPECIAL DRUG OFFENDER SENTENCING ALTERNATIVE (DOSA)(for sentences imposed after 10-1-05) (available if the midpoint of the standard range is 24 months or less):** The Court finds the defendant eligible pursuant to RCW 9.94A.660 and, having reviewed an examination report and concluded that a DOSA sentence is appropriate, waives imposition of sentence within the standard range and sentences the defendant on Count(s) _____ as follows:

The defendant shall serve 24 months in community custody under the supervision of the DOC, on the condition that the defendant enters and remains in residential chemical dependency treatment certified under RCW Ch. 70.96 for _____ (between 3 and 6) months. The DOC shall make chemical dependency assessment and treatment services available during the term of community custody, within available resources.

Pending DOC placement in residential chemical dependency treatment, the defendant is ordered to attend a DOC day reporting center and follow all applicable rules. The defendant shall report to DOC to begin the DOC day reporting program within 24 hours of release.

The defendant shall comply with the treatment and other conditions proposed in the examination report, as mandated by RCW 9.94A.665(2)(a). Frequency and length of treatment and monitoring plan are specified in the **EXAMINATION REPORT ATTACHED AS APPENDIX 1.**

A progress hearing is set in this court, during the residential treatment, for _____ (90 days from sentencing date). Additional progress hearings may be set.

A treatment termination hearing is set in this court three months before the expiration of the community custody term, for _____ (date).

Before the progress hearing and the treatment termination hearing, the treatment provider and the DOC shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, including recommendations regarding termination from treatment.

NON-COMPLIANCE. RCW 9.94A.665(4): At the progress hearing or treatment termination hearing, the court may modify the conditions of community custody, authorize termination of community custody status on expiration of the community custody term, or impose a term of total confinement equal to one-half the midpoint of the standard range, along with a term of community custody.

4.5 **ADDITIONAL COMMUNITY CUSTODY CONDITIONS OF DOSA SENTENCE:** The court further imposes the following non-mandatory conditions of Community Custody (if checked):

☒ The defendant shall not use illegal controlled substances and shall submit to urinalysis or other testing to monitor compliance.
☒ The defendant shall not use any alcohol or controlled substances without prescription and shall undergo testing to monitor compliance.
☐ Devote time to a specific employment or training.
☐ Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment.
☒ Report as directed to a community corrections officer.
☒ Pay all court ordered legal financial obligations.
☐ Perform _____ community restitution hours on a schedule set by DOC.
☐ Stay out of designated areas as follows: _____

☐ Other conditions as set forth in **APPENDIX F.**

4.6 **ADDITIONAL CONFINEMENT:** The court may order the defendant to serve a term of total confinement within the standard range at any time during the period of community custody if the defendant violates the conditions of sentence or if the defendant is failing to make satisfactory progress in treatment.

4.7 CONDITIONS OF COMMUNITY CUSTODY IMPOSED AFTER TERMINATION OF DOSA:

☒ The defendant shall not use illegal controlled substances and shall submit to urinalysis or other testing to monitor compliance.

☒ The defendant shall not use any alcohol or controlled substances without prescription and shall undergo testing to monitor compliance.

☐ Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment.

☒ Report as directed to a community corrections officer.

☒ Pay all court ordered legal financial obligations.

☐ Stay out of designated areas as follows: _____

☐ Other conditions: _____

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

☐ **HIV TESTING:** For sex offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in **APPENDIX G.**

4.9 ☐ **OFF-LIMITS ORDER:** The defendant, having been found to be a known drug trafficker, shall neither enter nor remain in the protected against drug trafficking area(s) as described in **APPENDIX I** during the term of community supervision. **APPENDIX I** is attached and incorporated by reference into this Judgment and Sentence.

5.0 ☒ **NO CONTACT:** For the maximum term of 10 years, defendant shall have no contact with [redacted] AND MAPLE VALLEY PUBLIC WORKS

Date: 10.10.14

JUDGE

Print Name: _____

Presented by:

Deputy Prosecuting Attorney, WSBA# 35411

Print Name: _____

Approved as to form:

Attorney for Defendant, WSBA # 24701

Print Name: PETER KONOTOPKEMP

10/10/2014

FINGER PRINTS

RIGHT HAND
FINGERPRINTS OF:
MATTHEW RAYDOUGLAS SCHLEY

DEFENDANT'S SIGNATURE: M Schley
DEFENDANT'S ADDRESS: DOC

Dated: 10/10/14

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK
By: Kula Dahlquist
DEPUTY CLERK

JUDGE

CERTIFICATE

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

CLERK

By: _____
DEPUTY CLERK

OFFENDER IDENTIFICATION

S.I.D. NO. WA15150497

DOB: [redacted]

SEX: Male

RACE: White/Caucasian

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff,	)	No. 14-C-0184-2 KNT
vs.	)	JUDGMENT AND SENTENCE, (FELONY) - APPENDIX B, CRIMINAL HISTORY
MATTHEW RAYDOUGLAS SCHLEY, Defendant.	)	

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

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
Felon In Possession Of Firearm And Ammunition	12-17-2002	AF	01-cr-02093	U.S. District Court Spokane WA
Cont Subst Viol - Section (A)	02-20-2002	AF	01-1-00148-4	Kittitas Superior Court WA
cont subst viol - section (d)	12-30-1999	AF	99-1-00899-0	Lewis Superior Court WA
explosive lic required	12-30-1999	AF	99-1-00899-0	Lewis Superior Court WA
cont subst viol - section (d)	06-28-1999	AF	99-1-00396-3	Lewis Superior Court WA
cont subst viol a: mfg/delvr/p	08-01-1997	AF	97-1-04072-4	King Superior Court WA
burglary 2nd degree	02-09-1996	AF	95-1-00779-8	King Superior Court WA
burg 2	09-22-1993	JF	93-8-02375-0	King Superior Court WA
burg 2	11-09-1990	JF	90-8-00162-3	Mason Superior Court WA
cont subst viol	08-30-1990	JF	90-8-00115-1	Mason Superior Court WA
burg 2	09-22-1989	JF	89-8-00106-9	Mason Superior Court WA
burg 2	09-22-1989	JF	89-8-00106-9	Mason Superior Court WA
burg 2	09-22-1989	JF	89-8-00106-9	Mason Superior Court WA

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

Date: 10-10-14

JUDGE, KING COUNTY SUPERIOR COURT

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff, vs. MATTHEW RAYDOUGLAS SCHLEY, Defendant.	No. 14-C-01874-2 KNT APPENDIX G ORDER FOR BIOLOGICAL TESTING AND COUNSELING

(1) **DNA IDENTIFICATION (RCW 43.43.754):**

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

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

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

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

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

Date: 10.10.14

JUDGE, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

State of Washington, 45 Plaintiff, vs. MATTHEW RAYDOUGLAS SCHLEY Defendant.	No. 14-C-01874-2 KNT FELONY WARRANT OF COMMITMENT 1. (X) DEPARTMENT OF CORRECTIONS

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF KING COUNTY

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of King, that the defendant be punished as specified in the Judgment and Sentence, a full true and correct copy of which is attached hereto.

(X) 1. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody.)

YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the State pending delivery to the proper officers of the Department of Social and Health Services.

YOU, THE PROPER OFFICERS OF THE SECRETARY OF THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES, ARE COMMANDED to receive the defendant for evaluation as ordered in the Judgment and Sentence.

Dated: ***October 13, 2014***

By direction of the Honorable

Bill A. Bowman

Judge

BARBARA MINER, Clerk

By

O. Arceo,

Deputy Clerk

DOC 746992

JAIL LOCATION RJ-029L

BA# 214006379

CCN# 1654508

SID# WA15150497

DOB [redacted]

Theft 1

25mo

Department of Corrections
WASHINGTON STATE

CHEMICAL DEPENDENCY DOSA AGREEMENT (PRISON, RESIDENTIAL, AND COMMUNITY)

The 1999 Legislature passed a Special Drug Offender Sentencing Alternative – SHB 1006. This legislation was effective on July 25, 1999, and applies to all offenders who committed their crime on or after that date.

1. Your Judgment and Sentence (J&S) indicates that the sentencing judge has granted you a Drug Offender Sentencing Alternative (DOSA).

2. A DOSA sentence requires that you participate in treatment offered by the Department of Corrections or a contracted community residential program. You will undergo a comprehensive substance abuse assessment and will receive treatment services based on custody level, capacity, length of total confinement, and treatment needs.

3. You will be required to maintain your current DOSA eligibility status as stated in DOC 670.655 Special Drug Offender Sentencing Alternative.

4. If you have a mental impairment that would prevent your participation and/or completion in any Chemical Dependency treatment modality, you will be referred to a community based treatment provider in order to ensure that the conditions of your DOSA sentence are met.

5. You will be on supervision in the community after release from Prison or residential treatment. During this time, you will be required to continue in substance abuse treatment on an outpatient basis. The length of your outpatient treatment will be determined by your treatment needs and the treatment provider but not less than six (6) months.

6. If you are approved to seek treatment resources outside of the Department and at your own expense, failure to pay for these services may constitute a violation of your supervision.

7. If you fail to successfully complete the requirements set forth in the J&S and/or conditions imposed by the Department, you will be subject to administrative sanctions by the Department, which may include the revocation of your DOSA sentence. The Department may reclassify you and impose the unexpired term of the original sentence, as imposed by the court.

8. As part of your DOSA sentence, the transferring facility will develop an appropriate transition plan. The plan may include transfer to a designated Work Release designed to accommodate your individual treatment needs.

9. If you refuse to abide by the terms and conditions imposed by the treatment program, which includes the use of any alcohol and/or drugs, you may be referred to the Department's Hearings Unit or the court for possible revocation of your DOSA sentence, which can result in reclassification to serve the remaining original balance of your sentence as imposed by the sentencing court.

10. For Prison DOSAs:

    After alternatives to retain you in the program have been addressed and it has been concluded that termination is appropriate, you may be "administratively" terminated from the DOSA chemical dependency treatment program as determined and documented by the primary CD professional and based on:

    a) A pattern of behavioral issues that have been continual and responses to interventions have been unsuccessful.

    b) A lack of progression towards the goals of a treatment plan as determined by the primary CDP and staffed with his/her supervisor.

    c) Any major infraction that causes a change in custody level or the violation of condition(s) outlined in the CD Treatment Participation Requirements DOC 14-039 or the DOSA Agreement DOC 14-042.

    d) An offender's continual behavior that causes placement in an Intensive Management Unit for a length of time whereby s/he is unavailable to participate in CD treatment based on the offender's ERD and the triage for admission to CD services.

EXHIBIT 4

I have read or have had read to me the terms and conditions of this agreement, and:

☒ I agree that I will fully participate in all required substance abuse treatment programs.

☐ I am refusing participation in the DOSA treatment program. I understand that a Department administrative hearing will be held and I may be reclassified and serve the unexpired term of my original sentence or I may be referred back to the sentencing court for reconsideration of my sentence.

MATTHEW SCHLEY Name (print)	746992 DOC Number
Matthew Schley Signature	01-~~18~~ 21-15 Date
K GRAHAM-DUNN Staff Witness(print)	
K Graham-Dunn CCP Signature	01.21.2015 Date

The records contained herein are protected by the Federal Confidentiality Regulations 42 CFR Part 2. The Federal rules prohibit further disclosure of this information to parties outside of the Department of Corrections unless such disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CRF Part 2.

Distribution: ORIGINAL File COPY-Offender
DOC 14-042 (Rev. 07/14/14)

DOC 670.655

Department of Corrections
WASHINGTON STATE

CHEMICAL DEPENDENCY TREATMENT PARTICIPATION REQUIREMENTS

Program Branch Site: OCC
Treatment Modality: LTR/TC
Start Date, Days/Times: Wednesday 01.21.2015 8:30 am

TREATMENT PARTICIPATION EXPECTATIONS

In order to participate as a patient in the DOC Chemical Dependency treatment program, I HEREBY AGREE TO:

1. Remain free of alcohol and other drug use -I will provide documentation per DOC 420.380 Drug/Alcohol Testing for any prescribed medication.
2. Participate in UA and other drug testing per DOC 420.380 Drug/Alcohol Testing.
3. Refrain from any other criminal activity - I will report any subsequent arrests or legal proceedings while I am in treatment.
4. Refrain from any physical violence, threats or acts of physical violence, abusive arguing, or inappropriate language.
5. Attend all regularly scheduled individual and group sessions - I will arrive on time and remain until excused by my counselor.
6. Actively participate in counseling sessions, and in both planning and implementing my initial and continued care treatment plans.
7. Respect and protect the privacy, rights, and confidentiality of other patient/offenders.
8. Ask my treatment counselor to explain any program expectations, rights, or responsibilities that I do not fully understand, and acknowledge any difficulty I may have in reading, writing, or comprehending English
9. Sign and abide by DOC 14-042 Drug Offender Sentencing Alternative (DOSA) Agreement, if I received a DOSA sentence.
10. Recognize that I am receiving treatment in a correctional setting. I understand that there may be situations in which, due to safety and security, I may be viewed by individuals not engaged in chemical dependency treatment. I further understand that the information discussed in my group and individual treatment sessions will be maintained in the strictest confidentiality.

TREATMENT COMPLETION PROTOCOL: In order to successfully complete treatment:

1. I will attend and participate in treatment as scheduled and recommended by my assessment and admission counselor(s),
2. I will complete my individual treatment plan as agreed upon with my treatment counselor, and
3. I will remain in treatment for at least 3 months in the community and until I receive a successful completion certificate.

TREATMENT TERMINATION PROTOCOL: Chemical Dependency Professionals have the authority to request that I submit to drug testing per DOC 420.380 Drug/Alcohol Testing, and to dismiss patient/offenders from class, groups, or the program for violation of these rules or "just cause".

The following behaviors MAY result in termination from the Department's CD treatment program:

1. Misconduct which does not rise to the level of threatening behavior, but is harmful or disruptive to the treatment environment.
2. Two treatment absences within the same modality.
3. Failure to abide by the expectations outlined above, including failure to participate or make progress in treatment as prescribed and agreed upon in my individualized treatment plan.

The following behaviors WILL result in termination from the Department's CD treatment program:

1. Any threat or act of violence toward staff or another patient.
2. Possession of a weapon on or at the treatment site.
3. Gang related activities or harassment of staff or another patient.

EXHIBIT 5

4. Sexual misconduct toward staff or another patient.

5. Failure to appear and submit as directed to 3 urine/drug tests and/or receiving 3 positive tests within the same treatment modality. I understand that "positive" includes insufficient samples, adulterants, and non-prescribed or unreported medication.

6. Three absences within the same treatment modality. I understand that exceptions may be allowed in the event of a legitimate, verifiable reason for an absence, such as injury, illness, or incarceration.

7. Violating another patient's privacy and confidentiality treatment rights.

GRIEVANCE PROCEDURE: Should a patient/offender consider him/herself to have been treated unfairly, the DOC 550.100 Offender Grievance Program is available upon request.

I hereby agree to having read, or had read to me, all the above terms and conditions, and agree to abide by them.

Matthew Schley — 1-21-15
Patient/Offender Signature — Date

K Graham-Dunn CDP — 01. 21. 2015
Counselor Signature — Date

The records contained herein are protected by the Federal Confidentiality Regulations 42 CFR Part 2. The Federal rules prohibit further disclosure of this information to parties outside of the Department of Corrections unless such disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2.

Department of Corrections
WASHINGTON STATE

DISCIPLINARY HEARING UNIT

SERIOUS INFRACTION REPORT

Facility: OCC

Infraction Group Number: 14 OMNI 1916

EMPLOYEE REPORT

Name: SCHLEY, Matthew R. DOC #: 746992 Date: 1/26/2015

Number of rule(s) violated: 505 - FIGHTING
633 - ASSAULT/OFFENDER

Time: 0900

Place: Living Unit

Details in full: At the conclusion of an investigation, it was determined that, on 1-26-15 at approximately 0900 hours during an assigned Therapeutic Community Housing Unit Cleaning Day, Offender Schley , E #746992 got into a verbal argument with Offender Tang, E 372961. Schley started the verbal argument by calling Tang Mr. DOSA and saying that Tang could't think for himself. When Tang stated that he just wanted to get home to his family, Offender Schley said "fuck you". Tang then called Schley a little bitch. Schley then swung on Tang and missed but then grabbed Tang's throat and arm and they fell back on the bed. Tang then hit Schley a couple of times and kicked him off the bed onto the floor. Schley had numerous marks on his body, cuts, scrapes, and red marks, that are consistent with being in a fight. The body of this infraction is a summary of confidential information used as evidence to support this infraction.

Witnesses:

LORI K. LAWSON — Reporting Employee (Print)

Lori K. Lawson — Reporting Employee Signature

FACT FINDING DURING HEARING

Was offender informed of right to remain silent? ☒ Yes ☐ No Date of Hearing: 2/9/2015

PLEA: GUILTY
NOT GUILTY 505, 633
NO PLEA

Did the offender make statement after being informed of his/her rights? ☒ Yes ☐ No

If so, what? My back injuries is from coming off of my bunk. I'm never had an argument with offender Tang. I didn't call Trang "Mr. DOSA". Trang never called me a little bitch. Tang never punched me. I never swung at Trang.

DECISION

FINDING: GUILTY 505
NOT GUILTY 633
DISMISSED
REDUCED

Facts and evidence found: First hand and second hand witness information validates a verbal argument and physical altercation between this offender and Offender Tang. Physical evidence mutual physical altercation occurred between both offenders.

Sanction(s): 15 days segregation applied
15 days loss of good conduct time applied

Reason for sanction(s): Credit for time served in Segregation. First 505

Recommendations (Non-Sanction): Refer to FRMT for sultability reviewwith FRMT.

EXHIBIT 8

Brian McPherson — Hearing Officer (Print)

Hearing Officer Signature — 2-10-15 Date

John Aldana — Superintendent/designee (Print)

John Aldana — Superintendent/designee Signature — 2/10/15 Date

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.

Distribution: ORIGINAL – Imaging System/Central File COPY – Offender, Board, Hearing Officer

DOC 20-051 (Rev. 09/16/13) E-Form
Scan Code IF01

DOC 460.000

Department of Corrections
WASHINGTON STATE

CHEMICAL DEPENDENCY CLINICAL STAFFING

☐ ERD: 10.23.2015 (court ordered) ☐ ISRB ☒ Other DOSA

P/O Name: SCHLEY, Matthew
Level of care/ Phase: 111.3 / Discharge
Drug of choice: Methamphetamine
Facility: OCC

DOC#: 746992
Date: 02.10.2015
Last use: 02.05.2014
Admitted: 01.22.2015

Purpose for Staffing:
☒ Infraction ☐ TX Plan ☐ C/I ☒ Info Sharing ☐ Phase Up
(Only Complete Dimensions With Clinical Concerns)

Dimension 1: Withdrawal:
0; Admit UA requested.

Dimension 2: Biomedical Complications:
0; no current problems identified. TB screen completed.

Dimension 3: Emotional/Behavioral Complications:
2; P has dx in this dimension and receiving monitoring and rx. P has substance use-related anti-social behaviors, STG suspected White Supremicist/Nationalist. P continued substance use against medical advice, and has family relationship problems due to his sustance use, parental rights terminated in 2002, Significant Other is currently receiving tx for substance abuse.

Dimension 4: Readiness for Change:
3; P in Precontemplation stage of change, tx motivated by DOSA. PO received WAC505-Fighting during first week of tx.

Dimension 5: Relapse Potential:
3; P reports ability to maintain abstinence in controlled environment. 20x attempts to discontinue use, unsuccessful.

Dimension 6: Recovery Environment (For transfer to community):
3; P has poor job hx due to substance use, continues association w/ anti-social peers, significant family hx of substance use, homeless, minimal family support from an Aunt.

Specific Question/Statement for Staff:
Notification of Removal/Discharge from LTR/TC due to non-chemically related rule violation.

Action Plan: Remove / administrative termination from LTR/TC -Kg CDP
Discharge on 02.10.2015, prepare TARGET Discharge, Chrono.

Treatment Plan Written ☒ Yes ☐ No Problem #: 1,2 Dimension #: 3

Staff Signature	Date	Staff Signature	Date
Kgraham-Dunn CDP	02.10.15	[illegible]	2/10/15
[illegible] CDP	2-10-15	[illegible] CDP	2/10/15
[illegible], CDP	2-10-15	[illegible] CUS	2/10/15
[illegible] CDP	2/10/15	[illegible]	2/10/15
[illegible]	2/10/15		

DOC 14-143 (06/07/10)

EXHIBIT 10
Page 28

Department of Corrections
WASHINGTON STATE

INITIAL SERIOUS INFRACTION REPORT

Date of Infraction	Offender Name (Last, First)	DOC Number	Housing Assignment
02/19/15	SCHLEY, Matthew	746992	WCC-RC R5- 5F10U
Rule Violation #(s) 762			
Time Occurred 12:00 pm	Place of Incident (Be Specific) OCC- Ozette Programming Complex		Date Occurred 02/10/15
Witness (1)	Days Off	Witness (3)	Days Off
Witness (2)	Days Off	Witness (4)	Days Off

NARRATIVE

State a concise description of the details of the rule violations, covering all elements and answering the questions of When? Where? Who? What? Why? and How? Describe any injuries, property damage, use of force, etc. Attach all related reports.

On 02/10/15, the Multi-Disciplinary Team (MDT) made the decision to terminate Inmate (I/M) Schley from his mandatory DOSA Substance Abuse Treatment program. I/M Schley violated conditions of the DOSA Agreement and DOC 670.655 Special Drug Offender Sentencing Alternative, Page 8, VI -A.-1. -c. by incurring any major infraction that causes a change in custody level or the violation of conditions outlined in the CD Treatment Participation Requirements (DOC 14-039) or the DOSA agreement (DOC 14-042). Specifically, the Department has established a zero-tolerance policy with regard to violence within its CD programs, as reflected in the CD Treatment Participation Requirements, which state that threats or violence toward staff or another patient WILL result in termination from the Department's CD treatment program.

I/M Schley arrived at OCC on 01/07/15 serving two King County DOSA sentences.

On 01/21/15 I/M Schley was assessed at a III.3 Level of Care, and reviewed and signed the DOSA Agreement and CD Treatment Requirements, agreeing to participate, on that date. He began programming in the OCC Therapeutic Community Long-Term Treatment Chemical Dependency Program on 01/22/15.

On 01/27/15, I/M Schley was placed in the OCC Secured Housing Unit (SHU) On Administrative Segregation status, pending investigation of his involvement in a fight with another offender, after both were found to have injuries consistent with involvement in a physical altercation. Investigation determined that the incident occurred in the living unit on an assigned Therapeutic Community Housing Unit Cleaning Day, after a verbal argument escalated when Schley threw a punch which missed, and then grabbed the other offender by the throat and arm. The other offender hit Schley twice in the face and then kicked him off the bed onto the floor. Both were subsequently found guilty of violating WAC 505 (fighting), with sanctions including 15 days disciplinary segregation. He was transferred to WCC-RC on 02/11/15. The disciplinary findings were affirmed upon appeal, on ~~12/17/15.~~ 2/17/15

On 02/10/15, I/M Schley was administratively terminated from the OCC Therapeutic Community Chemical Dependency Treatment Program, due to his violation of mandatory Treatment Programming Requirements, specifically violence against another community member.

EXHIBIT 11

At the time of his termination, I/M Schley had made no progress in treatment, and remained in Phase One of the program after only a few days enrollment in the program.

I/M Schley is in violation of WAC 762 (DOSA failure) due to administrative termination from his DOSA Substance Abuse Treatment Program for the above noted violation of the DOSA Agreement and mandatory CD Treatment Participation Requirements.

Reporting Staff Name (Last, First) (Print Name)	Shift	Days Off
Tipton, J. R.	Days	Sat-Sun

Evidence Taken	Evidence Case Number	Evidence Locker Number	Photo Submitted
☐ Yes ☒ No			☐ Yes ☒ No

Disposition Of Evidence (If Not Placed In Locker)	Placed in:			
	Pre-Hearing Confinement	☐ Yes	☒ No	Date ____
	Administrative Segregation	☐ Yes	☒ No	Date ____

NAME(S) OF ALLEGED VICTIMS OF THIS INCIDENT

Last, First 1)	☐ Staff	☐ Volunteer/Visitor/Other	☐ Offender DOC#
Last, First 2)	☐ Staff	☐ Volunteer/Visitor/Other	☐ Offender DOC#

RELATED REPORTS ATTACHED ☒ Supplemental ☐ Medical ☐ Staff Witness Statements ☐ Other (Specify)

Reporting Staff Signature	Date
J. R. Tipton	02/19/15
Infraction Review Officer Signature and Name (Last/First)	**Date**
Lori Lawson CUS	2/19/15

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.

Department of Corrections
WASHINGTON STATE

DRUG OFFENDER SENTENCING ALTERNATIVE NOTICE OF ALLEGATION, HEARING, RIGHTS, AND WAIVER

(FOR USE IN PRISON AND WORK RELEASE)

Offender Name	DOC #	Date	Present Location
Schley, Matthew	746992	03/03/15	WCC-RC — R5 / 5F10U

Type of Hearing: DOSA REVOCATION HEARING
☒ 762

Revocation of your DOSA sentence is under consideration for the following alleged violation(s):
Failure to complete or administrative termination from a DOSA substance abuse treatment program on or about: 02/10/15

You are hereby notified that a Department of Corrections hearing is scheduled for:

Hearing Date	Time		Location	Cause #
~~3/19/15~~ 4-2-15 (LC)	TBD	☐ a.m. ☐ p.m.	WCC	13-1-15302-1 14-C-01874-2

The Department of Corrections intends to present the following documents / reports and / or call the following witnesses during the hearing:

A. Initial Serious infraction report citing infraction #762 dated 02/19/15
1. Warrant of Commitment(s) dated 10/13/14
2. Judgment and Sentence(s) dated 10/10/14
3. Facility Plan (2) dated 11/06/14, 01/08/15
4. Drug Offender Sentencing Alternative (DOSA) Agreement dated 01/21/15
5. Substance Abuse Recovery Unit Compound Release of Info dated 01/21/15
6. Chemical Dependency Dimensional Analysis Assessment dated 11/04/14 3.3, updated 02/11/15
7. Chemical Dependency Assessment Summary updated 01/02/15 ASAM 3.3, updated 02/11/15
8. CD Treatment Participation Requirements dated 01/21/15
9. Patient/Offender Contract for Change dated 01/21/15
10. Treatment Plans (2)
11. Community Rules: Cardinal, Major, House
12. Cardinal Rule Violation dated 01/27/15
13. TC Awareness To/From log, TC Push-Up Written log, TC Push-Up Received log
14. Progress notes, significant event notes chronological order
15. Infraction History
16. Big Brother/Little Brother Orientation sheet 01/21/15 and Role Induction Sheet dated 01/21/15
17. Signed staffing form from multidisciplinary treatment team dated 02/10/15
18. Chemical Dependency Discharge Summary dated 02/10/15

You have been charged with the above alleged violation(s) of your Drug Offender Sentencing Alternative (DOSA) Sentence. You have the following rights:

- To receive written notice of the alleged violation of your DOSA sentence.
- To have an electronically recorded hearing conducted within 5 working days of service of this notice.
- To have a neutral hearing officer conduct your hearing.
- To examine, no later than 24 hours before the hearing, all supporting documentary evidence which the Department of Corrections intends to present during the hearing.
- To admit to the allegation. This may limit the scope of the hearing.

EXHIBIT 12

DOC 09-244 (Rev. 02/05/13)

DOC 670.655
DRUG OFFENDER SENTENCING ALTERNATIVE
NOTICE OF ALLEGATIONS, HEARING, RIGHTS, AND WAIVER

- To be present during the fact-finding and disposition phases of the hearing.
- To present your case to the Hearing Officer. If there is a language or communication barrier, the Hearing Officer will appoint a person qualified to interpret or otherwise assist you. However, no other person may represent you in presenting your case. There is no statutory right to an attorney or counsel and without prior written approval from the Hearings Program Administrator, no attorney will be permitted to represent you.
- To confront and cross-examine witnesses appearing and testifying at the hearing.
- To present documentary evidence on your behalf.
- To testify during the hearing or to remain silent. Your silence will not be held against you.
- To have witnesses provide testimony on your behalf, either in person or in a witnessed statement / affidavit. However, outside witnesses may be excluded due to institutional concerns. The Hearing Officer may also exclude persons from the hearing upon a finding of good cause. In addition, the Hearing Officer may exclude a witness from testifying at a hearing or may require a witness to testify outside of your presence when there is a substantial likelihood that the witness will not be able to give effective, truthful testimony in your presence during the hearing. In either event, you may submit a list of questions to ask the witness(es). Testimony may be limited to evidence relevant to the issues under consideration.
- To receive a written Hearing and Decision Summary including the evidence presented; a finding of guilty or not guilty; and the reasons to support the findings of guilt; and the sanction imposed, immediately following the hearing or, in the event of a deferred decision, within 2 days unless you waive this timeframe.
- To request a copy of the audio recording of the hearing.
- To appeal a sanction to the Regional Appeals Panel, in writing, within 7 calendar days of your receipt of the Hearing and Decision Summary. You may also file a personal restraint petition to appeal the Department's final decision through the Court of Appeals.
- If I waive my right to be present at the hearing, I understand that the Department of Corrections may conduct the hearing in my absence and may impose sanctions that could include loss of my liberty and / or reclassification / revocation of my DOSA sentence.
- To waive any or all of the above rights.

DOC REGIONAL APPEALS PANEL
1016 So. 28th Street 3rd Floor
Tacoma, WA 98409

This is the same address used to request a copy of the audio recording as well.

Admission to Allegation

I admit to the following allegation:		
Offender Signature	Date	Time
Witness Signature/Position	Date	Time

Waiver of Hearing

Offender Signature	Date	Time
Witness Signature/Position	Date	Time

In admitting the violation(s) and waiving the hearing, I understand that the Department of Corrections may still schedule and conduct a hearing to accept my waiver. I further understand that if I am found guilty, the Department may respond by imposing:

1. A loss of earned early release credits; and / or
2. Recommending transfer to another facility; or
3. Reclassifying / revoking the sentence structure in this case to require that the remaining balance of the original sentence be served.

I have read and understand the allegation, the hearing notice, and my rights as described:

ms ms
3-30-15 9:36 AM

Offender Signature	Date	Time
X Matthew Schley	~~X3-16-15~~	~~X10:30~~
Witness Signature/Position	Date	Time
	~~3-16-15~~	~~10:30~~

TYPIST/CCO / 09-244
DATE

3-30-15 9:35 AM
LC LC

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.

Distribution: **ORIGINAL** - Hearing File **COPY** - Offender

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

DOSA 762 INFRACTION HEARING REPORT

OFFENDER NAME: SCHLEY, Matthew
CRIME: Burglary 2nd Degree
Theft 1st Degree
COUNTY OF CONVICTION: King
CAUSE #: Cause# 131153021 Burglary 2nd Degree 141018742 Theft in the 1st Degree

DATE: 04/02/2015
DOC NUMBER: 884527

A DOSA 762 Hearing was held on 04/02/2015, at the Washington Corrections Center (WCC), regarding the following alleged infraction of the conditions of DOSA for Mr. Mathew Schley. The hearing was conducted by Hearing Officer Sheryl Jackson and parties present for the hearing were: Class Counselor III (CCIII) Tipton; Community Correctional Officer (CCO) Laura Cole and Mr. Schley. Those who will by telephonically testifying are; Chemical Dependency Program Manager (CDPM) Tamera Zander; Correctional Program Manager (CPM) Jason Bennett; Correctional Unit Supervisor (CUS) Lorie Lawson.

Upon convening the hearing, I determined that Mr. Schley had received proper service of the Notice of Allegations, Hearing, Rights, and Waiver and was served notice on 03/30/2015. I found that he had previously been provided with copies of all of the documentary evidence to be used against him during the hearing. CCO Cole reported that at WCC there is a policy prohibiting any offender from having access to any legal documentation within their specific units. Offenders are served notification of discovery and given an opportunity to review discovery at time of service. If additional time is needed, discovery documents are logged into the Law Library for offenders to have access. CCO Cole testified that she served Mr. Schley and gave him adequate time to review his discovery packet. At the time of the hearing I confirmed with Mr. Schley if he felt he had sufficient time to review his discovery and if he in fact felt comfortable to proceed with his hearing as scheduled. Mr. Schley acknowledged he was ready to proceed.

I provided Mr. Schley with notice of the right to appeal, the address for filing the appeal and an optional form to be used to file an appeal. Mr. Schley acknowledged that he understood his hearing and appeal rights.

Preliminary Matters:
None reported.

The Department of Corrections alleged that the following **infraction** was committed:

1. 762 - Infraction - Failure to complete or administrative termination from a DOSA substance abuse treatment program on or about 02/10/15.

The offender entered the following **plea** to each infraction:

1. Not Guilty

The hearing officer made the following **findings** as to each infraction:

1. Guilty

Evidence Relied Upon:

CCIII Tipton On 02/10/15, the Multi-Disciplinary Team (MDT) made the decision to terminate Inmate (I/M) Schley from his mandatory DOSA Substance Abuse Treatment program. I/M Schley violated conditions of the DOSA Agreement and DOC 670.655 Special Drug Offender Sentencing Alternative, Page 8, VI -A.-1. -c. by incurring any major infraction that causes a change in custody level or the violation of conditions outlined in the CD Treatment Participation Requirements (DOC 14-039) or the DOSA agreement (DOC 14-042). Specifically, the Department has established a zero-tolerance policy with regard to violence within its CD programs, as reflected in the CD Treatment Participation Requirements, which state that threats or violence toward staff or another patient WILL result in termination from the Department's CD treatment program.

I/M Schley arrived at Olympic Correctional Center (OCC) on 01/07/15 serving two King County DOSA sentences.

On 01/21/15 I/M Schley was assessed at a III.3 Level of Care, and reviewed and signed the DOSA Agreement and CD Treatment Requirements, agreeing to participate, on that date. He began programming in the OCC Therapeutic Community Long-Term Treatment Chemical Dependency Program on 01/22/15.

On 01/27/15, I/M Schley was placed in the OCC Secured Housing Unit (SHU) On Administrative Segregation status, pending investigation of his involvement in a fight with another offender, after both were found to have injuries consistent with involvement in a physical altercation. Investigation determined that the incident occurred in the living unit on an assigned Therapeutic Community Housing Unit Cleaning Day, after a verbal argument escalated when Schley threw a punch which missed, and then grabbed the other offender by the throat and arm. The other offender hit Schley twice in the face and then kicked him off the bed onto the floor. Both were subsequently found guilty of violating WAC 505 (fighting), with sanctions including 15 days disciplinary segregation. He was transferred to WCC-RC on 02/11/15. The disciplinary findings were affirmed upon appeal, on 02/17/15.

On 02/10/15, I/M Schley was administratively terminated from the OCC Therapeutic Community Chemical Dependency Treatment Program, due to his violation of mandatory Treatment Programming Requirements, specifically violence against another community member.
At the time of his termination, I/M Schley had made no progress in treatment, and remained in Phase One of the program after only a few days enrollment in the program.

I/M Schley is in violation of WAC 762 (DOSA failure) due to administrative termination from his DOSA Substance Abuse Treatment Program for the above noted violation of the DOSA Agreement and mandatory CD Treatment Participation Requirements.

Mr. Schley pled not guilty to the listed allegation. He reported that in fact there was no altercation between himself and another offender. Mr. Schley indicated that any marks on his physical body were from him having a nightmare and believes he injured himself in his sleep. Mr. Schley believed that the specific inmates (Confidential Informants - CI) heard rumors about an altercation and reported said information to staff. This is why Mr. Schley believes he received the infraction.

At the time of the infraction Mr. Schley supplied 5 witness statements that stated they did not see any altercation between Mr. Schley and another offender. Mr. Schley felt that the Prison Hearing Officer found him guilty solely on the word of the CI and photographs that were not consistent with a fight but in fact are marks resulting from his sleep disorder.

I asked Mr. Schley if he understood that the major infraction #505 was not the matter at hand for this current hearing process and that the evidence presented during the major infraction hearing concerning the #505 could not be in essence re-heard today. I also explained to Mr. Schley that what is being considered today was the totality of his behavior that lead the treatment program to take action and began the termination process thus the #762 DOSA revocation hearing. Mr. Schley stated he understood but the #505 is what the Hearing Officer found him guilty of which generated the treatment program to take action. Mr. Schley also believes the #505 major infraction should not be the basis for a revocation because the standard of evidence was only "some" evidence.

Mr. Schley discussed case law believing that the infraction is not sufficient evidence to terminate his DOSA sentence.

CUS Lawson testified that DOC's prison standard of evidence is "some evidence" and the information was reviewed by her however, she did not score the evidence. The specific documents of the major infraction packet in which she did score, did meet the some evidence standard as required. CUS Lawson denies receiving anything information from the Mental Health counselor, per a statement made by Mr. Schley at the hearing. She testified that she believed that the some evidence standard was met based on her training and professional experience, and in essence Mr. Schley engaged in a fight as the major infraction information indicated.

CPM Bennett testified that he reviewed Mr. Schley's appeal information, the original infraction packet, and a full copy of the CI information received. CPM Bennett feels confident that DOC's policies and procedures concerning the process was followed properly.

CDPM Zander testified that Mr. Schley had only been in the DOSA program for approximately 7 days however, the program has a no tolerance to violence in the program and Mr. Schley was fully informed of this fact via several ways prior to his entering into the program but also through the DOSA agreement he signed, Treatment participation requirements, and through the Big Brother/Little Brother orientation form. Offenders are orientated a day prior to entering the program. CDPM Zander also testified that some major program rule violations include: violence and sexually acting out." CDPM Zander quoted from the Big Brother/Little Brothers orientation from. "I have been orientated to the rules, requirements and procedures of the TC program, any questions I had were answered by my Big brother or an orientation member. I have been informed; any act or threat of violence places me in jeopardy of termination from treatment. I have been instructed how to report threats/acts of violence and to avoid altercations." Mr. Schley initialed each item on said orientation form and signed the form 01/21/2015.

Disposition:

The disposition **recommendation** of the Classification Counselor:

CCIII Tipton recommended that Mr. Schley's DOSA sentence be revoked.

The disposition **recommendation** of the offender:

Mr. Schley appeared frustrated but stated that he still does not believe his DOSA sentence should be jeopardized based on an infraction where the standard was "some" evidence.

Hearing Officer **Disposition,** decision, and reasons:

I found Mr. Schley guilty of the 762 based on the preponderance evidence standard and the testimony and evidence presented at the time of the hearing. CCIII Tipton provided sufficient evidence for a guilty finding which included the testimony of the witnesses he included. CUS Lawson reviewed the #505 infraction information and deemed to have met the expectations of DOC's policies for addressing infractions CPM Bennett reviewed the appeal Mr. Schley brought forth which included all evidence presented to the prison hearing officer. CPM Bennett felt the hearing officer made a sound decision and affirmed the guilty finding of the #505. Although the #505 major infraction in and of itself was not reheard, I allowed the testimony of CUS Lawson and CPM Bennet to testify based on their training and experience with prison based infractions. I considered their testimony to be reliable and credible and expressed the DOC's procedures were properly followed. Their testimony spoke to the process and procedure of how DOC conducts prison based hearings. When Mr. Schley appealed the hearing officer's decision is was affirmed through the appeal process.

The most significant witness testimony and evidence presented at the hearing came from CDPM Zander who testified why a #762 major infraction was considered the appropriate means of addressing the actions of Mr. Schley. CDPM Zander testified that based on the physical violence Mr. Schley was found guilty of, this action is what put him in direct violation of the treatment program's cardinal rule: "no tolerance for violence." This cardinal rule was presented to Mr. Schley prior to him entering the treatment program.

I imposed the 762 infraction and, as a result, Mr. Schley's DOSA sentence was revoked. An official start time and remaining days will need to be determined by DOC records.

Mr. Schley was given a chance by the sentencing judge when he allowed Mr. Schley the opportunity to complete a DOSA treatment program. This opportunity allowed him to avoid approximately half his prison sentence in exchange for his agreement to comply and participate

in chemical dependency treatment. This was clearly explained to Mr. Schley at sentencing and again when he entered into the therapeutic chemical dependency program where he signed his DOSA Agreement.

Mr. Schley entered the orientation phase of the program on 01/22/2015, and the altercation took place on 01/27/2015 – not a long time within the program however, time enough to review the expectations of the program and know that violence will not be tolerated. Mr. Schley was given multiple opportunities realize the program had a no tolerance to violence and yet within 7 days of the program he received a major infraction for fighting. Mr. Schley placed his DOSA sentence in jeopardy by his behaviors and unfortunately will not be allowed to participate in treatment per his DOSA sentence.

Given his reported risk factors, risk management identification classification, criminal record, and disciplinary history, I believe this sanction holds Mr. Schley appropriately accountable under the rules and expectations of his DOSA Sentence.

Sheryl Jackson

Sheryl Jackson
HEARING OFFICER SIGNATURE

DATE

CCO/TYPIST/ A hearing report triple extra copy
DATE

Distribution:
- ☐ Prosecutor
- ☐ Offender
- ☐ County Clerk
- ☐ Central File
- ☐ Field File
- ☐ Hearing File
- ☐ Hearings Program Manager
- ☐ Hearings Officer 2
- ☐ ESRB for CCM only

Department of Corrections
WASHINGTON STATE

HEARING AND DECISION SUMMARY REPORT

Release from DOC Custody/Confinement: ☐ Yes ☐ No (See Confinement Order DOC 09-238)

Offender Name (Last, First)	DOC #	RLC	Date of Birth
Schley, Matthew	746992	HV	[redacted]
Cause Number(s) 13115 3021			

Offender Status ☐ CCI ☒ CCP ☐ CCJ ☐ CCM ☐ CPA ☐ DOSA ☐ W/R ☐ FOS
☐ Misdemeanor/Gross Misdemeanor

Date of Hearing 4/2/15 Location of Hearing WCC

CCO Name CCIII Tipton, CCO Cole

Other Participants CCP Zender

Waived Appearance ☐ Yes ☒ No
Competency Concern ☐ Yes ☒ No
Waived 24 Hour Notice ☐ Yes ☒ No
Interpreter/Staff Assistant ☐ Yes ☒ No
Jurisdiction Confirmed ☒ Yes ☐ No
Appeal Form Provided ☒ Yes ☐ No

Preliminary Matters: None reported

ALLEGATIONS	PLEA	FINDING Guilty/Not Guilty Probable Cause Found
D #762 Failure to complete or administrative termination from a DOSA substance abuse Tx program 0/2 2/10/15	NG	Guilty

EVIDENCE RELIED UPON (LIST):

☐ J&S ☐ Notice of Allegation, Hearing, Rights and Waiver form ☐ Report of Alleged Violations
☐ Conditions, Requirements, and Instructions form ☐ Chronological Reports ☐ CCO Testimony
☐ Offender Testimony ☐ Negotiated Sanction ☐ Other(listed below):

EXHIBIT 14

Distribution: **Original** – Hearing File, **Copy** – Offender, Field File, Receiving/detaining Facility

Department of Corrections
WASHINGTON STATE

HEARING AND DECISION SUMMARY REPORT

SUMMARY OF FACTS PRESENTED/ REASONS FOR FINDINGS:

For details of hearing please order a copy of the recorded hearing

H.O. has an injured hand

SANCTIONS AND REASONS FOR SANCTION:

DOSA revocation on cause #13115382 and AG 141018742

****Obey all Facility Rules**
****Failing to comply with CCO, CCS, and Hearing Officer directives**
****Report in Person to CCO Within one Business Day of Release**

Offender Name(Last, First):	DOC #
Schley	746992

Not present to sign (Angry Attitude)
Offender Signature

4/2/15
Date

Hearing Officer Signature

S Erickson
Hearing Officer Name (Print)

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.

Distribution: **Original** – Hearing File, **Copy** – Offender, Field File, Receiving/detaining Facility

DOC 09-233A (Rev. 06/29/12)
Scan Code HR05

DOC 400.130A

Department of Corrections
WASHINGTON STATE

APPEAL OF A DEPARTMENT VIOLATION PROCESS

Offender Name: MATTHEW Schley DOC #: 746992 Arrest/Hearing Date: 4-3-15

Mailing Address for Response: Washington Correction Center

City: Shelton State: WA Zip: 98584

CCO/Hearing Officer: Unknown Wasn't given Document Location/Jail: C-building

PLEASE CHECK THOSE THAT APPLY TO YOUR APPEAL: (Please note you must specifically identify a procedural, jurisdictional, or sanction problem).

Department of Corrections Received APR 08 2015 Western Hearings Records Unit

I am specifically appealing:

☒ **The finding(s) of guilt due to:**

☒ **A procedural issue, as specified below.** (For example, you may appeal that you did not have their opportunity to respond to the allegations or, if appealing a hearing, that you did not have the opportunity to call a necessary witness.)

☐ **A jurisdictional issue, as specified below.** (For example, you may object that you were not on supervision at the time you were arrested or that the violation has already been addressed.)

☐ **The sanction(s) imposed by the Department. Please note you must specifically identify that the sanction imposed was not reasonably related to any of the following:** your crime of conviction, the violation you committed, your risk of reoffending, or the safety of the community.

Describe the reason(s) and/or provide any additional evidence to support your appeal.

I was not allowed to present my defense as hearings officer kept cutting me off and I did respond to the alligations and was told that the alligations had nothing to do with the hearings officers decision and I wasn't allowed to present witness statements. Yet they presented theirs

The desired outcome if my appeal is granted is:

I would like my DOSA returned to me. It was taken with absolutely no evidence, and I wasn't even allowed to defend myself.

Please note you must specifically identify the outcome that you are requesting from the Appeals Panel. The outcome must be something that the Department can provide. For example, the Department cannot change jail policies or procedures.

This appeal must be in writing and postmarked or hand-delivered to the address listed below within 7 days of your sanction being imposed. Appeals are heard approximately every 2 weeks. Sanctions are **NOT STAYED** pending the outcome of an appeal.

APPEALS PANEL
1016 S 28th St. 3rd Floor
TACOMA WA 98409

NOTE: You have a right to file a personal restraint petition under court rules after the final decision of the Department.

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.

DOC 09-275 (Rev. 10/01/13) DOC 460.130

EXHIBIT 16

I would like to appeal on the grounds that my the hearings officer found me guilty of 505 infraction, and subsequently a 775 infraction in direct conflict with pg. 110 P.3d 856, 127 Wn app. 165 McCay 2005 which states that any infraction that results in a DOSA revokation hearing "must" contain evidence that meets the standard for a preponderance of evidence as defined in McCay.

After citing this case law to the hearings officer amidst many interuptions, she and the staff all agreed that the infraction did not meet the preponderance of evidence then she said so what I am the preponderance of evidence and im finding you guilty.

I also tried to read my written prepared defense and was interupted and told that she didnt want to hear me defend the infraction? and then said oh whatever go ahead "i didnt bring my coffee" but whatever (this is all on recording). The violation of not being allowed to present my witness statements and not being allowed to respond to the allegations and the violation of the ruling made by the appealate courts.

I was spoken to condescendingly, and was told that I was wrong, and that she didn't have to have a preponderance to take my dasa this is wrong

Would you please review the audio tape and you will know what im talking about.

I would also like to request a copy of the audio tape to be sent to the law library as I need it for my further defense

Thank you
Matthew D. Sehlen
746992

Reference: 127 wn app 165 2005 mccay
54212-5-1
Preponderance of evidence ruling
by appeals courts

Cite Case Law 9.94A 660 RCW

127 Wn. App. 165 2005 Clorah v. McCay Case# 54212-5-1

"Quote"

The State Concedes that the Serious nature of a proceeding resulting in revocation of a DOSA Sentence requires a preponderance of the evidence standard of proof

also pg 110 P. 3d 856, 127 Wn app 165 McCay 2005

"Quote"

The assesment depends upon "the extent to which an individual will be condemned to suffer a grevious loss"

McNeal 99 Wash app 628, 994 P.2d 890

The decision must be based on verified facts and accurate knowledge

Morrisey 408 U.S. attorney 484, 925 CT 2593

WAC, 137-104-050 (4)

Now id like to show to the committee that the infraction that resulted in this hearing does not meet the criteria to be considered a "preponderance" of evidence, and because of the great extent to which I will be condemned to suffer a grevious loss, this case is not qualified to justify the revocation of my DOSA as it is not based upon "verified facts and accurate knowledge"

Seeing as the Statements made by the Confidential informants do not support the known facts of this case and statements made by inmates "convicted criminals" is unreliable and not considered "accurate knowledge" as defined by (McCoy 99 Wash app 628, 994 P.2d 890) and the summary report and other evidence used in this infraction does not meet the criteria to be considered a "preponderance of evidence"

~~also there are no marks, scars, other tattoos on my self that are consistent with the statement made by the confidential informant. there are no marks that would be considered consistent with holding a knife, seeing as there are none on face, hands, knuckles, neck etc~~

I am appealing to this comittee on the behalf of my family and myself to allow me the opportunity to continue with my DOSA programing so that I can receive the help I need to become a clean and sober, productive member of society and better serve my family as a father and husband.

Statement #2

~~#2 I appeal to the committee on behalf of my family and myself to allow me the opportunity to continue with my Dash Programming so that I can receive the help I need to become a clean, sober, productive member of Society and better serve my family as a father and husband.~~

~~Other~~ facts for consideration, I supplied 5 witness statements from inmates that were present upon the cleaning day this supposidly happened and they stated that nothing happened.

The hearings officer acting as prosecutor in this hearing based his decision solely on the confidential informants statements, to which only one of them claims to have witnessed it, the others are "second" hand with rumors ~~and more hearsay~~ All defined as hearsay

The only "physical" evidence presented was a series of pictures that do not show any injuries except for scratches on my lower back which were verified as caused by my sleeping disorder and are not consistant with fighting injuries as they are not on face, hands, head, knuckles

as stated on the Serious Infraction Report the (Details in full) is a statement from Confidential informants, and states clearly that "the body of this infraction is a summary of confidential information" used as evidence to support this infraction

There is no marks consistant with an altercation on either Mr Tang or myself as in definition injuries known to be consistant with fighting occur upon the Hands, Knuckles, face, Head, neck, etc and Tang had absolutely no marks and the scratches on my lower back were from my bunk and were reported to my psychiatrist at occ while discussing my sleeping disorder prior to this incident

also on the confidential information Review checklist, Cbs Peterson made a false summary by stating that the confidential information was "reliable and credible" based on 7 reasons 1 he checked the box that states the confidential source had previously given reliable information and then contradicts this statement by writing next to it "No or unknown" yet still uses this as a reason?

#3 (The confidential Source had no apparent motive to fabricate the information) it is known by staff and inmates that what people do to get rid of people they dont like in the program is to X them out make false statements or drop anonymous kites to get them kicked out of the program and had already informed my counselor here at Shelton of conflict with two inmates at OCC and had attempted multiple times even writing to Olympia to place keep separates to no avail! All prior to being sent to OCC

#4 (The Confidential Source provided first hand information) seeing as only one person provided first hand info this statement is also erroneous as the CO is admitting the other second hand statements under false pretenses as 1st hand information

#5 (The confidential information is internally consistant and is consistant with other known facts) this is also false because within the employee report by Lori Lawson the C.I. stated he saw me grab Tang by the throat then saw Tang hit me twice in the face and kicked me off bed - yet i had no punch marks on my face, Tang had no consistant marks upon his

throat, neither one of us had marks of any kind on our hands or knuckles. In conclusion there is no injuries that are consistant with the statement made by the confidential informants.

#6 (other evidence cooberates the confidential information) As stated prior there are no injuries that are consistant with the statements, as there is only one injury that is photographed upon my lower back which has been reported and verified, and is not consistant with any injuries that should have resulted from the statements version of the events, as to which I stay with and will always stick to the truth that nothing happened between Mr Tang and I and this whole problem was orchestrated by inmates either on their own or in accordance with the two individuals had attempted to place keep seperate on had engaged in the practice of X'ing me out and unfortunatly involved Mr Tang and falsified statements to attain that goal.

in Conclusion, I believe I have demonstrated To the Comittee that although the CUS had what is Termed "Some evidence" which allows the infraction and Conviction under DOC Rules. There is NOT Sufficient evidence as defined under "McCAY 127 Wn app 165 2005) To Qualify as A "preponderance of evidence" and as there are no "verified facts" either Physical or through "reliable information" it Cannot be defined as "accurate knowledge" and because of the extent to which I will Suffer a grevious loss" i.e. the loss of 20 more months from my family, ~~my fa~~ my children and wife deprived of our Soul provider and my freedom, ~~[illegible]~~ I hope that the Comittee Sees this case in the Same light as I do, and grants me the privilaege of continuing my DOSA Sentence

Thank you for your Time

I would also like to point out, that "Someone" Raised my awareness for "Disrespect" on the Same Date I was in the hole, which further Validates my Claim of a Concerted effort to get me Kicked out of the program.

This is a rough copy of the Defense prepared and was told it wasn't relevant to the Revoke hearing which is crucial to the decision and was not allowed to read it

STATE OF WASHINGTON

DEPARTMENT OF CORRECTIONS

P.O. BOX 41100 • Olympia, Washington 98504-1100

APPEALS PANEL DECISION

FROM: DOC Appeals Panel

TO: Schley, Matthew **DOC #:** 746992 **Date:** 04/14/15

On 04/02/15, you were either sanctioned to 1-3 days of confinement or a hearing was conducted for violations of your conditions of supervision/custody.

On 04/10/15, your appeal was received in which you requested a review of a sanction or decision of the Hearing Officer. You specifically appealed:

- ☒ A decision based on a procedural issue
- ☐ A decision based on a jurisdictional issue
- ☐ A sanction imposed that was not reasonably related to:
  - Your crime of conviction
  - The violation you committed
  - Your risk of reoffending
  - The safety of the community

AND THEREFORE

The decision is to:

- ☒ Affirm the process and decision.
- ☐ Modify the sanction as stated below.
- ☐ Remand for a hearing. You will be notified of the hearing date.
- ☐ Reverse and vacate the process.

Comments: This Appeals Panel has reviewed all documents provided from the above hearing and have listened to the audio recording as well. In your appeal you state you were not allowed to present your defense at your hearing. You also want the evidence presentenced at your 505 Disciplinary Hearing reviewed as you state a preponderance of evidence standard was not met and, therefore, you want to have your DOSA reinstated.

The Appeal Panel did listen to the audio recording of your hearing and determined you were given several opportunities to present your evidence at this hearing. The Hearing Officer also explained to you that the evidence you were presenting at this hearing was already addressed at your 505 infraction hearing. The Hearing Officer has no jurisdiction regarding the evidence presented at the 505 hearing.

On 01/26/15, you were found guilty at a Disciplinary Hearing for a 505 infraction for fighting. On 02/17/15, the findings were affirmed upon your appeal for this infraction. The Appeals Panel wants to let you know the Hearing Officer and this Appeals Panel does not have any jurisdiction regarding the 505 infraction hearing or the appeal finding that was made on 02/17/15. The Hearing Officer did inform you several times that the only violation that was being addressed at this hearing was the violation for failure to complete or being administratively terminated from your DOSA substance abuse treatment program on 02/10/15.

On 02/10/15, you were terminated from your chemical dependency treatment program because you are in violation of the mandatory treatment programing requirements, which stated there will be no violence against another person. After reviewing this evidence the Appeals Panel believes a preponderance of evidence was met for this violation.

EXHIBIT 17

In Conclusion, because you violated a mandatory treatment program requirement and were terminated from your chemical dependency treatment program the Hearing Officer had no other option but to revoke your DOSA sentence. The Panel denies your appeal and affirms the process and decision.

DOC Appeals Panel Member — Date: 4-15-15

DOC Appeals Panel Member — Date: 4-15-15

DOC Appeals Panel Member — Date: 4-15-15

Distribution: **ORIGINAL** - Hearing File **COPY** - Offender, Central or Field File via CCO, Hearing Officer, Hearing Supervisor, Work Release Supervisor, Imaging System

In Reference To Appeals panel Decision on 04/14/15

Re: Matthew Schley DOC# 746992

Re: 3 level appeal

To Risk management Director

RECEIVED
MAY 01 2015
DOC-RISK MANAGEMENT

EXHIBIT 18

To, Whomever it May Concern

I have attempted to resolve this issue through appeals process, and yet the panel seems to be very adept at sidestepping the issue. The appeals court has already ruled against this type of railroading and has made it very clear that yes "the infraction that results in the DOSA revoke hearing must be based upon a preponderance of evidence to be elligable for a DOSA revoke. More specifically in exact McDonnell vs Wolf, 418 US 539, 561-62 945 CT Morrissey 408 US AT 484, 925 CT 2593, McCay 127 Wn app 165 2005 plus WAC Rules 137-104-050 (4) it clearly states in McCay "that due to the serious nature of a DOSA revoke hearing the infraction that resulted in the hearing must be based on a preponderance of evidence

The hearings officer didn't even consider whether the SOS was based on a preponderance or some evidence. She just found me guilty of a 775 because someone else found me guilty of SOS based on "some evidence" and didn't even consider the difference between the two

or the multiple Court Rulings that prohibit that exact practice, it has been written out very clearly and precisely yet so far no matter how many times I try to point this out I get shot down with excuses that have absolutely nothing to do with the legal precedence I have been pointing to. Sidestepping or passing the buck does not negate the facts the appeals courts and Doc have ruled. I cannot have my DOSA revoked unless the infraction that resulted in the DOSA revoke hearing was based upon a preponderance of evidence and it was not, the staff at ACC said it themselves on tape, by phone at the hearing.

The logic is simple - if you find someone guilty of a SOS with little or no evidence then by Doc standard yes you can find them guilty and take good time etc. But you cannot use the same infraction that was based on "some evidence" as evidence or justification to revoke DOSA. And if you say ok well you

were found guilty of 505 So therefore you violated DOSA Rules and that justifies Revocation. The proof of me violating DOSA Rules is whether or not I actually did - yes or no - Was that Decision based upon a "preponderance of evidence"? No then it isn't justification to Revoke. - if you allow an infraction that is based only upon "Some evidence" to be used as justification to revoke my DOSA then you are allowing the DOSA Revoke to be based upon the very SAME "Some evidence Standard" which DOC and the appealate Courts have Ruled against. They agree that A DOSA Revoke is a very Serious issue that effects the community, the inmate and the Recidivism Rate. this program was set up to rehabilitate offenders not to be abused by or Taken away on very flimsy Reasoning. Just because one Cus found me guilty of 505 with no evidence Doesn't automatically make me guilty of a 775 and doesn't justify Revocation of my DOSA that will sentence me to 20 more months and negate a Judges Ruling - the courts and DOC have made it very clear and specific that that process of Revocation is not

To be allowed, I have filed a pep
with the appeal courts and am
going through this process to exaust
my remedies, I am hoping that whoever
reads this, will actually review the
case laws I have listed, and use
some common sense and either grant
me a new hearing or reinstate
my DOSA that was taken in direct
violation of multiple court rulings
mainly McCoy

Thank you for your
consideration and please
forgive my frustrations, my
life is on the line and I did
not commit this sos

Sincerely
Matthew Schlen

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
Hearings Unit
P.O. Box 41103, Olympia, WA 98504-1103

May 15, 2015

Matthew Schley, DOC 746992
Coyote Ridge Corrections Center
E/EA371L
P.O. Box 769
Connell, WA 99326

Re: Second Level Appeal Decision

Dear Mr. Schley:

I am in receipt of your request for a Second Level Appeal review. I have read your request and reviewed your hearing paperwork as well as the audio for your hearing conducted on April 2, 2015.

I concur with the Hearing Officer's decision as well as the decision of the Regional Appeals Panel. Therefore, your request is denied and your sanction will remain.

Sincerely,

Kathy Gastreich
Risk Management Director

/ds

cc: Offender File

EXHIBIT 19

Department of Corrections
WASHINGTON STATE

DISCIPLINARY HEARING APPEAL DECISION

To	DOC #	Date
MATTHEW SCHLEY	746992	2/13/15
From	Superintendent/Designee	
JASON BENNETT		

On 2/9/15, a Department Hearing was held for the WAC violation(s) listed: 505 - FIGHTING

The Hearing Officer found you guilty of committing one or more violations and imposed the following sanction (s): Segregation - 15 days, Loss of Good Conduct Time - 15 days

On 2/12/15, an appeal of this hearing was received from you in which you requested review of the Hearing Officer's decision and/or sanction.

You appealed:

☒ The finding(s) of guilt
☒ The sanction(s) imposed

In summary, your appeal states:
"Supplied 5 witness statements that in effect say that no fight happened." "My back injuries were confirmed to be caused by my sleeping disorder."

In reviewing your appeal, I have made the following determination(s):

☒ The disciplinary hearing process was conducted in accordance with Due Process requirements and WAC 137-28.
☒ At least 24 hours advance written notice was provided or you waived the 24 hour advance notice in writing/with witness.
☒ You were provided an opportunity to call witnesses and present documentary evidence on your behalf. If witness(es) were denied, the Hearing Officer provided you with written reason(s) for the denial.
☒ The finding was made by an impartial (i.e., not viewed as biased or having witnessed the incident being heard) Hearing Officer.
☒ A written statement of the finding(s) and sanction(s) imposed was provided to you and includes the evidence relied upon and the reason(s) for the decision.
☒ Sanction(s) are in accordance with DOC Presumptive Sanction Guidelines and WAC 137-28.

If confidential information was submitted, I have confirmed:

☒ The Hearing Officer made an independent determination regarding reliability of the confidential source(s), credibility of the information, and safety concerns that justify non-disclosure of the confidential source(s) of information.
☐ The above information was documented on DOC 17-072 Confidential Information Review Checklist.

On behalf of the Superintendent, I have investigated your appeal and find that:
This incident and the subsequent hearings process and outcome has been reviewed. There is no additional information that changes the finding.

☒ You were found guilty as explained above.
☐ There was insufficient evidence for a finding of guilt as explained below.
☐ A procedural error occurred as explained below.
☐ The sanction was appropriate, and you were provided with the Hearing Officer's written report.
☐ Other:

AND THEREFORE, the decision of the Hearing Officer is:

☒ Affirmed
☐ Remanded for a new hearing. (You will be notified of the hearing date).
☐ Reversed
☐ Reduced
☐ Modified as follows:

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.

Distribution: **Original** –Offender **COPY**-Superintendent, Imaging System/Central File, Hearing Officer
DOC 09-197 (Rev. 09/16/13)
Scan Code: Packet (IF01), Individual (HR04)

DOC 460.000

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

IN RE THE PERSONAL RESTRAINT PETITION OF	)	
MATTHEW SCHLEY,	)	NO. 73872-1-I
PETITIONER.	)	

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, DECLARE THAT ON THE 5TH DAY OF MAY, 2016, I CAUSED THE ORIGINAL **BRIEF OF APPELLANT/PETITIONER** TO BE FILED IN THE **COURT OF APPEALS – DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

[X] ALEX KOSTIN, AAG [Alexk@atg.wa.gov] OFFICE OF THE ATTORNEY GENERAL PO Box 40116 OLYMPIA, WA 98504-0116	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____
[X] MATTHEW SCHLEY 746992 COYOTE RIDGE CORRECTIONS CENTER PO BOX 769 CONNELL, WA 99326-0769	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____

SIGNED IN SEATTLE, WASHINGTON THIS 5TH DAY OF MAY, 2016.

X_____

Washington Appellate Project
701 Melbourne Tower
1511 Third Avenue
Seattle, Washington 98101
☎(206) 587-2711