

No. 95012-1

No. 49029-3-II

THE COURT OF APPEALS FOR THE STATE OF WASHINGTON  
DIVISION II

---

**STATE OF WASHINGTON,**

Appellant,

vs.

**WAYLON JAMES HUBBARD,**

Respondent.

---

Appeal from the Superior Court of Washington for Pacific County

---

**Appellant's Brief**

---

MARK McCLAIN  
Pacific County Prosecuting Attorney

By:

  
Mark McClain, WSBA No. 30909  
Prosecuting Attorney

Pacific County Prosecutor's Office  
PO Box 45  
South Bend, WA 98586  
(360) 875-9361

**TABLE OF CONTENTS**

TABLE OF AUTHORITIES .....iii

I. ASSIGNMENTS OF ERROR ..... 1

II. ISSUES ..... 1

III. STATEMENT OF THE CASE ..... 1

IV. ARGUMENT ..... 3

    A. THE TRIAL COURT IS NOT PERMITTED TO BACKDATE  
    A CERTIFICATE AND ORDER OF DISCHARGE..... 3

        1. Standard of Review.....3

        2. The trial court improperly issued a *nunc pro tunc*  
        order backdating the certificate of discharge to a date  
        when the Defendant asserted he completed the  
        conditions of sentence.....3

    B. THERE WAS NOT SUFFICIENT EVIDENCE TO  
    ESTABLISH HUBBARD COMPLETED HIS COMMUNITY  
    SERVICE HOURS AND HE WAS, THEREFORE, NOT  
    ENTITLED TO A CERTIFICATE AND ORDER OF  
    DISCHARGE.....6

        1. Standard of Review.....6

        2. Hubbard provided insufficient information to support his  
        completion of community service and was, therefore,  
        not entitled to a certificate and order of discharge.....6

V. CONCLUSION.....7

VI. APPENDIX.....9

    A. Petition for Discharge CP 31 with exhibits

    B. Findings of Fact and Conclusions of Law

**TABLE OF AUTHORITIES**

**Washington Cases**

*Pratt v. Pratt*, 99 Wn.2d 905, 665 P.2d 400 (1983).....5

*State v. Hendrickson*, 165 Wn.2d 474, 8 P.3d 1029 (2009)..... 3

*State v. Luvane*, 127 Wn.2d 690, 903 P.2d 960 (1995).....3

*State v. Mehlhorn*, 195 Wn. 690, 82 P.2d 158 (1938).....3

*State v. Miniken*, 100 Wn.App. 925, 999 P.2d 1289 (2000).....3

*State v. Johnson*, 148 Wn.App. 33, 197 P.3d 1221 (2008).....4

*State v. Porter*, 188 Wn.App. 735, 356 P.3d 207 (2015).....4

*State v. Rosenbaum*, 56 Wn.App. 407, 784 P.2d 166 (1989).....5

*State v. Smissaert*, 103 Wash.2d 636, 694 P.2d 654 (1985).....3

*West Coast, Inc. v. Snohomish County*, 112 Wn. App. 200,  
48 P.3d 997 (2002).....6

**Washington Statutes**

RCW 9.94A.637.....4

RCW 9.94A.637(1)(c).....1 , 4, 5

I. ASSIGNMENTS OF ERROR

1. The trial court erred when it entered findings of fact number 7, 8, and 12.
2. The trial court erred when it entered conclusions of law numbers 15, 17, 18, 19, 20, 21, 22, and 23.

II. ISSUES

1. May a trial court issue an order *nunc pro tunc* affixing a date when the Defendant purported to complete the conditions of sentence, rather than the date of the petition for an order of discharge pursuant to RCW 9.94A.637(1)(c)? **No.**
2. Was there substantial evidence supporting the trial court's findings that Hubbard completed his community service and was entitled to an order of discharge? **No.**

III. STATEMENT OF THE CASE

Waylon James Hubbard entered a guilty plea to possession of stolen property in the second degree on October 29, 2004 and was sentenced to 30 days in custody, with 15 days converted to 120 hours of community service, along with payment of certain financial

obligations and 12 months of community custody. CP 31, at exhibit C (Attached hereto as Appendix A for convenience). On February 24, 2005 the Department of Corrections closed supervision prior to Hubbard's completion of community service or payment of his legal financial obligations and so informed the trial court. CP 31, at exhibit A. On April 6, 2016 Hubbard petitioned to the trial court for an order granting a certificate of discharge and requesting the trial court retroactively date the order. CP 31. Within the petition was a certification from the Clerk of the Court indicating Hubbard had paid his legal obligations, but affixed no date for the completion of the payments. CP 31. Hubbard also provided a declaration from Shelley Stevenson, former employee with a 501(c)(3) service provider (PACE), stating that to her knowledge, she felt Hubbard had completed his community service. CP 31, at exhibit B.

The State timely opposed the request on the same grounds asserted here. CP 33.

The trial court made certain findings of fact and conclusions of law, including authorizing a retroactively backdated certification of discharge. CP 42 (Attached as Appendix B for convenience). The trial court also issued the retroactively backdated certificate and order of discharge to February 23, 2013. CP 35.

The State appealed and, following execution of the trial court's findings of fact and conclusions of law, the State timely amended appeal.

#### IV. ARGUMENT

##### A. THE TRIAL COURT IS NOT PERMITTED TO BACKDATE A CERTIFICATE AND ORDER OF DISCHARGE

###### 1. Standard of Review.

A *nunc pro tunc* order is reviewed for abuse of discretion. *State v. Hendrickson*, 165 Wn.2d 474, 8 P.3d 1029 (2009), citing *State v. Smissaert*, 103 Wash.2d 636, 640, 694 P.2d 654 (1985).

###### 2. The trial court improperly issued a *nunc pro tunc* order backdating the certificate of discharge to a date when the Defendant asserted he completed the conditions of sentence.

A *nunc pro tunc* order is appropriate only to record some act of the court done at an earlier time but which was not made part of the record. *State v. Luvane*, 127 Wn.2d 690, 715, 903 P.2d 960 (1995) citing *State v. Smissaert*, 103 Wn.2d at 640. It cannot be used to remedy the failure to take an action at that earlier time. *Id.* citing *State v. Mehlhorn*, 195 Wn. 690, 692–93, 82 P.2d 158 (1938).

A certificate of discharge restores an offender's civil rights lost as a result of conviction. *State v. Miniken*, 100 Wn.App. 925, 927,

999 P.2d 1289 (2000). RCW 9.94A.637 sets forth the process by which an offender is discharged. Relevant to this case, RCW 9.94A.637(1)(c) provides:

When an offender who is subject to requirements of the sentence in addition to the payment of legal financial obligations either is not subject to supervision by the department or does not complete the requirements while under supervision of the department, it is the offender's responsibility to provide the court with verification of the completion of the sentence conditions other than the payment of legal financial obligations. When the offender satisfies all legal financial obligations under the sentence, the county clerk shall notify the sentencing court that the legal financial obligations have been satisfied. When the court has received both notification from the clerk and adequate verification from the offender that the sentence requirements have been completed, the court shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

The effective date of discharge is the date the trial court receives notice that all sentence requirements have been satisfied. *State v. Porter*, 188 Wn.App. 735, 356 P.3d 207 (2015), citing *State v. Johnson*, 148 Wn.App. 33, 197 P.3d 1221 (2008). The statute does not state the date on which the certificate is to be effective. But, RCW 9.94A.637(1)(c) directs the court to issue a certificate of discharge only after the defendant provides the court with verification of the completion of the offender's conditions of sentence. When the trial

court concludes the defendant has, in fact, completed the conditions of sentence, the trial court shall discharge the offender and provide a certificate of discharge. On its face, RCW 9.94A.637(1)(c) is unambiguous. It mandates that a court issue a certificate of discharge when it receives notice that the offender has completed all of the requirements of his or her sentence. The provision states that upon receiving notice, and concluding the offender has fulfilled their obligations, the court “shall discharge the offender and provide the offender with a certificate of discharge.” RCW 9.94A.637(1)(c). Consequently, the Court is not permitted to sign an order *nunc pro tunc* to a date upon which an offender may have been eligible, but instead, the date the petition is filed with the trial court. *State v. Rosenbaum*, 56 Wn.App. 407, 784 P.2d 166 (1989) (the court reiterated the rule that a retroactive entry is not proper to rectify the record as to acts which did not, but should have, occurred); see also *Pratt v. Pratt*, 99 Wn.2d 905, 665 P.2d 400 (1983) (a court may enter an order *nunc pro tunc* to make the record reflect what actually happened, but it is improper for a trial court to attempted to make the record reflect what might have happened at an earlier date). Consequently, the earliest date the trial court should have entered the certificate of discharge as of the date of the petition.

**B. THERE WAS NOT SUFFICIENT EVIDENCE TO ESTABLISH HUBBARD COMPLETED HIS COMMUNITY SERVICE HOURS AND HE WAS, THEREFORE, NOT ENTITLED TO A CERTIFICATE AND ORDER OF DISCHARGE.**

**1. Standard of review.**

A trial court's findings of fact are reviewed to determine whether substantial evidence in the record supports the finding. A reviewing court then determines whether those findings of fact support the trial court's conclusions of law, which is a *de novo* review. *West Coast, Inc. v. Snohomish County*, 112 Wn. App. 200, 48 P.3d 997 (2002)

**2. Hubbard provided insufficient information to support his completion of community service and was, therefore, not entitled to a certificate and order of discharge.**

Hubbard was sentenced on October 29, 2004 and ordered to complete 15 days in jail and 120 hours of community service. CP 31, at exhibit C. On February 24, 2005 the Department of Corrections certified Hubbard completed 55 of the 120 hours of community service ordered. CP 31, at exhibit A. For the balance of the 65 hours, Hubbard provides a declaration from a site manager who indicates

that she remembered Hubbard because he was good at showing up and doing the work expected. She states she is “confident in [her] recollection that [Hubbard] completed his 120 hours as was required.” CP 31, at exhibit B. It is the State’s contention that this is insufficient to establish completion of 65 of the community service hours.

The trial court also established, without substantial evidence, that Hubbard’s certificate of discharge should be dated February 23, 2013. CP 42, finding of fact 7, 12, and conclusion of law 23. There is no evidence when Hubbard completed his community service, nor is there a date proven to establish when Hubbard completed the payment of his legal financial obligations. For these reasons, there is insufficient evidence for the trial court’s findings. Therefore, this Court, in its *de novo* review should find the trial courts conclusion unsupported and reverse the trial court’s decision.

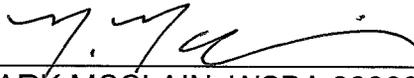
## V. CONCLUSION

The trial court lacked the authority to issue an order *nunc pro tunc* affixing an earlier date for the certificate and order of discharge because the effective date of discharge is the date the trial court receives notice that all sentence requirements have been satisfied. The attempt to utilize a *nunc pro tunc* order improperly suggests that

something actually happened on that date in court. That is obviously not correcting something that occurred, but instead is seeking to have the record reflect what the petitioner wanted, or hoped, would have occurred on that date.

Finally, the trial court erred by concluding that there was a specific date for the completion of Hubbard's court-ordered obligation as there is insufficient evidence in the record to establish Hubbard completed the community service, let alone when he completed such service. Consequently, the certificate and order of discharge should be vacated.

RESPECTFULLY submitted this 4<sup>th</sup> day of October, 2016.



---

MARK MCCLAIN, WSBA 30909  
Pacific County Prosecutor  
Attorney for Plaintiff

Appendix A-- CP 31, with exhibits

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PACIFIC

STATE of WASHINGTON,

Plaintiff,

vs.

WAYLON JAMES HUBBARD,

Defendant.

Case No.: 04-1-00153-y

PETITION FOR CERTIFICATE AND  
ORDER OF DISCHARGE (PFCORD); &  
REQUEST RETROACTIVELY DATED  
TO FEBRUARY 25, 2013

COPY

**Note to defendant:** *A Certificate and Order of Discharge does not operate to remove a criminal Conviction from your record. It does not remove any restrictions on the ownership, possession or control of firearms/ammunition under state/federal law. A Certificate and Order of Discharge does not terminate your obligation to comply with a no-contact order that excludes or prohibits you from having contact with a specified person or coming within a set distance of any specified location or your obligation to register as a sex or kidnapping offender.*

Now comes, Defendant, Waylon James Hubbard, by and through his legal counsel, Sarah Glorian and Northwest Justice Project, hereby petitions this Honorable Court for a Certificate and Order of Discharge.

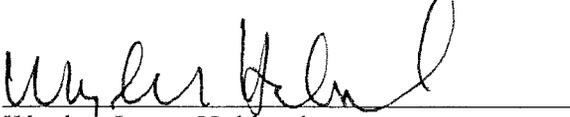
Defendant has completed all requirements imposed by the court in the Judgment and Sentence imposed in this case, including the payment of legal financial obligations, restitution, principal and interest, as well as all applicable collection costs (*completed February 25, 2013*).

Defendant is no longer subject to a no-contact order that was written as part of and included in the judgment and sentence (no-contact with Joan King for five years from October 29, 2004).

1 Further, Defendant respectfully requests this Honorable Court retroactively date the  
2 Certificate to reflect his date of compliance with these requirements on February 25, 2013.

3 I declare under penalty of perjury under the laws of the state of Washington that the  
4 foregoing is true and correct.

5 Signed at Aberdeen, Washington on this 4<sup>th</sup> day of April 2016.

6 

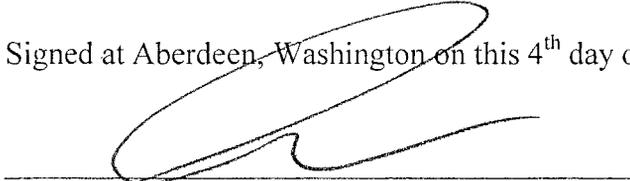
7 Wylon James Hubbard  
8 Declarant/Defendant

9 Attached to this document is verification that the Defendant completed the requirements of the  
10 Judgment and Sentence:

- 11 • Exhibit A: Department of Corrections Supervision Closure / 55 hours as of closure.
- 12 • Exhibit B: Declaration from Shelley Steveson confirming completion of all 120 hours.
- 13 • Exhibit C: Judgment and Sentence (October 29, 2004): five-year no contact order expired.
- 14 • Exhibit D: Order Amending Judgment and Sentence (December 15, 2004): omitting  
15 Section 4.6 and Appendix H, including the removal of the alcohol and drug evaluation  
16 requirement (Defendant had voluntarily commenced alcohol treatment).

17 I declare under penalty of perjury under the laws of the state of Washington that the foregoing is  
18 true and correct.

19 Signed at Aberdeen, Washington on this 4<sup>th</sup> day of April 2016.

20 

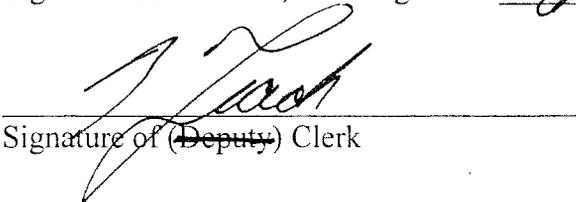
21 Sarah Glorian / WSBA No. 39914  
22 Limited Appearance for Defendant

23 Confirmation of Legal Financial Obligations:

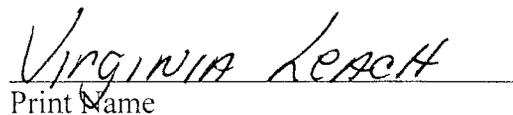
24 I have checked the Clerk's financial records and the records show that the defendant has  
completed the payment of all legal financial obligations (including principal and interest) and all  
applicable collection costs.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is  
true and correct.

Signed at South Bend, Washington on 6<sup>TH</sup> day of April 2016.



Signature of ~~(Deputy)~~ Clerk

  
Print Name



FILED

2005 MAR -9 AM 10:42

VIRGINIA LEACH CLERK  
PACIFIC CO. WA

BY JP DEPUTY



STATE OF WASHINGTON  
DEPARTMENT OF  
CORRECTIONS

COURT - SPECIAL  
5990 SUPERVISION CLOSURE

REPORT TO:	The Honorable Joel M. Penoyar Pacific County Superior Court	DATE:	02/24/05
OFFENDER NAME:	Hubbard, Waylon J	DOC NUMBER:	876670
AKA:		DOB:	11/29/79
CRIME:	Possession of Stolen Property, Second Degree	COUNTY CAUSE:	04-1-00153-4 AA
SENTENCE:	10/29/04	DATE OF SENTENCE:	10/29/04
MAILING ADDRESS:	356 SR 105 Raymond, WA 98577	TERMINATION DATE:	02/24/05
		STATUS:	Closed
		CLASSIFICATION:	OMB

Per RCW 9.94A, the offender does not meet the criteria for continued supervision by the Department of Corrections. Therefore, we have closed supervision interest in this cause.

The following information reflects the offender's compliance with the indicated Court ordered requirements.

If the court schedules a hearing in this matter, a Community Corrections Officer will not be present for the hearing.

EXHIBIT A  
Page 1 of 3

**I. FINANCIAL**

	Amount Ordered	Amount Paid	Date of Last Payment	Amount Owed
Court Costs	\$710.00			
Victim Compensation	\$			
Restitution	\$984.33			
Fine	\$			
Attorney Fees	\$250.00			
Other	\$			
Modified	\$			
Interest				\$23.93
<b>Total</b>	<b>\$1944.33</b>	<b>\$350.00</b>	<b>02/04/05</b>	<b>\$1618.26</b>

DOC initiated Wage Garnishment, Notice of Payroll Deduction or Order to Withhold and Deliver:  Yes  No

**Comments:** Offender contact information will be provided to the Office of the Administrator for the Courts and the County Clerk of jurisdiction for purposes of all future billing, monitoring and collection of Legal Financial Obligations and Restitution.

The Department of Corrections will provide a separate notification to the County Clerk of jurisdiction regarding the above listed offender.

**II. COMMUNITY SERVICE HOURS**

1. Number of Hours Ordered: 120
2. Satisfactory Completion Date:  
Date of Last Contribution: 02/14/05
3. Number of Hours Completed: 55

**\*Was ordered to do community service hours or jail by 4/1/05**

**Comments:** The Department of Corrections will no longer be providing industrial insurance coverage through the Department of Labor and Industries at the community service work site for the above listed offender.

**III. WARRANT STATUS**

- An active bench warrant exists.  
 It is requested the Court quash the warrant due to case closure.

**IV. COMMENTS**

**Mr. Hubbard Needs to Keep paying on his financial obligations.**

*I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief based on the information available to me contained in the Judgement & Sentence and Department of Corrections file material as of the date this report was submitted.*

**Submitted By:**

Linda Tolliver 2/23/05  
Date

Linda Tolliver  
Community Corrections Officer 2 or Records Staff  
Department Of Corrections  
515 5th Street  
Raymond, WA 98577  
942-4817

LT/sb/02/23/05 Wizard

Distribution:       **ORIGINAL** – Court

**COPY :**

- Prosecuting Attorney
- Clerks Office
- DOC Regional Correctional Records Manager for imaging
- Central File/Field File

*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 42.17 and RCW 40.14.*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PACIFIC

STATE of WASHINGTON,

Plaintiff,

vs.

WAYLON JAMES HUBBARD,

Defendant.

Case No.: 04-9-00406-1

DECLARATION

I, Shelley Steveson, declare as follows:

I have personal knowledge of the matters set forth in this declaration and am competent to testify.

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

Between 2005 and 2011, I was the Site Manager for the Raymond location of the Pacific Aging Council Endeavor (PACE) Senior Center.

As part of my regular duties as the PACE site manager, I coordinated community service performed by volunteers, which included reporting hours to the appropriate authorities for individuals who needed to community service hours relating to a criminal conviction.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

I ended my employment with PACE around May 2011.

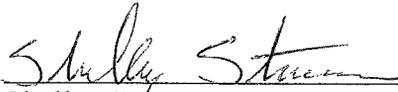
PACE closed in Aug 2011.

Northwest Justice Project contacted me to try to reconstruct PACE records to confirm Mr. Hubbard's community service hours.

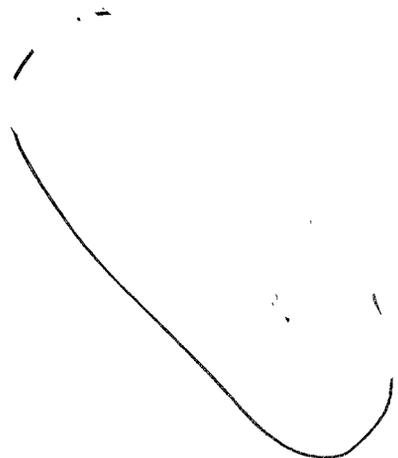
While there are no records, I distinctly remember Mr. Hubbard, because he was good at showing up and doing the work as expected.

I am confident of my recollection that he completed his 120 hours as was required.

EXECUTED in Raymond, Washington, this 23rd day of March 2016.



Shelley Steveson  
1823 Fowler Rd.  
Raymond, WA 98577  
(360) 934-9432



SENIOR WARDEN JAYLON J. ...  
 SUPERIOR COURT OF WASHINGTON  
 COUNTY OF PACIFIC  
 STATE OF WASHINGTON  
 14  
 3-11-13  
 Virginia A. Leach, Clerk  
 Deputy

FILED  
 04 OCT 29 PM 3:09  
 VIRGINIA LEACH, CLERK  
 PACIFIC COUNTY, WA  
 DEPUTY

04 9 00406 1

SUPERIOR COURT OF WASHINGTON  
 COUNTY OF PACIFIC  
 STATE OF WASHINGTON, Plaintiff,

v.  
**WAYLON J. HUBBARD**  
 Defendant.

SID: WA22405813  
 If no SID, use DOB 11/29/79

No. 04-1-00153-4  
**JUDGMENT AND SENTENCE (JS)**  
 Prison  RCW 9.94A.712 Prison Confinement  
 Jail One Year or Less  RCW 9.94A.712 Prison  
 Confinement  
 First-Time Offender  
 Special Sexual Offender Sentencing Alternative  
 Special Drug Offender Sentencing Alternative  
 Clerk's Action Required, para 4.1 and 5.8

**I. HEARING**

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

**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 October 29, 2004 (Date)  
 by  plea  jury-verdict  bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
II	POSSESSION OF STOLEN PROPERTY SECOND <i>Degree</i>	9A.56.160	8/22/04

as charged in the () Information.

- The court finds that the defendant is subject to sentencing under RCW 9.94A.712.
- A special verdict/finding for use of firearm was returned on Count(s) \_\_\_\_\_, RCW 9.94A.602, .510.
- A special verdict/finding for use of deadly weapon other than a firearm was returned on Count(s) \_\_\_\_\_, RCW 9.94A.602, .510.
- A special verdict/finding of sexual motivation was returned on Count(s) \_\_\_\_\_, RCW 9.94A. 835.
- A special verdict/finding for Violation of the Uniform Controlled Substances Act was returned on Count(s) \_\_\_\_\_, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within

JUDGMENT AND SENTENCE (JS) (Felony)  
 (RCW 9.94A.500, .505)(WPF CR 84.0400 (6/2002))

Page 1 of \_\_\_\_\_

EXHIBIT C  
 Page 1 of 13

1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

- A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture was returned on Count(s) \_\_\_\_\_, RCW 9.94A.605, RCW 69.50.401(a), RCW 69.50.440.
- The defendant was convicted of vehicular homicide which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- This case involves kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- The court finds that the offender has a chemical dependency that has contributed to the offense(s). RCW 9.94A.607.
- The crime charged in Count(s) \_\_\_\_\_ involve(s) domestic violence.
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):

Other current convictions listed :

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
1 NONE					
3					
4					
5					
6					
7					
8					

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525.
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

2.3 SENTENCING DATA:.....

COUNT NO.	OFFENDER SCORE	SERIOUSNESS	STANDARD RANGE (not	PLUS ENHANCEMENTS*	TOTAL STANDARD	MAXIMUM TERM

		LEVEL	including enhancements)		RANGE (including enhancements)
<u>II</u>	0	I	0-60 days		5 YEARS

\* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present.

Additional current offense sentencing data is attached in Appendix 2.3.

2.4  EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence  above  within  below the standard range for Count(s) \_\_\_\_\_. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney  did  did not recommend a similar sentence.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are  attached  as follows: \_\_\_\_\_

### III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2  The court DISMISSES 1 The defendant is found NOT GUILTY of Counts

### IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

JASS CODE

\$ \_\_\_\_\_ Restitution to:

RTN/RJN

\$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

\$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

(Name and Address--address may be withheld and provided confidentially to Clerk's Office)

PCV \$ \_\_\_\_\_ Victim assessment RCW 7.68.035

CRC \$ 210.00 Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190

Criminal filing fee \$110.00 \_\_\_\_\_ FRC

JUDGMENT AND SENTENCE (JS) (Felony)  
(RCW 9.94A.500, .505)(WPF CR 84.0400 (6/2002))

Page 3 of \_\_\_\_\_

EXHIBIT C  
Page 3 of 13

Witness costs \$ \_\_\_\_\_ WFR  
 Sheriff service fees \$ \_\_\_\_\_ SFR/SFS/SFW/WRF  
 Jury demand fee \$ \_\_\_\_\_ JFR  
 Extradition costs \$ \_\_\_\_\_ EXT  
 Other \$100.00 COLLECTION FEE \_\_\_\_\_

✓ *PUB* \$ 250.00 Fees for court appointed attorney RCW 9.94A.760  
*WFR* \$ \_\_\_\_\_ Court appointed defense expert and other defense costs RCW 9.94A.760  
*FCM/MTH* \$ \_\_\_\_\_ Fine RCW 9A.20.021; [ ] VUCSA chapter 69.50 RCW, [ ] VUCSA additional fine deferred due to indigency RCW 69.50.430  
*CDF/LDI/FCD* \$ \_\_\_\_\_ Drug enforcement fund of RCW 9.94A.760  
*CDF/LDI/FCD* \$ \_\_\_\_\_ Drug enforcement fund of RCW 9.94A.760  
*NTF/SAD/SDI*  
*CLF* \$ \_\_\_\_\_ Crime lab fee [ ] suspended due to indigency RCW 43.43.690  
 \$ \_\_\_\_\_ Felony DNA collection fee [ ] not imposed due to hardship RCW 43.43.(Ch. 289 L 2002 § 4)  
*RTN/RJN* \$ \_\_\_\_\_ Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum) RCW 38.52.430  
 \$ 500.00 Other costs for: JAIL COSTS  
 ✓ \$ 910.00 TOTAL RCW 9.94A.760

[x] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[x] shall be set by the prosecutor.  
 [ ] is scheduled for \_\_\_\_\_

[ ] RESTITUTION. Schedule attached.

[ ] Restitution ordered above shall be paid jointly and severally with:

NAME of other defendant	CAUSE NUMBER	(Victim name)	(Amount-\$)
<i>RJN</i>			

[ ] The Department of Corrections (DOC) may immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602.

[ ] All payments shall be made in accordance with the policies of the clerk and on a schedule established by DOC, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ \_\_\_\_\_ per month commencing \_\_\_\_\_ RCW 9.94A.760.

[ ] In addition to the other costs imposed herein, the court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate. RCW 9.94A.760.

[ ] The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.2 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. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

HIV TESTING. The defendant shall submit to HIV testing. RCW 70.24.340.

4.3 The defendant shall not have contact with Jean King including, but not limited to, personal, verbal, telephonic, written or contact through a third party for 5 years (not to exceed the maximum statutory sentence).

Domestic Violence No-Contact Order or Antiharassment No-Contact Order is filed with this Judgment and Sentence.

4.4 OTHER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4.5 JAIL ONE YEAR OR LESS. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the county jail:

30 days months on Count II \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

Actual number of months of total confinement ordered is: \_\_\_\_\_

All counts shall be served concurrently, except for the following which shall be served consecutively:

The sentence herein shall run consecutively with the sentence in cause number(s) \_\_\_\_\_

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: must be completed by 4/1/05 may be done in 3 day increments

PARTIAL CONFINEMENT. Defendant may serve the sentence, if eligible and approved, in partial confinement in the following programs, subject to the following conditions: \_\_\_\_\_

- work crew RCW 9.94A.725
- home detention RCW 9.94A.731, .190
- work release RCW 9.94A.731

CONVERSION OF JAIL CONFINEMENT (Nonviolent and Nonsex Offenses). RCW 9.94A.680(3). The county jail is authorized to convert jail confinement to an available county supervised community option and may require the offender to perform affirmative conduct pursuant to RCW 9.94A.

ALTERNATIVE CONVERSION. RCW 9.94A.680. 15 days of total confinement ordered above are hereby converted to 120 hours of community restitution (8 hours = 1 day, nonviolent offenders only, 30 days maximum) under the supervision of the Department of Corrections (DOC) to be completed on a schedule established by the defendant's community corrections officer but not less than \_\_\_\_\_ hours per month.

Alternatives to total confinement were not used because of: \_\_\_\_\_

- criminal history
- failure to appear (finding required for nonviolent offenders only) RCW 9.94A.680.

(b) CONFINEMENT. RCW 9.94A.712: The defendant is sentenced to the following term of confinement in the custody of the DOC:

Count \_\_\_\_\_ minimum term \_\_\_\_\_ maximum term \_\_\_\_\_  
Count \_\_\_\_\_ minimum term \_\_\_\_\_ maximum term \_\_\_\_\_

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: \_\_\_\_\_

4.6  COMMUNITY  SUPERVISION  CUSTODY. RCW 9.94A.505, .545. Defendant shall serve 12 months (up to 12 months) in  community supervision or  community custody.

COMMUNITY CUSTODY for count(s) \_\_\_\_\_, sentenced under RCW 9.94A.712, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence.

Defendant shall report to DOC, \_\_\_\_\_  
(address of office) not later than 72 hours after release from custody; and the defendant shall perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC and shall comply with the instructions, rules and regulations of DOC for the conduct of the defendant during the period of community supervision or community custody and any other conditions of community supervision or community custody stated in this Judgment and Sentence. The defendant shall:

remain in prescribed geographic boundaries specified by the community corrections officer       notify the community corrections officer of any change change in defendant's address or employment

Other conditions: SEE ATTACHED APPENDIX H

For sentences imposed under RCW 9.94A.712, other conditions may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

The community supervision or community custody imposed by this order shall be served consecutively to any term of community supervision or community custody in any sentence imposed for any other offense, unless otherwise stated. The maximum length of community supervision or community custody pending at any given time shall not exceed 24 months, unless an exceptional sentence is imposed. RCW 9.94A.589.

The conditions of community supervision or community custody shall begin immediately unless otherwise set forth here: \_\_\_\_\_

4.7 OFF LIMITS ORDER (known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

V. NOTICES AND SIGNATURES

5.1 COLLATERAL ATTACK ON JUDGMENT. Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

5.2 LENGTH OF SUPERVISION. For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5).

5.3 NOTICE OF INCOME-WITHHOLDING ACTION. If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

5.4 RESTITUTION HEARING.

[ ] Defendant waives any right to be present at any restitution hearing (sign initials): \_\_\_\_\_

5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634.

5.6 FIREARMS. You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

Cross off if not applicable:

5.7 SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.130, you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within 30 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must also send written notice within 10 days of moving to the county

sheriff with whom you last registered in Washington State.

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 48 hours excluding weekends and holidays after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require you to list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(7).

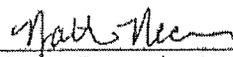
5.8  The court finds that Count \_\_\_\_\_ is a felony in the commission of which a motor vehicle was used. The court clerk is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.

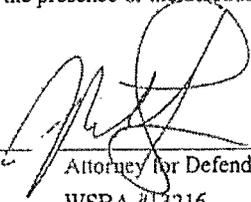
5.9 OTHER: \_\_\_\_\_

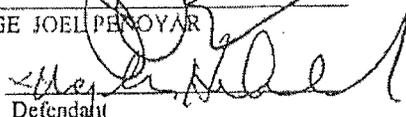
DONE in Open Court and in the presence of the defendant this date: \_\_\_\_\_

10/29/04

JUDGE JOEL PENOYAR

  
Deputy Prosecuting Attorney  
WSBA #10763 30400  
DAVID J. BURKE

  
Attorney for Defendant  
WSBA #13216  
Print name: MICHAEL TURNER

  
Defendant  
Print name: WAYLON J. HUBBARD

Interpreter signature/Print name: \_\_\_\_\_  
I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the \_\_\_\_\_ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

CAUSE NUMBER of this case: 04-1-00153-4

I, VIRGINA LEACH, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: \_\_\_\_\_.

Clerk of said County and State, by: \_\_\_\_\_, Deputy Clerk

**IDENTIFICATION OF DEFENDANT**

SID No. WA22405813  
SID take fingerprint card for State Patrol)

Date of Birth 11/29/79

FBI No 142846FC4

Local ID No. \_\_\_\_\_

PCN No. \_\_\_\_\_

Other \_\_\_\_\_

Alias name, SSN, DOB: \_\_\_\_\_

**Race:**

Asian/Pacific

Black/African-American

Caucasian

Islander

Native American

Other: \_\_\_\_\_

**Ethnicity:**

Hispanic

Non-Hispanic

**Sex:**

Male

Female

**FINGERPRINTS:** I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, \_\_\_\_\_ Dated: 10-29-04

DEFENDANT'S SIGNATURE: Wayne Hall

Left four fingers taken simultaneously

Left  
Thumb

Right  
Thumb

Right four fingers taken simultaneously



JUDGMENT AND SENTENCE (JS) (Appendix 2.4, Findings of Fact/Conclusions Exceptional Sentence)  
(RCW 9.94A.500, .505)(WPF CR 84.0400 (6/2002))

Page \_\_\_\_\_ of \_\_\_\_\_

EXHIBIT C  
Page 10 of 13

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR PACIFIC COUNTY

STATE OF WASHINGTON )  
Plaintiff, ) NO. **04-1-00160-7**  
 ) APPENDIX H  
vs. ) JUDGMENT AND SENTENCE  
~~SARAH R. SANSON,~~ ) ADDITIONAL CONDITIONS  
*Wyloni Hubbard,* ) OF SENTENCE  
Defendant )  
\_\_\_\_\_ )

4.3 Continued: Additional conditions of sentence are:

- Defendant shall serve 12 months in community custody under the Department of Corrections. Defendant shall report to the Department of Corrections, by telephone (360)942-4817 or toll free at 1(888)895-2527, within 72 hours of the commencement of community supervision and the defendant shall comply with all rules, regulations and requirements of the Department of Corrections, and any other conditions of community supervision stated in this/her Judgment and Sentence;
- Defendant shall obey all local, county, state and federal laws;
- Defendant shall not consume, possess, or have under his/her control any alcoholic beverages.
- Defendant shall not consume, possess, or have under his/her control any controlled substances unless otherwise prescribed by a certified physician.
- Defendant shall submit to urinalysis/breathalyzer at the request of his/her CCO.
- Defendant shall obtain alcohol and drug evaluation and follow recommended treatment within 45 days of sentence.
- Defendant shall not possess any firearms.

JUDGMENT AND SENTENCE APPENDIX F-

Pacific County Prosecuting Attorney  
P.O. Box 45  
Courthouse  
South Bend, WA 98586  
Phone: (360) 875-9361  
Fax: (360) 875-9362



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

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.

The defendant is committed for up to thirty(30) days evaluation at Western State Hospital or Eastern State Hospital to determine amenability to sexual offender treatment.

YOU THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections pending delivery of the proper officers of the Secretary 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 this 29 day of October, 2004.

By Direction of the Honorable

JOEL PENOYAR  
JUDGE

*[Signature]*  
CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK

cc: Prosecuting Attorney  
Defendant's Lawyer  
Defendant  
Jail ✓  
Institutions (3)

*SK*

FILED

04 DEC 15 PM 3:54

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR PACIFIC COUNTY

CLERK  
BY *[Signature]* DEPUTY

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

STATE OF WASHINGTON )  
 )  
Plaintiff, )  
vs. )  
 )  
WAYLON J. HUBBARD, )  
 )  
Defendant. )  
\_\_\_\_\_ )

NO. 04-1-00153-4  
ORDER AMENDING  
JUDGMENT AND SENTENCE

THIS CAUSE coming on for hearing on oral motion of Plaintiff for an order amending the Amended Judgment and Sentence entered herein on **October 29, 2004**. IT IS HEREBY ORDERED that the said motion be made and the same is hereby granted that the Amended Judgment and Sentence entered herein on **October 29, 2004**, shall be amended under Section 4.6 to omit 12 months community custody and omit Appendix H; all other conditions shall remain in full force and effect.

DATED this 15 day of December, 2004.

*[Signature]*  
\_\_\_\_\_  
JUDGE

Presented by:  
*[Signature]*  
DAVID J. BURKE, WSB#16163  
Prosecuting Attorney

EXHIBIT D  
Page 1 of 1

75

## Appendix B-- CP 42

STATE OF WASHINGTON }  
COUNTY OF PACIFIC } ss.

I, Virginia A. Leach, County Clerk and Clerk of the Superior Court of Pacific County, Washington, DO HEREBY CERTIFY that this document, consisting of 7 page(s), is a true and correct copy of the original now on file and of record in my office and, as County Clerk, I am the legal custodian thereof.

Signed and sealed at South Bend, Washington this date:

7-13-2016  
Virginia A. Leach, County Clerk

By [Signature] Deputy



FILED

2016 JUL 13 AM 11:59

VIRGINIA LEACH, CLERK  
PACIFIC COUNTY, WA

BY \_\_\_\_\_ DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PACIFIC

STATE of WASHINGTON,

Plaintiff,

vs.

WAYLON JAMES HUBBARD,

Defendant.

Case No.: 04-1-00153-4

FINDINGS OF FACT &  
CONCLUSIONS OF LAW  
OF DEFENDANT'S PETITION  
FOR CERTIFICATE AND  
ORDER OF DISCHARGE  
ENTERED ON MAY 4, 2016

THIS MATTER, having come before the Court on the Defendant's Petition for Certificate and Order of Discharge, pursuant to RCW 9.94A.637(1)(c), the Defendant, WAYLON JAMES HUBBARD, appearing by and through the limited appearance of his attorney of record, SARAH GLORIAN of the Northwest Justice Project, and the Plaintiff, STATE OF WASHINGTON, by and through the Prosecuting Attorney, MARK MCCLAIN; the Court having considered the record and pleadings and being fully advised in the premises, now makes the FOLLOWING:

I. Findings of Fact

1. On October 29, 2004, Mr. Hubbard entered a plea of guilty to one count of Possession of Stolen Property in the Second Degree.

1 2. Mr. Hubbard was sentenced to serve thirty days of confinement, fifteen of which were  
2 converted to 120 hours of community restitution, and twelve months of Community Custody.

3 3. The sentencing court imposed a five-year No Contact Order and additional conditions set  
4 forth in Appendix H.

5 4. On December 15, 2004, the court amended the Judgment and Sentence removing the  
6 twelve months of Community Custody and all conditions set forth in Appendix H.

7 5. The five-year No Contact Order expired by its own terms on or about October 28, 2009.

8 6. On April 6, 2016, Virginia Leach, the Pacific County Superior Court Clerk, signed a  
9 declaration confirming Mr. Hubbard has paid all legal financial obligations ordered.

10 7. The account receivable was closed February 25, 2013.

11 8. Exhibits A and B of the Petition for Certificate and Order of Discharge, combined, sets  
12 forth credible documentation Mr. Hubbard completed 120 hours of community restitution.

13 9. Due to the amended Judgment & Sentence, Department of Corrections terminated  
14 Community Custody on February 24, 2005. As of that date, Mr. Hubbard had completed 55  
15 hours (Exhibit A).

16 10. Pacific Aging Council Endeavor (PACE), the non-profit where Mr. Hubbard performed  
17 his community restitution, closed in August 2011. On March 23, 2016, Shelley Steveson, the  
18 individual who supervised the completion of Mr. Hubbard's community restitution at PACE,  
19 signed a declaration stating under penalty of perjury that during her employment at PACE, she  
20 recalls Mr. Hubbard performing community restitution and is confident he completed the 120  
21 hours (Exhibit B).

22 11. The court finds the statements made by Ms. Steveson to be credible.

23 12. As of February 25, 2013, Mr. Hubbard completed all sentencing requirements.  
24

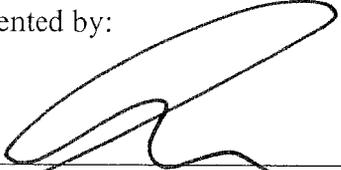


22. Mr. Hubbard has met the statutory requirements and intent of RCW 9.94A.637(1)(c).

23. Mr. Hubbard's Petition for Certificate and Order of Discharge is granted as of May 4, 2016 and the effective date is retroactive to when he completed his sentence requirements on February 25, 2013.

Dated: 7/13/16

  
JUDGE

Presented by: 

Presentation waived / Approved as to form only:

Sarah Glorian / WSBA No. 39914  
Limited Appearance for Defendant

Mark McClain / WSBA No. 30909  
Prosecuting Attorney

**PACIFIC COUNTY PROSECUTOR**

**October 10, 2016 - 10:33 AM**

**Transmittal Letter**

Document Uploaded: 5-490293-Appellant's Brief~2.pdf

Case Name: State of Washington v. Waylon James Hubbard

Court of Appeals Case Number: 49029-3

**Is this a Personal Restraint Petition?** Yes  No

**The document being Filed is:**

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: \_\_\_\_\_

Answer/Reply to Motion: \_\_\_\_\_

Brief: Appellant's

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_\_

Hearing Date(s): \_\_\_\_\_

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: \_\_\_\_\_

**Comments:**

No Comments were entered.

Sender Name: Bonnie Walker - Email: [bwalker@co.pacific.wa.us](mailto:bwalker@co.pacific.wa.us)

A copy of this document has been emailed to the following addresses:

[SarahG@nwjustice.org](mailto:SarahG@nwjustice.org)

THE COURT OF APPEALS OF THE STATE OF WASHINGTON, DIVISION II  
PACIFIC COUNTY, )

No. 49029-3-II

)  
) Respondent/Cross-Appellant, )

CERTIFICATE OF SERVICE

)  
WAYLON JAMES HUBBARD, )

)  
) Appellant/Cross-Respondent. )

\_\_\_\_\_  
STATE OF WASHINGTON )

) ss.

County of Pacific )

The undersigned being first duly sworn on oath deposes and states: That on the 10<sup>th</sup> day of October, 2016, affiant delivered by electronic mail a true and correct copy of Respondent/Cross-Appellant's Brief to:

David Ponzoha  
Court of Appeals  
Division II  
950 Broadway, Ste 300  
Tacoma, WA 98402-4454

Sarah Glorian  
Northwest Justice Project  
218 N Boradway St STE1  
Aberdeen WA 98520-3998  
sarahg@nwjustice.org

This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington.

Dated this 10<sup>th</sup> day of October, 2016, in South Bend, Washington.



Bonnie Walker  
Paralegal

**PACIFIC COUNTY PROSECUTOR**

**October 10, 2016 - 10:34 AM**

**Transmittal Letter**

Document Uploaded: 5-490293-20161010\_101225.pdf

Case Name: State of Washington v. Waylon James Hubbard

Court of Appeals Case Number: 49029-3

**Is this a Personal Restraint Petition?** Yes  No

**The document being Filed is:**

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: \_\_\_\_\_

Answer/Reply to Motion: \_\_\_\_\_

Brief: \_\_\_\_\_

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_\_

Hearing Date(s): \_\_\_\_\_

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: Certificate of Service

**Comments:**

No Comments were entered.

Sender Name: Bonnie Walker - Email: [bwalker@co.pacific.wa.us](mailto:bwalker@co.pacific.wa.us)

A copy of this document has been emailed to the following addresses:

[SarahG@nwjustice.org](mailto:SarahG@nwjustice.org)