



STATE OF WASHINGTON  
**DEPARTMENT OF CORRECTIONS**  
**STAFFORD CREEK CORRECTIONS CENTER**  
 191 Constantine Way, MS WA-39 - Aberdeen, Washington 98520  
 (360) 537-1800  
 FAX: (360) 537-1807

No. 96599-4

August 28, 2017

TO: All Offenders  
 FROM: *Jeneva Cotton*  
 Jeneva Cotton, Associate Superintendent  
 RE: Modified Lockdown

On Monday 8/28/17 at approximately 1045 there was a disturbance in G - Unit. There were minimal injuries.

G - Unit will remain on full lockdown while an investigation is conducted. The rest of the facility will remain on modified lockdown with bathroom use only until further notice.

Plans have been created to accommodate feeding, medication delivery, and other necessities. Please communicate with the staff in your unit if you have any concerns. Updates will be provided as necessary.

Thank you for your cooperation.

*ATTN: Clerk of the Court  
 Mr. Derek Byrne*

*Sir, here is a copy of the notice given to me as to status of the prison on the day I was to mail-out my legal mail so it could get to the Court on time so please I hope this enough to explain as to the day or two delay, this situation was beyond my control..*

*Thank-you  
 JCS*

*Sir, I would appreciate a response as to status of my case.  
 Thankyou*

*P/M: 8/30/17*

FILED  
COURT OF APPEALS  
DIVISION II

2017 AUG 31 AM 11:41

No. 49284-9-II  
STATE OF WASHINGTON

BY AP  
DEPUTY

No. 96599-4

COURT OF APPEALS FOR THE STATE OF WASHINGTON  
DIVISION TWO

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ARNOLD MAFNAS CRUZ

Appellant,

v.

STATE OF WASHINGTON,

Appellee.

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STATEMENT OF ADDITIONAL GROUNDS, RAP 10.10

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name: Arnold Cruz

DOC# 791749, Unit H5B63-U

Stafford Creek Corrections Center

191 Constantine Way

Aberdeen, WA 98520-9504

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
FOR DIVISION TWO

ARNOLD MAFNAS CRUZ ) Case No.: 49284-9-II  
Petitioner, )  
vs. ) **STATEMENT OF ADDITIONAL**  
STATE OF WASHINGTON ) **GROUND, PURSUANT TO**  
Respondent ) **RAP 10.10**  
)  
)  
)

I, Arnold Cruz, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in the brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

**Additional Ground 1**

RCW 9.94A.525(7) - Offender Score  
A correct offender score must be calculated before a presumptive or exceptional sentence is imposed  
"State v Tili, 148 Wn 2d 350, 358, 60 P 3d 1192 (2003).  
Offender score calculations are reviewed de novo.  
State v Moeurn, 170 Wn 2d 169, 172, 240 P 3d 1158 (2010).

Sentencing errors resulting in unlawful sentences may be  
raised for the first time on appeal. State v Bahl, 164 Wn 2d  
739, 744, 193 P 3d 678 (2008). Former § 9.94A.360(ii) required  
all adult convictions served currently to be treated as [one]  
offense. The court noted that the current version of § 9.94A.  
360(ii) also required all adult convictions served currently  
to be counted as one offense under new statute (See Appendix  
A, Exhibit 1).

### Additional Ground 2

"The Double Jeopardy Clause"

Fifth Amendment states that no person shall "be subjected  
for the same offense to be twice put in jeopardy of life or  
limb."

The Clause protects against:

- (1) a second prosecution for the same offense after acquittal.
- (2) a second prosecution for the same offense after a  
conviction;
- (3) multiple punishment for the same offense.

### Additional Ground 3

"Prosecutorial Misconduct"

The prosecutorial misconduct inquiry consists of two prongs:

first, whether the prosecutor's comments were improper ... and, if so, whether the improper comments caused prejudices.

(See Appendix i)

Additional Ground 4

Please see the brief summary attached to this statement,  
in Appendix A.

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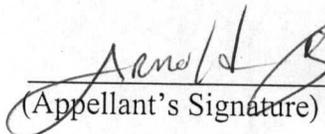
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If there are additional grounds, a brief summary is attached to this statement.

DATED this 28 day of August, 2017.

  
(Appellant's Signature)

Arnold Cruz  
(Appellant's Printed Name)

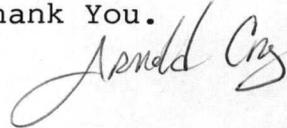
Stafford Creek Correction Center  
191 Constantine Way, Unit# H5B63-U  
Aberdeen, Washington 98520

I, Arnold Cruz, respectfully ask this Honorable Court not to hold me to the same stringent standards as a professional attorney, as I have no legal education.

Mr Cruz has added a brief summary to the three additional grounds which were not included in his brief filed by his attorney, in which Mr Cruz would like to bring to the attention of this Court and make it a record.

These brief summaries are in Appendix A. Mr Cruz requests that his case be remanded back to trial court for reversal of all counts and or re-sentenced to a correct offender score.

Thank You.

A handwritten signature in cursive script that reads "Arnold Cruz". The signature is written in dark ink and is positioned below the typed text "Thank You."

APPENDIX — A

## BRIEF SUMMARY

### ADDITIONAL GROUNDS 1

#### RCW 9.94A.525 - Offender Score

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of the sentencing for the offense which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(i) Prior offenses which were found under RCW 9.94A.589 (1)(2), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine, with respect to other prior adult offenses for which sentences were served concurrently, or Prior Juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589.

Mr Cruz asks this Honorable Court to remand his case back to trial court and to be sentenced with the proper facts. (Offender Score).

Additional Grounds 1 (continued)

In general, a defendant cannot waive a challenge to a miscalculated offender score. A sentence based on an improperly calculated score lacks statutory authority. A sentence that lack statutory authority authority cannot stand. A sentence based upon an incorrect offender score is a fundamental defect that inherently results in a miscarriage of justice. *State v Wilson*, 151 Wn App 1044, 2009 Wash App LEXIS 2067 (2009).

Mr Cruz respectfully asks this Honorable Court to examine the Judgment and Sentence document in Appendix B, Exhibit 1, and directs your attention as to the dates at sentencing in said document date of 2 convictions/sentenced on 1/11/99 count as 1 point, next date of 10/20/00 3 convictions of 1 point, as under RCW 9.94A.589.. Next 3/08/12 count as i point as per 9.94A.589. Last 7/29/16, which brings Mr Cruz's total points to 4 points., way below the 10 points Mr Cruz was sentenced to on (CP 1606 J&S).

## BRIEF SUMMARY

### ADDITIONAL GROUNDS 2

#### "The Double Jeopardy Clause"

If legislative intent is ambiguous, the Blockburger test determines whether multiple charges constitute the same offense and are, therefore, barred by double jeopardy. Absent legislative intent to impose cumulative punishments, the Blockburger test also determines whether one offense is a lesser-included offense of another. When the government seeks to prove that a single act or occurrence results in multiple violations of the same statute, the rule of lenity requires only one punishment absent a showing of legislative intent to impress multiple punishments.

Multiplicitous indictments/charging information are generally improper because they may prejudice the defendant or result in multiple sentences for a single offense in violation of Double Jeopardy. *US v Bloch*, 8 F 3d 638, 643-44 (7th Cir 2013).

*US v Kerley*, 544 F 3d 172, 178-79 (2nd Cir 2008) (multiplicitous indictment violated Double Jeopardy Clause by punishing single offense multiple times.)

*US v Tann*, 577 F 3d 533, 543 (3rd Cir 2009) (multiplicitous indictment "seriously affect the fairness and integrity" of trial).

*US v Parker*, 508 F 3d 434, 439-4 (7th Cir 2007) (multiplicitous indictment violated Double Jeopardy Clause by punishing single offender multiple times).

ADDITIONAL GROUNDS 2 (continued)

US v Swafford, 512 F 3d 833, 846 (6th Cir 2008) (multiplicitous indictment violated Double Jeopardy Clause by punishing same behavior multiple times.)

US v Miller, 576 F 3d 528, 531 (5th Cir 2009) (multiplicitous indictment violated prejudiced defendant by significantly adding to sentence.)

US v Bonilla, 579 F 3d 1233, 1242-43 (11th Cir 2009) (multiplicitous indictment violated Double Jeopardy Clause by punishing same conduct twice.) (multiplicitous indictment by remedied by vacating multiplicitous convictions.)

In United States v Hudson, however, the Supreme Court held that bar of double jeopardy "protects only against the imposition of multiple criminal punishments for the same offense."

## BRIEF SUMMARY

### ADDITIONAL GROUNDS 3

#### Prosecutorial Misconduct

In an age of decreasing judicial supervision over our criminal justice system, it is more important than ever to hold prosecutors to exacting standards of fairness, legality, and ethics. Despite the theoretically adversarial nature of our legal system, the prosecutor is among the most important arbiters of justice. Prosecutorial misconduct, however, is rampant even if one looks only at the reported cases, the quantity and variety of alleged misconducts is staggering. The reported cases constitutes only a very small percentage of actual instances of misconduct, since many defense lawyers are apt to shut their eyes to the misdeeds of their brother's and sister's at the bar. "What do you want to get another lawyer in trouble for?"

The prosecutorial misconduct inquiry consists of two prongs.

First, whether the prosecutor's comments were improper and, if so, whether the improper comment caused prejudice. *State v Lindsey*, 180 Wn 2d 423, 430, 326 P 3d 125 (2014). However, when the defendant fails to object to the prosecutor's conduct or requests a curative instruction at trial, as is the case here, the misconduct is reversible error only if the defendant shows the misconduct was flagrant and ill-intended that an instruction could not have cured the resulting prejudice.

ADDITIONAL GROUNDS 3 (continued)

Mr Cruz argues several of the prosecutor's statements in closing argument shifted the burden of proof to the defense. He argues the remarks suggested he was guilty because there was no evidence to prove his innocence.

The prosecutor may not shift the burden of proof to the defendant.

In re Pers Restraint of Glassmann, 175 Wn 2d 696, 713, 286 P 3d 673 (2012). Because the defendant has no duty to present evidence, it may be misconduct for a prosecutor to agree that the defense did not call witnesses or explain the factual basis of the charges. Anderson, 153 Wn App at 428; State v Jackson, 150 Wn App 877, 885, 209 P 3d 718 (1991) A prosecutor may not imply that a defendant is guilty because he or she failed to explain the states evidence.

State v Fleming, 83 Wn App 209, 215, 921 P 3d 1076 (1996).

It is improper for a prosecutor during closing argument to make statements or submit to the jury facts that are not supported by the evidence. Glasmann, 175 Wn 2d at 704-5, State v Boehning, 127 Wn App 511, 519, 711 P 3d 899 (2005).

Here are statements made by prosecutor, Ms Christensen, at closing arguments.

CP at 5016-5017 "My impression from Arnold Cruz questioning via Mr Weaver, of Robert Pry, is that he suggests that it's this moment when Tiny and Bubba show up at Zak Bonds' that they get rid of the body."

"I think it is noteworthy that the detective didn't find Robert Hood's body in the barrel at 330 Santa Marie because

ADDITIONAL GROUNDS 3 (continued)

they were tracking down the barrel or because they were tracking Zak. They found Mr Hood's body because they were tracking Arnold Cruz, tracking him from witness to witness.

(Ms Christensen) at CP at 5028. "So I don't have to prove that for instance, David Ford is, beyond reasonable doubt, truthful and accurate in his testimony.

(Ms Christensen) at CP 5028. "So obviously credibility is going to be a major part of your consideration in this case. Credibility is not one of the elements that the State has to prove beyond reasonable doubt."

(Ms Christensen) at CP 5037. "Michelle Lamb, you know, I'm not going to spend a whole lot of time on her." [She's not getting any deal]. The first statement she gave police was totally false. She says "Oh, this car just showed up in my driveway. I don't know anything about it."

(Ms Christensen) at CP 5038. "So I know in the beginning and opening obviously opening is just opening, just argument, not evidence. But the deal was made, in fact, that all of the State's witnesses are drug addicts and getting sweetheart deals. Being a drug addict is not relevant to your consideration. Only a witnesses ability to perceive is relevant for your consideration and of the 62 witnesses, we have five getting deals."

(Ms Christensen) at CP 5062. "As to Mr Cruz, you have James Jacob's testimony that his main concern was keeping the young man out of prison. He doesn't express concern for

ADDITIONAL GROUNDS 3 (continued)

Mr Hood or for Mr Hood's family as he's dragging Mr Hood's body all over the place in a barrel."

(Ms Christensen) at CP 5065-5068. Ms Christensen says the he (defendant Mr Cruz) knew that Robert Pry had committed the murder, or as an accomplice. The proof that "He knew" both Robert Fry had committed the murder and also that he was being ... that also, the other person actually had. So Robert Pry is guilty of the murder. He knows that his being sought for it.

(Ms Christensen) at 5066. "We know that Mr Cruz knew there had been a murder because he had the body. This bloodied body that was given to him by Pry. He knows that a murder has been committed. He knows that Pry is the one that did that, assisted in that."

Mr Cruz assert that if these statements are flagrantly prejuduized him to a fair trial.

The prosecutor may not vouch for the credibility of government witness or allude to his or her own personal integrity or Oath of Office to bolster the government case.

The [prosecutor] may not appeal to jurors to act as a conscious for the community or make other remarks likely to inflame the passions of the jurors if the remarks are intended to lead to conviction for an improper reason.

Mr Cruz asks this Honorable Court to conduct the two part inquiry upon reviewing the Prosecutor's conduct, to review the propriety of prosecutorial conduct de novo. If

ADDITIONAL GROUNDS 3 (continued)

misconduct occurred, then Mr Cruz requests this Court to reverse the conviction, as Mr Cruz is denied a fair trial.

A defendant establishes prejudice by showing a substantial likelihood that the misconduct affected the jury verdict. In determining whether prosecutorial misconduct warrants reversal, an appellate court considers its prejudicial nature and cumulative effect. The appellate court reviews a prosecutor's remarks during closing argument in the context of the total argument, the issues in the case, the evidence addressed in the argument, and the jury instructions. The appellate court presumes that the jury followed the court's instructions. *State v Allen*, 178 Wn App 893, 317 P 3d 494, 2014 Wash App LEXIS 54 (Wash Ct App 2014).

"Prosecutor's comments in closing argument were "misleading" and "improper." *Kojayan*, 8 F 3d at 1322-1323. *Kojayan* is an excellent example of the extent to which a prosecutor is willing to go to cover his/her own misconduct, and is re-examined.

"Miami Method" is to overwhelm the jury with numerous bits of phony "evidence," so that the prosecutors could eventually convince the jurors that all of the "evidence" was true.

Considering the lack of other evidence of guilt - violated Mr Cruz's right to due process by making his criminal trial "fundamentally unfair."

ADDITIONAL GROUNDS 3 (continued)

A procession of Supreme Court decisions have recognized that the promises of the Fourth, Fifth and Sixth Amendments must be more than words, and that the Fourteenth Amendment promise of due process of law must carry the basic guarantees of the Bill of Rights to defendants in State trials.

US v Diaz-Castro, 752 F 3d 101, 110 (1st Cir 2014) (appellate courts review de novo whether challenged comment is improper.); US v Collins, 401 F 3d 212, 215 (4th Cir 2005) (same) amended by 415 F 3d 304 (4th Cir 2005); US v Meza, 701 F 3d 411, 429 (5th Cir 2012) (same); US v Boyd, 640 F 3d 657, 669 (6th Cir 2011) (same); US v Thomas, 664 F 3d 217, 224-25 (8th Cir 2011) (Prosecutor's statement "If this isn't a first degree murder case, ladies and gentlemen, I don't know what is," improper.)

US v Wright, 625 F 3d 583, 611-12 (9th Cir 2010) (Prosecutor's numerous references to his own impression, including "I think what the defendant said ... was so completely illogical it was absolutely ridiculous," were improper because personal opinion.)

US v Mueller, 74 F 3d 1152, 1157 (11th Cir 1996) (Prosecutor's statement that defendant lied in various forms improper.)

US v Brown, 508 F 3d 1066, 1076 (DC Cir 2007) (Prosecutor's expression of personal belief regarding defendant's guilt improper.)

APPENDIX — B

EXHIBIT 1

22  
DOC  
JAIL  
CS

RECEIVED AND FILED  
IN OPEN COURT  
JUL 29 2016  
DAVID W. PETERSON  
KITSAP COUNTY CLERK

16-9-01151-6  
IN THE KITSAP COUNTY SUPERIOR COURT

STATE OF WASHINGTON, )  
 ) No. 15-1-01503-4  
Plaintiff, )  
 ) JUDGMENT AND SENTENCE  
v. )  
 )  
ARNOLD MAFNAS CRUZ, )  
Age: 47; DOB: 10/22/1968, )  
Defendant. )

A sentencing hearing was held in which the Defendant, the Defendant's attorney, and the Deputy Prosecuting Attorney were present. The Court now makes the following findings, judgment and sentence. The Defendant was found guilty, by  plea  jury verdict  bench trial  trial upon stipulated facts, of the following-

21. CURRENT OFFENSE(S) <i>Asterisk (*) denotes same criminal conduct (RCW 9.94A.525).</i>	RCW	Date(s) of Crime from to	The Special Allegations* listed below were pled and proved
I Rendering Criminal Assistance in the First Degree (Non-Relative)	9A.76.070.2A	12/17/2015 12/30/2015	
II Removal or Concealment of Deceased Body (before 6-9-2016)	68.50.050	12/17/2015 12/30/2015	

22 CRIMINAL HISTORY (RCW 9.94A.525) <i>Asterisk (*) denotes prior convictions that were same criminal conduct.</i>	Date of Crime	Date of Sentence	Sentencing Court	Juv (x)
VUCSA (Possession of Methamphetamine)	02/27/15	7/29/16	Kitsap County	
Bail Jumping -felony	04/29/15	7/29/16	Kitsap County	
Possession of Stolen Property 2nd Degree	12/09/11	03/08/12	Kitsap County	
VUCSA (Possession of Methamphetamine)	02/04/11	03/08/12	Kitsap County	

JUDGMENT AND SENTENCE; Page 1  
(Form revised May 3, 2016)



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SUB(153)

22 CRIMINAL HISTORY (RCW 9.94A.525) <i>Asterisk (*) denotes prior convictions that were same criminal conduct.</i>	Date of Crime	Date of Sentence	Sentencing Court	Juv (x)
VUCSA (Possession of Methamphetamine)	05/16/05	12/09/05	Kitsap County	
**Prison release date 5/7/08				
VUCSA (Manufacture of Methamphetamine)	09/19/00	10/20/00	Kitsap County	
VUCSA (Possession of Methamphetamine w/Intent)	09/19/00	10/20/00	Kitsap County	
Unlawful Possession of Firearm 1st Degree	09/19/00	10/20/00	Kitsap County	
Unlawful Possession of Firearm 2nd Degree	11/24/98	01/11/99	Kitsap County	
Residential Burglary	06/12/98	01/11/99	Kitsap County	

23 SENTENCING DATA	Count	Offender Score	Seriousness Level	Standard Range	Days (x)	Mo. (x)	Special Allegations Type*	Total Standard Range (Mo.)	Maximum Term
I.	10	V		72 to 96	-	X			10 years
II.	N/A	GM		0-364	X	-			364 days

Defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525

\*SPECIAL ALLEGATION KEY (RCW's)- F=Firearm (9.94A.533); DW=Deadly Weapon (9.94A.602,533); DV=Domestic Violence (10.99.020); SZ=School Zone (69.50.435,533); SM=Sexual Motivation (9.94A.835 and 9.94A.533); VH=Vehicular Homicide Prior DUI: (46.61.520,505); CP=Drug crime at Corrections Facility (9.94A.837); JP=Juvenile Present at manufacture (9.94A.836); P=Predatory (9.94A.836); <18=Victim Under 15 (9.94A.837); DD=Victim is developmentally disabled, mentally disordered, or a fall elder or vulnerable adult (9.94A.838, 9A.44.010); CSG=Criminal Street Gang Involving a Minor (9.94A.833); AE=Endangerment While Attempting to Elude (9.94A.834).

CONFINEMENT/STATUS

- 43-FIRST-TIME OFFENDER. RCW 9.94A.030, 9.94A.650. The Defendant is a First Offender. The Court waives the standard range and sentences the Defendant within a range of 0-90 days.
- 44-CHEMICAL DEPENDENCY-The Court finds the Defendant has a chemical dependency that contributed to the offense(s).
- 45-PRISON-BASED DOSA-SPECIAL DRUG OFFENDER SENTENCING ALTERNATIVE. RCW 9.94A.660. The standard range is waived and the Court imposes a sentence of one-half the midpoint of the standard range, or 12 months, whichever is greater.
- 46-RESIDENTIAL CHEMICAL DEPENDENCY TREATMENT-BASED DOSA. RCW 9.94A.660. The standard range is waived and the Court imposes a sentence as outlined in the attached ADDENDUM RE: RESIDENTIAL DOSA.
- 47-WORK ETHIC CAMP. RCW 9.94A.690, 72.09.410. The Court finds that the Defendant is eligible and is likely to qualify for work ethic camp. Upon completion of work ethic camp, Defendant shall be released on community custody for any remaining time of total confinement, subject to conditions. Violation of the conditions of community custody may result in a return to total confinement for the balance of Defendant's remaining time of total confinement.
- 24-EXCEPTIONAL SENTENCE-Substantial and compelling reasons exist justifying a sentence  above  below the standard range,  within the standard range for Count  but served consecutively to Count(s)  or  warranting exceptional conditions of supervision for Count(s) .

JUDGMENT AND SENTENCE; Page 2  
(Form revised May 3, 2016)



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The Prosecutor  did  did not recommend a similar sentence.  The exceptional sentence was stipulated by the Prosecutor and the Defendant. Findings of Fact and Conclusions of Law entered in support of the exceptional sentence are incorporated by reference.  
 43-PERSISTENT OFFENDER-The Defendant is a Persistent Offender and is sentenced to life without the possibility of early release. RCW 9.94A.570.

COURT'S SENTENCE:		
COUNT I 96	<input type="checkbox"/> Days <input checked="" type="checkbox"/> Mo.	COUNT <input type="checkbox"/> Days <input type="checkbox"/> Mo.
COUNT <input type="checkbox"/> Days <input type="checkbox"/> Mo.	COUNT II 364	Days with 184 Days Served for 2 Years
COUNT <input type="checkbox"/> Days <input type="checkbox"/> Mo.	COUNT <input type="checkbox"/> Days with	Days Served for <input type="checkbox"/> Years
COUNT 12 months + 1 day	COUNT 12 months + 1 day	COUNT 6 months + 1 day
PRISON-BASED DOSA- COUNT	Months	Actual Time to be served- Months
PRISON-BASED DOSA- COUNT	Months	Actual Time to be served- Months
PRISON-BASED DOSA- COUNT	Months	Actual Time to be served- Months

If MULTIPLE COUNTS-Total confinement ordered: 4 months + 180 days  
COUNTS SERVED-  Concurrent  Consecutive  Firearm and Deadly Weapon enhancements served consecutive; the remainder concurrent.  Sexual Motivation enhancements served consecutive; the remainder concurrent.  VUCSA enhancements served  consecutive  concurrent; the remainder consecutive.

- 48-CONFINEMENT ONE YEAR OR LESS-Defendant shall serve a term of confinement as follows:  
 JAIL ALTERNATIVES/PARTIAL CONFINEMENT. RCW 9.94A.030(31). If the defendant is found eligible, the confinement ordered may be converted to-Work Release, RCW 9.94A.731 (Note: the Kitsap County Jail has the discretion to have the Defendant complete work release at the Kitsap County Jail or Peninsula Work Release), Home Detention, RCW 9.94A.731, 190, or Supervised Community Service or Work Crew, RCW 9.94A.725 at the discretion of the Kitsap County Jail.
- STRAIGHT TIME. The confinement ordered shall be served in the Kitsap County Jail, or if applicable under RCW 9.94A.190(3) in the Department of Corrections.
- 49-CONFINEMENT OVER ONE YEAR-Defendant is sentenced to the above term of total confinement in the custody of the Department of Corrections.
- OTHER SENTENCES-This sentence shall be served  consecutive  concurrent to sentence(s) ordered in cause number(s) 15-1-00436-4
- CREDIT FOR TIME SERVED. RCW 9.94A.505. Defendant shall receive credit for time served prior to sentencing solely for this cause number as computed by the jail unless specifically set forth-  days.
- 44-NO CONTACT ORDER-Defendant shall abide by the terms of any no contact order issued as part of this Judgment and Sentence.

SUPERVISION

- 44-COMMUNITY CUSTODY - SENTENCES OTHER THAN DOSA, SSOA AND WORK ETHIC CAMP. RCW 9.94A.505, 701, 702, 704, 706. Defendant shall be supervised for the longest time period checked in the table below. Defendant shall report to DOC in person no later than 72 hours after release from custody and shall comply with all conditions stated in this Judgment and Sentence, including those checked in the SUPERVISION SCHEDULE, and other conditions imposed by the court or DOC during community custody (and supervised probation if ordered). First Offenders-RCW 9.94A.650. If Defendant is sentenced as First Offender, the Defendant may be supervised for up to 6 months; and if treatment is ordered, community supervision may include up to the period of treatment

JUDGMENT AND SENTENCE; Page 3  
(Form revised May 3, 2016)



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but not exceed 1 year.

Community Custody Is Ordered for the Following Term(s):	
For offenders sentenced to the custody of DOC (total term of confinement 12+ months or more):	
<input type="checkbox"/> COUNT(S) _____	36 months for: Serious Violent Offenses; Sex Offenses (including felony Failure to Register as a Sex Offender if the defendant has at least one prior felony failure to register conviction);
<input type="checkbox"/> COUNT(S) _____	18 months for Violent Offense
<input type="checkbox"/> COUNT(S) _____	12 months for: Crimes Against Person; felony offenses under chapter 69.50 or 69.52 RCW; felony Failure to Register as a Sex Offender (if the defendant has no prior convictions for failure to register)
For offenders sentenced to a term of one year or less:	
<input type="checkbox"/> COUNT(S) _____	12 months for: Violent Offenses; Crimes Against Persons; felony offenses under chapter 69.50 or 69.52 RCW; Sex Offenses; felony Failure to Register as a Sex Offender (regardless of the number of prior felony failure to register convictions).
• Community custody for sex offenders may be extended for up to the statutory maximum term.	
• For sex offenses, defendant shall submit to electronic home detention if imposed by DOC.	
Supervised Probation is Ordered for Gross Misdemeanor and Misdemeanor convictions in this Judgment and Sentence, to be administered by the DOC, for:	
<input type="checkbox"/> COUNT(S) _____	<input type="checkbox"/> 12 months <input type="checkbox"/> 24 months <input type="checkbox"/> months

- 48-WORK ETHIC CAMP-COMMUNITY CUSTODY. RCW 9.94A.690, 72.09.410. Upon completion of the work ethic camp, the Defendant shall be on community custody for any remaining time of total confinement. Defendant shall comply with all conditions stated in this Judgment and Sentence, including those checked in the SUPERVISION SCHEDULE, and other conditions imposed by the court or DOC during community custody. Violation of the conditions may result in a return to total confinement for the balance of the Defendant's remaining time of confinement.
- 49-PRISON-BASED DOSA-COMMUNITY CUSTODY. RCW 9.94A.660. Defendant shall serve the remainder of the midpoint of the standard range in community custody. Defendant shall undergo and successfully complete a substance abuse treatment program approved by the division of alcohol and substance abuse of the Dept. of Social and Health Services. Defendant shall report to the DOC in person not later than 72 hours after release from custody and shall comply with all conditions stated in this Judgment and Sentence including those checked in the SUPERVISION SCHEDULE, and other conditions imposed by the court or DOC during community custody.
- 47-ADDITIONAL CONFINEMENT UPON VIOLATION OF DOSA SENTENCE CONDITIONS-If DOC finds that the Defendant has willfully violated the conditions of the drug offender sentencing alternative program, DOC may reclassify the Defendant is subject to a first or second violation hearing and DOC finds that the Defendant committed the violation, the Defendant may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.633. Further, as in any case, if the Defendant has not completed his or her maximum term of total confinement and is subject to a third violation hearing and DOC finds that the Defendant committed the violation, DOC may return the Defendant to a state correctional facility to serve up to the remaining portion of the Defendant's sentence. RCW 9.94A.714.
- 48-ADDITIONAL TERM OF COMMUNITY CUSTODY UPON FAILURE TO COMPLETE OR TERMINATION

JUDGMENT AND SENTENCE; Page 4  
(Form revised May 3, 2016)



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COURT OF APPEALS  
DIVISION II

DECLARATION OF SERVICE BY MAIL  
GR 3.1

2017 AUG 31 AM 11:41

STATE OF WASHINGTON  
BY AP  
DEPUTY

I, ARNOLD CRUZ, declare and say:

That on the 29<sup>th</sup> day of August, 2017, I deposited the following documents in the Stafford Creek Correction Center <sup>Legal Mail</sup> system, by First Class Mail pre-paid postage, under cause No. 49284-9-II:

- 1) STATEMENT OF ADDITIONAL GROUNDS, RAP 10.10 with Appendix A, Exhibit 1 and Appendix B, Exhibit 1 attached.

Addressed to: WASHINGTON STATE COURT OF APPEALS, DIV TWO  
950 Broadway, Ste 300, Tacoma, WA 98402; and also addressed to the following:

Randall Sutton  
Kitsap Co Prosecutor's Office  
614 Division Street  
Port Orchard, WA 98366

Ms Lila Silverstein  
Washington Appellate Project  
1511 3rd Ave, Ste 701  
Seattle, WA 98101-3647

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

DATED THIS 29<sup>th</sup> day of August, 2017, in the City of Aberdeen, County of Grays Harbor, State of Washington.

Arnold Cruz  
Signature

Arnold Cruz  
Print Name

DOC 791749 UNIT H5B63-U  
STAFFORD CREEK CORRECTIONS CENTER  
191 CONSTANTINE WAY  
ABERDEEN WA 98520

Notice:  
Facility in lock down  
SCT: staff refused  
to process this through  
legal mail, so I am  
sending it ~~regular~~ <sup>Amc</sup> ~~cert~~ <sup>Express</sup>  
Please A Response to  
State. Thank