

No. 96695-8

NO. 77047-1-I

**COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

GAIL ANN BRASHEAR,

Petitioner.

RESPONSE OF
INDETERMINATE
SENTENCE REVIEW
BOARD

Respondent, the Indeterminate Sentence Review Board (ISRB or Board), responds to Gail Brashear's personal restraint petition pursuant to RAP 16.9. Brashear was sentenced in 1997 to a total confinement term of 614 months in prison for committing first degree murder, first degree assault and first degree burglary, committed when she was 15 years of age. In response to *Miller v. Alabama*, the Washington Legislature enacted RCW 9.94A.730 which allows a juvenile convicted who has not been convicted of aggravated first-degree murder to petition for early release after serving no less than twenty years confinement. Brashear now claims the Board abused its discretion by denying her release pursuant to RCW 9.94A.730.

I. BASIS FOR CUSTODY

Gail Brashear is in the custody of the Washington Department of Corrections and is currently incarcerated at the Washington Corrections Center for Women pursuant to the valid judgment and sentence of the

Snohomish County Superior Court. She was convicted by guilty plea to first degree murder (count I), first degree assault (count II) and first degree burglary (count III) with a special finding that she was armed with a deadly weapon on count II and that she was armed with a firearm on counts I and III. Exhibit 1, Judgment and Sentence, *State v. Brashear*, Snohomish County Cause No. 96-1-01273-9, at 1. On May 7, 1997, the court (the Honorable Larry E. McKeeman) sentenced Brashear to 407 months on count I, 147 months on count II, and 108 months on count III. *Id.* at 5. The court ordered all counts be served concurrently except for counts I and II and the deadly weapon/firearm enhancement in count III. Exhibit 1, at 5. Brashear's total confinement term came to 614 months. *Id.*

On April 12, 2017, the Board held a hearing regarding Brashear's petition for release pursuant to RCW 9.94A.730. Exhibit 2, ISRB Decision and Reasons. Following the hearing the Board found Brashear not releasable and indicated she could re-petition the Board in May 2022. *Id.* Brashear's earned early release date is October 21, 2041. Exhibit 3, OMNI Legal Face Sheet, at 1.

II. STATEMENT OF THE CASE

A. Facts of the Crime

The facts of Brashear's crime taken from the Department's Criminal History Summary are as follows:

Gail Brashear and three other juveniles had been camping near Granite Falls, Snohomish, Washington. They had run out of fresh water and decided to steal a vehicle from someone. One of the male juveniles, Clayton Gagnier, had a .380 handgun and another male juvenile, Jason Rutledge, had a .22 rifle. The two boys left to try and steal someone's car, but they returned shortly, saying that Rutledge didn't have it in him to use a gun to steal a car. Brashear then took the .380 and went with Gagnier back up the road.

Brasher stopped victim Danny Roy Varnell in his pickup truck and asked him for a ride. She got into the passenger seat and pulled out the .380, shooting at him twice. The second shot was a contact wound to the abdomen. At that point, Gagnier and Rutledge came up to the truck and the three of them attempted to move the body out of the way and start the truck.

Shortly thereafter, two witnesses drove up, noticing that the young people appeared to be having trouble with the truck, and offered help. Brashear and her male codefendants acted nervously and asked for directions to a hospital. The witnesses got out of their car and looked inside the pickup where they saw the body of the victim shoved down under the dashboard. They also noticed a gun in the vehicle. The witnesses told the juveniles to get help at a nearby fire station.

Brashear and her codefendants then got the truck started and headed off down the road. Brashear admitted to police that after the witnesses left, she took a folding knife with a three-and-a-half inch blade and stabbed the victim in

the neck several times. Medical examiners later stated that the gunshot wound to the victim's abdomen would not have been fatal, but the evidence showed that the victim was fatally stabbed inside the truck. Brasher stated unequivocally to police that it was her knife wounds which killed the victim. After stabbing the victim, Brasher and her codefendants dumped the victim's body over an embankment and tried to leave in the victim's truck, but could not get it to run. They pushed the truck over the embankment and then went back to their campsite, where they washed the blood off of themselves and fled the area.

Exhibit 4, Department of Corrections Criminal History Summary

B. Board Decision Denying Release

On April 12, 2017, the ISRB held a juvenile board hearing (LTJUVBRD). Exhibit 2. Within the decision and reasons the Board cited an incident committed just prior to the murder in this matter wherein Brashear stabbed a juvenile and the fact Brashear was also a suspect in an investigation in which a handgun was stolen. Exhibit 2, at 3. During the assault on the juvenile committed just prior to the murder, Brashear stabbed the victim twice in the abdomen and once in the hand. *Id.*

Also considered by the Board was Brashear's infraction history while in prison which was substantial. Between 1997 and 2008 Brashear received more than 90 serious infractions. *Id.* at 3; Exhibit 3, at 3-4. Brashear's behavior escalated so significantly in 2007/2008 that she was moved to a facility in Arizona that could adequately handle Brashear's acting out. Exhibit 2, at 6. The Board did credit Brashear with making a

change following 2008. *Id.* at 4. Brashear has not committed any serious infractions since returning from prison in Arizona, but has received six general infractions one of which involved lying to Department staff. *Id.* at 4; Exhibit 3; Exhibit 5, OMNI View Full Hearing.

The Board also noted Brashear seemed to have limited insight into her thinking or emotions at the time of the murder as well as the violent offense she committed just prior to the murder. Exhibit 2, at 4. Brashear's description of why she committed the offenses was she was "carrying out the requests of her boyfriend and co-defendant." *Id.* Although Brashear seemed to have made a shift in her behaviors, the Board ultimately denied release indicating Brashear needed to demonstrate her past behaviors were "truly in the past." *Id.* at 6. Brashear's first 10-11 years in prison were replete with serious infractions. Exhibit 2, at 6; Exhibit 3, at 3-4.

III. STANDARD OF REVIEW

A petitioner who challenges a decision from which he has had "no previous or alternative avenue for obtaining state judicial review" must show he is under unlawful restraint under the provisions of RAP 16.4(c). *In re Cashaw*, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994). The petitioner may obtain relief by showing either a constitutional violation or a violation of state law. *Cashaw*, 123 Wn.2d at 148; RAP 16.4(c)(2), (6).

Interpretation of a statute is a question of law that the Court reviews de novo. *State v. Engel*, 166 Wn.2d 572, 576, 210 P.3d 1007 (2009).

IV. ISSUES PRESENTED

A. Did the Board abuse its discretion under RCW 9.94A.730 when it found Brashear not releasable?

V. ARGUMENT

A. The Nature and Scope Of A RCW 9.94A.730 Hearing

In 2014, the Washington Legislature adopted RCW 9.94A.730, authorizing juvenile offenders convicted of certain crimes and sentenced to more than 20 years to petition the Board for early release. *See* Laws of 2014, ch. 130, § 10.

Under RCW 9.94A.730, within 180 days from receipt of a petition for early release the department is required to conduct an examination which incorporates methodologies recognized by experts in the prediction of dangerousness which includes a prediction of probability whether the individual is likely to engage in future criminal conduct. RCW 9.94A.730(3). Early release after 20 years is presumptive *unless* the Board determines by a preponderance of the evidence that even with conditions the person is more likely to commit new criminal law violations. *State v. Ronquillo*, 190 Wn. App. 765, 778, 361 P.3d 779 (2015). The Board “shall give public safety considerations the highest

priority” when making all discretionary decisions regarding the ability for release and conditions of release. RCW 9.94A.730(3).

During a .730 hearing, the offender is still within the term of his or her criminal sentence. After the .730 hearing, if the Board does not order an offender released early, the offender may file a new petition for release five years from the date of denial or at an earlier date as set by the Board. RCW 9.94A.730(6). The Board makes a release decision by evaluating the offender and the information provided to the Board.

B. The Board Did Not Abuse Its Discretion When It Determined That Brashear Was Not Releasable

Brashear claims that the Board abused its discretion by denying release for the reason that she had not served enough of her original sentence. Petition, at 7. But that is not why the Board denied Brashear release.

The burden of proof at a .730 hearing is preponderance of the evidence. *See* RCW 9.94A.730(3). The preponderance of the evidence standard requires that the evidence establish the proposition at issue is more probably true than not true. *In re Dependency of H.W.*, 92 Wn. App. 420, 425, 961 P.2d 963 (1998); *In re Sego*, 82 Wn.2d 736, 739 n.2, 513 P.2d 831, 833 n.2 (1973). *See also* 6 *Washington Pattern Jury Instructions: Civil* 21.01 (6th ed. 2013). (“When it is said that a party has

the burden of proof on any proposition, or that any proposition must be proved by a preponderance of the evidence, or the expression ‘if you find’ is used, it means that you must be persuaded, considering all the evidence in the case, that the proposition on which that party has the burden of proof is more probably true than not true.”).

At Brashear’s April hearing, the Board considered the statistical estimate of risk, criminal history, ability to control behavior, responsivity to programming, demonstrated offender change, release planning, discordant information and other case information, giving public safety considerations the highest priority as required by RCW 9.94A.730(3). Of particular concern to the Board was Brashear’s very troubled 10 to 11 years in prison which was so significant the Washington facility was unable to handle her behaviors and she was transferred to a facility in Arizona. Exhibit 2, at 6. The Board also discussed Brashear’s discussions regarding why she committed this offense and she described her actions in a way that “indicated she was carrying out the requests of her boyfriend.” Exhibit 2, at 4. The Board noted that Brashear appears to have somewhat limited insight into her thinking or emotions at the time of the murder and other assault beyond her connection to her codefendant. *Id.*

Although Brashear had a sudden change in her behavior in 2008, given the sheer number of serious violations committed during the first 10

to 11 years and the concerns about Brashear's understanding of why she committed her offenses, the Board determined by a preponderance of the evidence that even with conditions Brashear is more likely to commit new criminal law violations if released. Brashear killed a man apparently for no other reason than at the request of her boyfriend and co-defendant. Exhibit 2, at 4. There is no evidence the boyfriend threatened Brashear, there is no evidence Brashear was under the influence of drugs or alcohol when she murdered the victim. Exhibit 2. Brashear was unable to explain or explore what allowed herself to be so susceptible to such influence as to kill another person and assault another by stabbing that person. Brashear indeed had a "shift in thinking" in 2008 but the Board's concern is ensuring as best as possible this shift in thinking is not susceptible to additional changes in thinking should she encounter another relationship such as the one she found herself in at the time of this offense. Based on the evidence before it and the Board's duty towards public safety, this was a reasonable decision.

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VI. CONCLUSION

The Board did not abuse its discretion in denying Brashear's release pursuant to RCW 9.94A.730. Respondent respectfully requests that the Court dismiss Brashear's personal restraint petition with prejudice.

RESPECTFULLY SUBMITTED this 20th day of October, 2017.

ROBERT W. FERGUSON
Attorney General

s/ Mandy L. Rose
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CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed the foregoing RESPONSE OF INDETERMINATE SENTENCE REVIEW BOARD with the Clerk of the Court using the electronic filing system and I hereby certify that I have mailed by United States Postal Service, postage prepaid, the document to the following non electronic filing participant:

JEFFREY E ELLIS
LAW OFFICE OF ALSEPT & ELLIS
621 SW MORRISON ST STE 1025
PORTLAND OR 97205-3813

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

EXECUTED this 20th day of October, 2017, at Olympia, Washington.

s/ Katrina Toal
KATRINA TOAL
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Corrections Division
PO Box 40116
Olympia WA 98504-0116
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Exhibit 1

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

FILED

MAY 07 1997

GAIL I. DANIELS
SNOHOMISH COUNTY CLERK
SUPERIOR COURT OF WASH.

THE STATE OF WASHINGTON,

Plaintiff,

v.

BRASHEAR, GAIL ANN,

Defendant.

SID: WA18012658

If no SID, use DOB: [REDACTED]

-) No. 96-1-01273-9
)
) JUDGMENT AND SENTENCE
) Prison
) Jail One Year or Less
) First Time Offender
) Special Sexual Offender
) Sentencing Alternative
) Clerk's action required,
) restraining order entered para. 4.4
) Clerk's action required,
) firearms rights revoked para. 4.3 and 5.6
) Clerk's action required, para 5.4
) Restitution Hearing set.

CERTIFIED
COPY

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 January 24, 1997 by plea of:

COUNT	CRIME	RCW	INCIDENT #	DATE OF CRIME
I	First Degree Murder	9A.32.030(1)(c)	SSO 9607524	5/11/96
II	First Degree Assault	9A.36.011(1)(a)	SSO 9607524	5/11/96
III	First Degree Burglary	9A.52.020(1)(a)	SSO 9607524	5/11/96
IV				

as charged in the Amended Information.

- Additional current offenses are attached in Appendix 2.1.
- A special verdict/finding for use of deadly weapon which was not a firearm was returned on Count(s) II.
RCW 9.94A.125,310.
- A special verdict/finding for use of a deadly weapon which was a firearm was returned on Count(s) I and III.
RCW 9.94A.125, 310, 9.41.010.
- A special verdict/finding of sexual motivation was returned on Count(s) _____, RCW 9.94A.127
- 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, in a public transit vehicle, or in a public transit stop shelter.
- 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
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400):
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):
- The offense in Count(s) was committed in a county jail or state correctional facility. RCW 9.94A.310(5).

EXHIBIT

2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J		TYPE OF CRIME
				Adult, Juv.		
1 None						
2						
3						
4						
5						

- 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.360
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.360):

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE	ENHANCEMENT	MAXIMUM TERM
I	2	XIV	261 - 347 Months	60 Months	Life
II	0	XII	93 - 123 Months	24 Months	Life
III	4	VII	36 - 48 Months	60 Months	Life
IV					

- 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.

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.142

- The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.142):

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 Counts _____

3.3 [] 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:

	\$ _____	Restitution to: _____	
JASS CODE	\$ _____	Restitution to: _____	
RTN/RJN	\$ _____	Restitution to: _____	
		(Name and Address—address may be withheld and provided confidentially to Clerk's Office).	
RMA	\$15/\$25/\$50	Restitution Monitoring Fee	SCC 4.94.010
		The Clerk shall collect this fee before collecting restitution or any other assessed legal financial obligations.	RCW 9.94A.145
PCV	\$100/\$500	Victim assessment	RCW 7.68.035
		\$100.00 crimes committed prior to June 6, 1996.	
		\$500.00 crimes committed on or after June 6, 1996.	
CRC	\$ _____	Court costs, including	RCW 9.94A.030, 9.94A.120, 10.01.160, 10.46.190
		Criminal filing fee \$ _____	FRC
		Witness costs \$ _____	WFR
		Sheriff service fees \$ _____	SFR/SFS/SFW/SRF
		Jury demand fee \$ _____	JFR
		Other \$ _____	
PUB	\$667/727	Fees for court appointed attorney	RCW 9.94A.030
WFR	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.030
FCM	\$ _____	Fine RCW 9A.20.021; [] VUCSA additional fine deferred due to indigency	RCW 69.50.430
CDP/LDU	\$ _____	Drug enforcement fund of _____	RCW 9.94A.030
FCD/NTF/SAD/SDI	\$ _____		
CLF	\$ _____	Crime lab fee [] deferred due to indigency	RCW 43.43.690
EXT	\$ _____	Extradition costs	RCW 9.94A.120
	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum)	RCW 38.52.430
	\$ _____	Other costs for: _____	
	\$ _____	TOTAL	RCW 9.94A.145

[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.142.

[] RESTITUTION. Schedule attached, Appendix 4.1.

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

NAME of other defendant CAUSE NUMBER (Victim name) (Amount-\$)

RJN

[] The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.200010

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Not less than

\$ _____ per month commencing _____ RCW 9.94A.145

All payments shall be made within _____ months of:

Release of confinement.

_____ 1997, (today's date)

Other whenever defendant has funds to pay towards

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.145

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

4.2 HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 3020 Rucker, Suite 206, Everett, WA 98201 within one (1) hour of this order to arrange for the test. RCW 70.24.340

DNA TESTING. The defendant shall have a blood sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

4.3 The defendant shall not use, own, or possess firearms or ammunition while under the supervision of the Department of Corrections. RCW 9.94A.120

4.4 The defendant shall not have contact with Family of Danny Vannell (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for life years (not to exceed the maximum statutory sentence).

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 10.99 RCW AND WILL SUBJECT A VIOLATOR TO ARREST; ANY ASSAULT OR RECKLESS ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER IS A FELONY. RCW 10.99.050

The clerk of the court shall forward a copy of this order on or before the next judicial day to the Snohomish County Sheriff's Office or Everett Police Department (where the protected person above-named lives), which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

4.5 PROSECUTOR'S RECOMMENDATION

The Prosecutor made the following recommendation:

- 407 months/days as to Count I.
- 147 months/days as to Count II.
- 108 months/days as to Count III.
- _____ months/days as to Count IV.
- _____ months/days as to Count V.
- _____ months/days as to Count VI.

The Prosecutor recommended said counts 1 & 2 to run ~~concurrently~~ concurrent with ct. 3

4.6 OTHER: _____

4.7 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.400. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections:

407	months on Count	1	_____	months on Count	_____
147	months on Count	2	_____	months on Count	_____
108	months on Count	3	_____	months on Count	_____

Actual number of months of total confinement ordered is: 614 mos.

All counts shall be served concurrently, except for the following which shall be served consecutively: Ch. 1 & 2 and the deadly weapon/ firearm enhancement in Ch. 3.

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.400

Confinement shall commence immediately unless otherwise set forth here: _____

(b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.120. 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: _____

4.8 COMMUNITY PLACEMENT. RCW 9.94A.120. Community placement is ordered for a community placement eligible offense (e.g., sex offense, serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense), and standard mandatory conditions are ordered. Community Placement is ordered for the period of time provided by law. The defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at Department of Corrections-approved education, employment and/or community service; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by the Department of Corrections. The residence location and living arrangements are subject to the prior approval of the Department of Corrections while in community placement.

- The defendant shall not consume any alcohol.
- Defendant shall have no contact with: _____
- Defendant shall remain within outside of a specified geographical boundary, to wit: _____
- The defendant shall participate in the following crime related treatment or counseling services: _____

4.9 **WORK ETHIC CAMP.** RCW 9.94A.137, RCW 72.09.410. The court finds that defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. If the defendant successfully completes work ethic camp, the department shall convert the period of work ethic camp confinement at the rate of one day of work ethic camp to three days of total standard confinement. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement.

4.10 **SPECIAL DRUG OFFENDER SENTENCING ALTERNATIVE.** RCW 9.94A.120. The Court finds the defendant is eligible for the special drug offender sentencing alternative and the current offense involves only a small amount of controlled substance, therefore the court imposes a sentence of _____ months. The court also imposes twelve months of concurrent/community supervision to commence upon the defendant's release from custody. This period of community custody/supervision shall include appropriate out-patient substance abuse treatment including monitored urinalysis or other testing as directed by the Department and the following crime related prohibitions

- The defendant shall not use or possess any controlled substance without a valid prescription.
- The defendant shall remain within _____ and notify the Department of any changes in address.
- The defendant shall report to a community corrections officer.
- The defendant shall perform _____ hours of community service.
- The defendant shall pay all court ordered legal financial obligations.
- The defendant shall not enter _____
- The defendant shall devote time to specific employment or training, to wit: _____
- The defendant shall pay \$30.00 per month to offset the cost of monitoring.

4.11 Unless otherwise ordered, all conditions of this sentence shall remain in effect notwithstanding any appeal.

4.12 **OTHER:** _____
 See additional page for other conditions of sentence)

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. The defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. RCW 9.94A.145
- 5.3 NOTICE OF INCOME-WITHHOLDING ACTION. If the court has not ordered an immediate notice of payroll deduction in paragraph 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.200010. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.200030.
- 5.4 RESTITUTION HEARING.
 Defendant waives any right to be present at any restitution hearing (sign initials): CRB
 Defendant waives any right to a restitution hearing within 6 months RCW 9.94A.140.
 A restitution hearing shall be set for Oct. 3, 1997 at 12 pm
The Prosecutor shall provide a copy of the proposed restitution order and supporting affidavit(s) of victim(s) 21 judicial days prior to the date set for said restitution hearing. The defendant's presence at said restitution hearing may be excused only if a copy of the proposed restitution order is signed by both defendant and defense counsel and returned to the Court and Prosecutor no later than 10 judicial days prior to said hearing.
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.200

Cross off if not applicable:

<p>5.6 FIREARMS. 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</p> <p>If this is a crime enumerated in RCW 9.41.040 which makes you ineligible to possess a firearm, you must surrender any concealed pistol license at this time, if you have not already done so.</p> <p>(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court. The 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).</p>
<p>5.7 SEX OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense, you are required to register with the sheriff of the county of the state of Washington where you reside. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.</p> <p>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.</p> <p>If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 10 days of establishing your new residence. If you change your residence to a new county within this state, you must register with the sheriff of the new county and you must give written notice of your change of address to the sheriff of the county where last registered, both within 10 days of establishing your new residence.</p>

Cross off if not applicable:

5.8 RIGHT TO APPEAL. If you plead not guilty, you have a right to appeal this conviction. If the sentence imposed was outside of the standard sentencing range, you also have a right to appeal the sentence.

This right must be exercised by filing a notice of appeal with the clerk of this court within 30 days from today. If a notice of appeal is not filed within this time, the right to appeal is IRREVOCABLY WAIVED.

If you are without counsel, the clerk will supply you with an appeal form on your request, and will file the form when you complete it.

If you are unable to pay the costs of the appeal, the court will appoint counsel to represent you, and the portions of the record necessary for the appeal will be prepared at public expense.

5.9 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: May 7, 1997



JUDGE LARRY E. MCKEEMAN

Print name:



MICHAEL D. MAGEE, #4734
Deputy Prosecuting Attorney



RICK H. MERRILL, #21088
Attorney for Defendant



GAIL ANN BRASHEAR
Defendant

Translator 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: 96-1-01273-9

I, Pam L. Daniels, 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: _____

5/7/97

Clerk of said County and State, by: _____



Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. WA18012658
(If no SID take fingerprint card for State Patrol)

Date of Birth: [REDACTED]

FBI No.

Local ID No.

PCN No.

DOC

Alias name, SSN, DOB:

Race: White

Ethnicity:

Sex: F

Hispanic

Non-Hispanic

Height: 5 8

Weight: 155

Hair: Brown

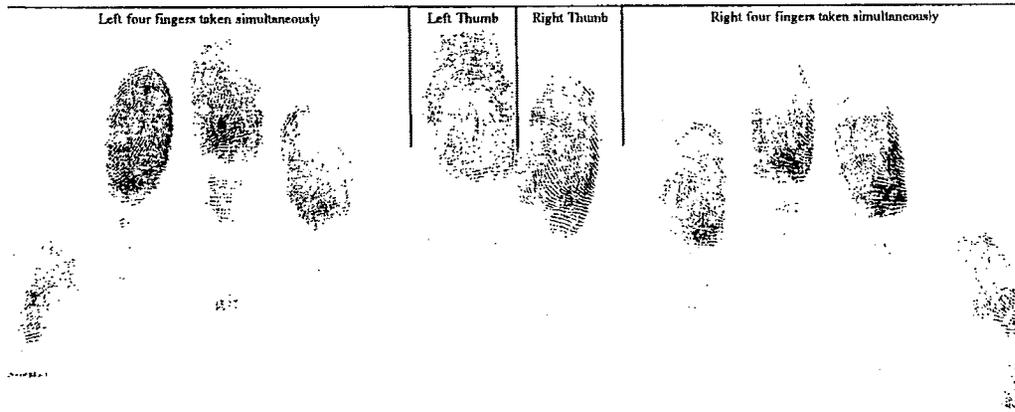
Eye: Blue

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: A. Jelleries, Deputy Clerk. Dated: 5-7-97

DEFENDANT'S SIGNATURE: Gail Brashear

ADDRESS: Snohomish County Jail



ORDER OF COMMITMENT

THE STATE OF WASHINGTON to the Sheriff of the County of Snohomish; State of Washington, and to the Secretary of the Department of Corrections, and the Superintendent of the Washington Corrections Center of the State of Washington, GREETINGS:

WHEREAS, GAIL ANN BRASHEAR, has been duly convicted of the crime(s) of Count 1 First Degree Murder, Count 2 First Degree Assault, Count 3 First Degree Burglary, as charged in the Amended Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her that he/she be punished therefore by imprisonment in such correctional institution under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections pursuant to RCW 72.02.210, for the term of 604 months all of which appears of record in this court; a certified copy of said judgment being endorsed hereon and made a part thereof, Now, Therefore,

THIS IS TO COMMAND YOU, the said Sheriff, to detain the said defendant until called for by the officer authorized to conduct him to the Washington Corrections Center at Shelton, Washington, in Mason County, and this is to command you, the said Superintendent and Officers in charge of said Washington Corrections Center to receive from the said officers the said defendant for confinement, classification, and placement in such corrections facilities under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections.

And these presents shall be authority for the same. HEREIN FAIL NOT.

WITNESS the Honorable LARRY E. MCKEEMAN, Judge of the said Superior Court and the seal thereof, this 7 day of May, 1997.

CLERK OF THE SUPERIOR COURT

By: A. J. Joffe
Deputy Clerk

Exhibit 2



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

DECISION AND REASONS

NAME:	BRASHEAR, Gail
DOC #:	765306
FACILITY:	Washington Corrections Center for Women (WCCW)
TYPE OF HEARING:	LTJUVBRD Hearing
HEARING DATE:	April 12, 2017
PANEL MEMBERS:	JP & TW
FINAL DECISION DATE:	April 21, 2017

This matter came before Jeff Patnode and Tana Wood, who are members of the Indeterminate Sentence Review Board (ISRB or the Board) on the above date for a release hearing in accordance with the provisions of RCW 9.94A.730. Ms. Brashear appeared in person. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Jessica Poston, and Ms. Brashear.

BOARD DECISION:

Based on the burden of proof set out in RCW 9.94A.730(3) and the totality of evidence and information provided to the Board, the Board does find by a preponderance of the evidence that Ms. Brashear is more likely than not to commit any new criminal law violations if released on conditions. Consequently, the Board finds Ms. Brashear not releasable.

NEXT ACTION:

Ms. Brashear may re-petition the Board in May 2022 for another hearing. If she continues to meet statutory requirements, the Board will schedule Ms. Brashear for another release hearing. An updated psychological evaluation is required.

EXHIBIT 2

Gail Brashear is under the jurisdiction of the Board on a May 7, 1997 conviction in Snohomish County Cause No. 96-1-01273-9 for First Degree Murder, Count I; First Degree Assault, Count II; and First Degree Burglary, Count III. The time start is May 8, 1997.

Count I: The minimum term for Count I was set at 407 months from a Sentencing Reform Act (SRA) range of 261 to 347 months. There was also a 60 month Firearm Enhancement (347 month base and 60 month Firearm Enhancement). The maximum term is Life.

Count II: The minimum term for Count II was set at 147 months from a Sentencing Reform Act (SRA) range of 93 to 123 months. There was also a 24 month Deadly Weapon Enhancement (123 month base and a 24 month Deadly Weapons Enhancement). The maximum term is Life.

Count III: The minimum term for Count III was set at 108 months from a Sentencing Reform Act (SRA) range of 36 to 48 months. There was also a 60 month Firearm Enhancement (48 month base and 60 month Firearm Enhancement). The maximum term is Life. This count has reached the maximum expiration date.

60 month DW enhancement on Counts I and III; 24 month Firearm Enhancement on Count II all served as flat time and consecutive. The Judge ordered Counts I and II, plus the enhancement on Count III to run consecutive; everything else is concurrent.

Ms. Brashear has served approximately twenty (20) years and ten (10) months in prison and 361 days of jail time.

NATURE OF INDEX OFFENSE(S):

File materials indicate that in 1996 Ms. Brashear, age 15 and two defendants were camping and decided they needed to steal a car. They had two weapons with them, a gun and a knife. Ms. Brashear flagged down the unknown adult male victim who had been fishing in the area and asked for a ride. When she got in the passenger seat, she shot the victim twice and then when

her two co-defendants came to the truck, Ms. Brashear stabbed the victim in the neck several times. Witnesses came upon them and asked if they needed help and they indicated they were trying to get the victim to the hospital. After the witnesses left, they dumped the victim's body over an embankment and tried to leave in the victim's truck but could not get it started so they discarded it as well.

PRIOR CRIMINAL CONDUCT:

Ms. Brashear was arrested prior to this murder and was under investigation for an earlier stabbing of a juvenile, and was also a suspect with one of the co-defendants from the index offense in a First Degree Burglary in which a handgun was stolen. According to the Supplemental Affidavit of Probable Cause dated January 23, 1997, on April 18, 1996, Ms. Brashear stabbed the victim twice in the abdomen, once in the hand, and inflicted several superficial scratches to his neck with a knife. Ms. Brashear was identified to police by the victim's cousin, who was acquainted with her. Additionally, on May 3, 1996, Ms. Brashear, along with two others, burglarized a residence and took several items. Among the items taken was a .380 caliber Jennings pistol. This is the firearm that was used in the murder described above.

HISTORY/COMMENTS:

This is the first Board hearing for Ms. Brashear.

Ms. Brashear has an extensive infraction history between 1997 and 2008 which consisted of 97 serious infractions. As a result she was transferred out of State for a period of time.

Ms. Brashear has participated in a long list of programs/seminars/groups in prison as follows: Stress and Anger Management – 2010; Capital and Culture – 2012; Moving On – 2015; Beyond Trauma – 2015; Re-entry Life Skills – 2015; Communications 101 – 2017. Relationships Training Seminar, Toastmasters Ice Breaker, Healthy Relationships, Sisters of Charity, Beyond Incarceration-Foundation of Character Understanding, Turn around System Conflict Work Shop (x2), Teaching to Learn and Facilitator Training, Women Navigating Life and Adversity,

Mindfulness Mediation Course, Anger Management, Peer Support Training, Emotional Predictability and Problem Solving, Prisoner Assistance Scholastic Service (PASS) the course consisted to the following Modules: Parenting, Victim Awareness, Living w/Purpose, Domestic Violence, Conflict Resolution, Addiction, Anger Management, Gang Diversion, Re-entry in Society and Nonviolent Communication, Health and Wellness, IF Program (x2), Success Program, Independent Women's Seminar, Re-employment training through the rotary club. Peer Support, Emotions Anonymous, Braille, Catechism, GED tutoring, Lifer's Group, attends lecture series and continues to participate in the I.F. Project.

Classification Counselor Poston provided testimony regarding Ms. Brashear's behavior, programming, and possible release plans. She stated she has known and or worked with Ms. Brashear for many years at WCCW. CC Poston provided a very favorable report on Ms. Brashear. She stated she has been a model inmate since she made her turnaround in 2008 at which time she had her last serious infraction. CC Poston stated that Ms. Brashear's infractions were so significant that she was sent to another state in a program better equipped to handle her extreme acting out. CC Poston indicated that Ms. Brashear has taken advantage of all appropriate programs since her turnaround and that she has strong community support in the Snohomish County area. CC Poston indicated that Mr. Brashear is currently working in the CI Braille program and that there is a variety of employment opportunities for her in this area. CC Poston also stated Ms. Brashear had completed her AA degree and may attend college in Bellingham at Western Washington University if she is found releasable.

Mr. Brashear provided a disclosure of her index offense that mostly matched file material. She provided some context for what was happening in her life at the time. She described her actions in a way that indicated she was carrying out the requests of her "boyfriend" and co-defendant. She became quite emotional at times and did appear to be remorseful for her actions.

Ms. Brashear does appear to have somewhat limited insight into her thinking or emotions at the time of the murder and other violent assault beyond the connection to her codefendant. Ms. Brashear provided a description of how she has changed since the time of her offenses. Ms.

Brashear described some of the programming she has completed and how it has altered her thinking. She described a circumstance in 2008 during which she had a shift in her thinking and how she decided she wanted to live her life. She stated that since that time, she has taken advantage of programming opportunities that has been available to her, which is consistent with her CC's testimony as well as file material.

INFORMATION CONSIDERED:

In preparation for Mr. Brashear's hearing and its decision in this case, the Board completed a review of her ISRB file. The Board considered all information contained in that file, including but not limited to: information provided by the sentencing court/prosecutor; the most recent DOC facility plan; information regarding institutional behavior and programming; any letters of support and/or concerns sent to the Board; the Pre-Sentence Investigation report; and the Psychological Evaluation dated September 21, 2016 by Deborah Wentworth, Ph.D. The Board also considered the testimony of the witnesses.

The Snohomish County Prosecutor provided a recommendation to the Board, dated April 10, 2017, requesting a do not release decision from the Board.

REASONS:

This was a deferred decision following a full Board discussion using a structured decision-making framework that takes into consideration: the statistical estimate of risk, criminal history, parole/release history, ability to control behavior, responsivity to programming, demonstrated offender change, release planning, discordant information, and other case specific factors. Based on the requirements of RCW 9.94A.730 (3) the Board finds Ms. Brashear not releasable at this time.

In her most recent psychological evaluation completed in September 2016 by Dr. Wentworth, it was noted Ms. Brashear was open and transparently described the index offense with no distortions or denials about her role in killing the victim. Dr. Wentworth also stated that Ms. Brashear received mental health therapy after she returned to Washington State. Ms. Brashear

stated this therapy was helpful in giving her significant insight, and reported it as having been very helpful. Dr. Wentworth noted Ms. Brashear has been stable, and has not required mental health treatment since September 2013. Dr. Wentworth also notes that "Overall, the results of this evaluation suggest that Ms. Brashear is at a low risk to reoffend." If returned to the community Dr. Wentworth pointed out that Ms. Brashear will need continued support and structure to manage her levels of anxiety as she transitions into the community.

Ms. Brashear appears to have struggled during her first 10-11 years in prison. Her behavior escalated significantly during 2007/2008 to the extent that she was moved to a facility in Arizona that was better equipped to handle her acting out. Since that time, Ms. Brashear appears to have made a complete shift in her behavior and subsequent programming. Ms. Brashear acknowledges her role in her crimes and has participated in a variety of programs to assist her in understanding the "why" of her behavior so that she does not commit another crime if back in the community. However, Ms. Brashear has committed horrible crimes that have left lasting impacts to many of the survivors of her victims. The Board believes it is also important to note that Ms. Brashear has served a relatively small portion of what the minimum sentence is on all counts as well as the SRA minimum/maximum. Additionally, the Board has received a strong recommendation from the Snohomish Prosecutor that requests the Board to not release Ms. Brashear.

The Board acknowledges the good work Ms. Brashear has done since 2008. However the Board would like to see Ms. Brashear continue to demonstrate that her past behaviors are truly in her past and continue to participate in any programming available to her that will prepare her for a future step down to lower levels of custody and eventually release to the community.

JP: ffo

April 12, 2017

April 21, 2017

cc: Institution
Gale Brashear
File



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

DATE: April 20, 2017

TO: Full Board

FROM: JP & TW (Fawn Opp)

RE: BRASHEAR, Gail, DOC# 765306

Panel recommends: Find Ms. Brashear NOT releasable.

Next action: May petition the Board in May 2022.

Agree	Disagree
Jeff Patnode 4-21-2017 Lori Ramsdell-Gilkey 4-21-2017 Kecia Rongen 4-21-17	Tana Wood 4-21-2017

Exhibit 3

Inmate: BRASHEAR, Gail Ann (765306)

Gender: Female	DOB: [REDACTED]	Age: 36	Category: Regular Inmate	Body Status: Active Inmate
RLC: LOW	Wrap-Around: No	Comm. Concern: Yes	Custody Level: Minimum 3 - Long Term Minimum	Location: WCCW — MSU / MA210U
ERD: 10/21/2041				CC/CCO: Rieck, Brydee I

Offender Information (Combined)

Prison Max Expiration Date: 07/08/2047	Last Static Risk Assessment Date: 06/19/2013	DOSA:
Planned Release Date:	Last Offender Need Assessment Date: 08/02/2017	ISRB? No
Earned Release Date: 10/21/2041	RLC Override Reason:	CCB? No
ESR Sex Offender Level:		SOSSA? No
ESR Sex Offender Level Date:	Offender Release Plan:	Investigation WEP? No
County Sex Offender Level:	Victim Witness Eligible?	Yes
Registration Required?	County Of First Felony Conviction:	Snohomish
ORCS?	P U L H E S D X T R 1 1 1 1 1 1 1 1 1 0	
IDCNF?	No	
SMICNF?	No	

Sentence Structure (Field)

Cause: AA - 961012739 - Snohomish

Convicted Name: Gail Brashear	Date Of Sentence: 05/07/1997	Cause Status: Active	Offense Category: Murder 1
Distinct Supervision Type: CP	Start Date: 07/08/2047	Scheduled End Date: 07/07/2049	Consecutive Supervision:
Count: 1 - RCW 9A.32.030(1)(c)(1) - Murder 1			
Count Start Date: 07/08/2047	Supervision Length: 0Y, 24M, 0D	Length In Days: 730	Count End Date: 07/07/2049
Stat Max: Life	Violent Offense? Yes	DW / FA Enhancement? Y	Anticipatory:
Count: 2 - RCW 9A.36.011 - Assault 1			
Count Start Date: 07/08/2047	Supervision Length: 0Y, 24M, 0D	Length In Days: 730	Count End Date: 07/07/2049
Stat Max: Life			

EXHIBIT 3

Violent Offense? DW / FA Enhancement? Anticipatory:
 Yes Y

Cause: AB – 961012739 – Snohomish

Convicted Name:	Date Of Sentence:	Cause Status:	Offense Category:
Gail Brashear	05/07/1997	Active	Murder 1
Distinct Supervision Type:	Start Date:	Scheduled End Date:	Consecutive Supervision:
MON	07/08/2047		

Count: 3 – RCW 9A.52.020 – Burglary 1

Count Start Date:	Supervision Length:	Length In Days:	Count End Date:	Stat Max:
07/08/2047	0Y, 0M, 0D	0		Life
Violent Offense?	DW / FA Enhancement?	Anticipatory:		
Yes	Y			

Sentence Structure (Inmate)

Cause: AA – 961012739 – Snohomish

State:	Convicted Name:	Date Of Sentence:	Consecutive Cause:
Washington	Gail Brashear	05/07/1997	
Time Start Date:	Confinement Length:	Earned Release Date:	
05/08/1997	0Y, 554M, 0D	10/21/2041	

Count: 1 – RCW 9A.32.030(1)(c)(1) – Murder 1

Anticipatory:	Modifier:	Enhancement:	Mandatory:	Confinement Length:	ERT %:	ERD:	MaxEx:	Stat Max:	Violent Offense?
		0Y, 60M, 0D		0Y, 407M, 0D	15.00%	02/04/2033	12/23/2045	Life	Yes
Supervision Type:	Supervision Length:	Consecutive Count:					Hold To Stat Max Expiration:		
CP	0Y, 24M, 0D								

Count: 2 – RCW 9A.36.011 – Assault 1

Anticipatory:	Modifier:	Enhancement:	Mandatory:	Confinement Length:	ERT %:	ERD:	MaxEx:	Stat Max:	Violent Offense?
		0Y, 24M, 0D		0Y, 147M, 0D	15.00%	10/21/2041	07/08/2047	Life	Yes
Supervision Type:	Supervision Length:	Consecutive Count:					Hold To Stat Max Expiration:		
CP	0Y, 24M, 0D								

Cause: AB – 961012739 – Snohomish

State:	Convicted Name:	Date Of Sentence:	Consecutive Cause:
Washington	Gail Brashear	05/07/1997	
Time Start Date:	Confinement Length:	Earned Release Date:	
05/06/2004	0Y, 108M, 0D	05/25/2011	

Count: 3 - RCW 9A.52.020 - Burglary 1

Anticipatory:	Modifier:	Enhancement:	Mandatory:	Confinement Length:	ERT %:	ERD:	MaxEx:	Stat Max:	Violent Offense?
		0Y, 60M, 0D		0Y, 108M, 0D	33.33%	05/25/2011	05/08/2012	Life	Yes
Supervision Type:	Supervision Length:	Consecutive Count:			Hold To Stat Max Expiration:				
MON	0Y, 0M, 0D								

Infraction Summary

Offender Infraction

Infraction Group Number	Overall Infraction Report Status	Hearing Type	Infraction Data Indicator	Incident Date	Violation Codes
1	Hearing Complete	Full Hearing	Serious	On 08/25/1997	657
2	Hearing Complete	Full Hearing	Serious	On 09/30/1997	517
3	Hearing Complete	Full Hearing	Serious	On 03/12/1998	505
4	Hearing Complete	Full Hearing	Serious	On 04/08/1998	517 , 509 , 558
7	Hearing Complete	Full Hearing	Serious	On 04/28/1998	506 , 506
9	Hearing Complete	Full Hearing	Serious	On 05/29/1998	517
10	Hearing Complete	Full Hearing	Serious	On 06/17/1998	777 , 777
12	Hearing Complete	Full Hearing	Serious	On 09/30/1998	517 , 658
14	Hearing Complete	Full Hearing	Serious	On 10/14/1998	517
15	Hearing Complete	Full Hearing	Serious	On 11/05/1998	652
16	Hearing Complete	Full Hearing	Serious	On 12/02/1998	517
17	Hearing Complete	Full Hearing	Serious	On 06/20/1999	555
18	Hearing Complete	Full Hearing	Serious	On 04/21/2000	714
19	Hearing Complete	Full Hearing	Serious	On 10/07/2000	555
20	Hearing Complete	Full Hearing	Serious	On 12/31/2001	708 , 717 , 553 , 601 , 554 , 558
26	Hearing Complete	Full Hearing	Serious	On 11/28/2002	714
27	Hearing Complete	Full Hearing	Serious	On 05/18/2003	657
28	Hearing Complete	Full Hearing	Serious	On 10/07/2005	505
29	Hearing Complete	Full Hearing	Serious	On 10/15/2006	714
30	Hearing Complete	Full Hearing	Serious	On 03/23/2007	602 , 713
32	Hearing Complete	Full Hearing	Serious	On 04/20/2007	716 , 724 , 509
35	Hearing Complete	Full Hearing	Serious	On 07/17/2007	563 , 720
37	Hearing Complete	Full Hearing	Serious	On 08/08/2007	716
38	Hearing Complete	Full Hearing	Serious	On 10/26/2007	716
39	Hearing Complete	Full Hearing	Serious	On 11/03/2007	720 , 563
41	Hearing Complete	Full Hearing	Serious	On 11/05/2007	720 , 563 , 717
44	Hearing Complete	Full Hearing	Serious	On 11/07/2007	563 , 720
46	Hearing Complete	Full Hearing	Serious	On 11/08/2007	563 , 554 , 720
49	Hearing Complete	Full Hearing	Serious	On 11/10/2007	563 , 720
51	Hearing Complete	Full Hearing	Serious	On 11/15/2007	720 , 554 , 563
54	Hearing Complete	Full Hearing	Serious	On 11/16/2007	720 , 563
56	Hearing Complete	Full Hearing	Serious	On 11/20/2007	554 , 713
58	Hearing Complete	Full Hearing	Serious	On 12/20/2007	744
59	Hearing Complete	Full Hearing	Serious	On 12/27/2007	563 , 720
61	Hearing Complete	Full Hearing	Serious	On 12/27/2007	554 , 720 , 563

Infraction Group Number	Overall Infraction Report Status	Hearing Type	Infraction Data Indicator	Incident Date	Violation Codes
64	Hearing Complete	Full Hearing	Serious	On 12/28/2007	554 , 563
66	Hearing Complete	Full Hearing	Serious	On 12/29/2007	554 , 563 , 720 , 554
70	Hearing Complete	Full Hearing	Serious	On 12/29/2007	554 , 563 , 720
73	Hearing Complete	Full Hearing	Serious	On 12/29/2007	563 , 554
75	Hearing Complete	Full Hearing	Serious	On 12/30/2007	563 , 554
77	Hearing Complete	Full Hearing	Serious	On 01/04/2008	554 , 720 , 563
80	Hearing Complete	Full Hearing	Serious	On 01/05/2008	554 , 720
82	Hearing Complete	Full Hearing	Serious	On 01/17/2008	563 , 720
84	Hearing Complete	Full Hearing	Serious	On 01/24/2008	554 , 720
86	Hearing Complete	Full Hearing	Serious	On 01/24/2008	720 , 554 , 563
89	Hearing Complete	Full Hearing	Serious	On 01/26/2008	554 , 720 , 563
92	Hearing Complete	Full Hearing	Serious	On 01/26/2008	563 , 720 , 554
95	Hearing Complete	Full Hearing	Serious	On 01/27/2008	508 , 506 , 554
98	Hearing Complete	Full Hearing	General	On 04/27/2010	210
100	Hearing Complete	Full Hearing	General	On 07/17/2010	355
103	Hearing Complete	Full Hearing	General	On 05/24/2012	351
105	Hearing Complete	Full Hearing	General	On 09/22/2013	355
106	Hearing Complete	Full Hearing	General	On 03/18/2014	210 , 203
107	Hearing Complete	Full Hearing	General	On 08/01/2014	210

Exhibit 4



DEPARTMENT OF CORRECTIONS
CRIMINAL HISTORY SUMMARY

FACILITY/LIVING UNIT: WCCW/RC

1. PREPARED BY: Cheryl Jorban, Classification Counselor 3	DATE: 5/22/97	2. REVIEWED BY: Kelsey Lonergan, CUS	DATE: 5/22/97
---	---------------	--------------------------------------	---------------

3. SOURCE/REFERENCE DOCUMENTS:
Snohomish County Judgment and Sentence dated 5/7/97, Affidavit of Probable Cause, WASIS and FBI Criminal Histories, WCCW Intake Questionnaire dated 5/12/97, and OBTS.

4. CRIMINAL HISTORY

A. CURRENT OFFENSE (S):

5/11/96: Murder in the First Degree, Count 1; Assault in the First Degree, Count 2; and Burglary in the First Degree, Count 3 (Snohomish County Cause #96-1-01273-9). Gail Brashear and three other juveniles had been camping near Granite Falls, Snohomish, Washington. They had run out of fresh water and decided to steal a vehicle from someone. One of the male juveniles, Clayton Gagnier, had a .380 handgun and another male juvenile, Jason Rutledge, had a .22 rifle. The two boys left to try and steal someone's car, but they returned shortly, saying that Rutledge didn't have it in him to use a gun to steal a car. Brashear then took the .380 and went with Gagnier back up the road.

Brashear stopped victim Danny Roy Varnell in his pickup truck and asked him for a ride. She got into the passenger seat and pulled out the .380, shooting at him twice. The second shot was a contact wound to the abdomen. At that point, Gagnier and Rutledge came up to the truck and the three of them attempted to move the body out of the way and start the truck.

Shortly thereafter, two witnesses drove up, noticing that the young people appeared to be having trouble with the truck, and offered help. Brashear and her male codefendants acted nervously and asked for directions to a hospital. The witnesses got out of their car and looked inside the pickup where they saw the body of the victim shoved down under the dashboard. They also noticed a gun in the vehicle. The witnesses told the juveniles to get help at a nearby fire station.

Brashear and her codefendants then got the truck started and headed off down the road. Brashear admitted to police that after the witnesses left, she took a folding knife with a three-and-a-half-inch blade and stabbed the victim in the neck several times. Medical examiners later stated that the gunshot wound to the victim's abdomen would not have been fatal, but the evidence showed that the victim was fatally stabbed inside the truck. Brashear stated unequivocally to police that it was her knife wounds which killed the victim. After stabbing the victim, Brashear and her codefendants dumped the victim's body over an embankment and tried to leave in the victim's truck, but could not get it to run. They pushed the truck over the embankment and then went back to their campsite, where they washed the blood off of themselves and fled the area.

Brashear was found guilty by plea on 1/24/97. Disposition: 407 months on Count 1, including a 60-month enhancement for a firearm; 147 months on Count 2, including a 24-month enhancement for a deadly weapon (knife); and 108 months on Count 3, including a 60-month enhancement for a firearm. Counts 1 and 2 run are to run consecutively, and count 3 runs concurrently, except for the 60-month enhancement for Count 3, which runs consecutively to the other two counts. Total of 614 months.

B. PRIOR OFFENSE (S):

JUVENILE

The source/reference documents received so far by WCCW do not delineate her juvenile history. Juvenile offenses will be updated upon receipt of the Pre-Sentence Investigation.

ADULT

None noted.

Adult Misdemeanors: None noted.

C. VIOLENT BEHAVIOR/SEXUAL DEVIANCY STATUS:

The current offenses are considered serious, violent offenses.

EXHIBIT 4

D. ESCAPE BEHAVIOR HISTORY:

None noted.

NUMBER 765306	NAME: LAST BRASHEAR	FIRST Gail	MIDDLE A.
------------------	------------------------	---------------	--------------

DISTRIBUTION: FACILITY CENTRAL FILE (1) HEADQUARTERS (1)



DEPARTMENT OF CORRECTIONS
CRIMINAL HISTORY SUMMARY

FACILITY/LIVING UNIT: WCCW/RC

E. GANG AFFILIATIONS:

None noted.

F. WANTS/WARRANTS:

None noted.

NUMBER	NAME: LAST	FIRST	MIDDLE
765306	BRASHEAR	Gail	A.

DISTRIBUTION: FACILITY CENTRAL FILE (1) HEADQUARTERS (1)

Exhibit 5

Inmate: BRASHEAR, Gail Ann (765306)

Gender: Female	DOB: [REDACTED]	Age: 36	Category: Regular Inmate	Body Status: Active Inmate
RLC: LOW	Wrap-Around: No	Comm. Concern: Yes	Custody Level: Minimum 3 - Long Term Minimum	Location: WCCW — MSU / MA210U
ERD: 10/21/2041	CC/CCO: Rieck, Brydee I			

View Full Hearing

Offender Infractions and Violations

Infraction Group Number: 106	Infraction Data Indicator: General	Report Date: 03/21/2014
Infraction Date: On 03/18/2014		Incident Time: 1920

Violation Code	Violation Short Name	Violation Occurred Date	Violation Data Indicator	PREA
203	203 - LYING TO STAFF	On 03/18/2014	General	<input type="checkbox"/>
210	210 - OUT OF BOUNDS	On 03/18/2014	General	<input type="checkbox"/>

Hearing Information

Full
 Negotiated
 Notified Of Hearing Rights?
 Waived Appearance?

Scheduled Hearing Date: 03/25/2014	Scheduled Hearing Time: 0900	Scheduled Hearing Officer: Belfour, Larry	Disposition Facility: WCCW	Overall Infraction Report Status: Hearing Complete
Hearing Status:	Hearing Overall Status Date:	Hearing Overall Status Text:	PPM? <input type="checkbox"/>	

NDA Status: Not Applicable
 Interpreter Type:
 Interpreter ID:
 Interpreter Name:
 Interpreter Language:
 Staff Advisor Name:

Sanction Information

Date Of Sanction Disposition: 03/30/2014

Sanction Name	Sanction Status	Quantity Ordered	Quantity Ordered	Quantity Suspended	Quantity Suspended	Length (Days)	Weightlifting Restriction End Date	Authorizing Staff	Authorizing Date	Invoked by/from IGN
Reprimand or Warning	Applied									

EXHIBIT 5

EXHIBIT 6

NO. 77047-1-I

**COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

GAIL ANN BRASHEAR,

Petitioner.

DECLARATION OF
ROBIN RILEY

I, ROBIN RILEY, make the following declaration:

1. I am an Executive Assistant for the Department of Corrections (DOC) at the Indeterminate Sentence Review Board (ISRB) office in Lacey, Washington. I have knowledge of the facts stated herein and am competent to testify.

2. The ISRB maintains an offender Board file for each offender under the ISRB's jurisdiction. This file contains information on an offender's sentence structure and documents relevant to his history with the ISRB. As an Executive Assistant, I am a custodian of records kept by the ISRB in the ordinary course of business.

3. Upon request of the Attorney General's Office, I provided correct copies of several documents from the Board file of offender Gail Brashear, DOC #765306, to be used as exhibits. These documents include the following:

Exhibit 1: Judgment and Sentence, *State v. Brashear*, Snohomish
County Superior Court Cause No. 96-1-01273-9

Exhibit 2: ISRB Decision and Reasons

Exhibit 4: Department of Corrections Criminal History Summary

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

EXECUTED this 20th day of October 2017, at Lacey,
Washington.


ROBIN RILEY

EXHIBIT 7

NO. 77047-1-I

**COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

GAIL ANN BRASHEAR,

Petitioner.

DECLARATION OF
MANDY ROSE

I, MANDY L. ROSE, make the following declaration:

1. I am an Assistant Attorney General (AAG) with the Corrections Division of the Attorney General's Office (AGO) in Olympia, Washington.

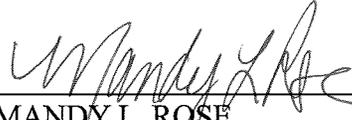
2. I am familiar with the Offender Management Network Information (OMNI) used by the Department of Corrections (DOC). I am authorized by the DOC to retrieve information from the OMNI. Among other things, information regarding an offender's location, custody, birth date, sentence, and infractions are entered and tracked on OMNI. I printed from OMNI for Gail Brashear, DOC #765306, the following documents to be used as exhibits:

Exhibit 3: OMNI Legal Face Sheet

Exhibit 5: OMNI View Full Hearing

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

DATED this 20th day of October, 2017, at Olympia, Washington.



MANDY L. ROSE
Assistant Attorney General

CORRECTIONS DIVISION ATTORNEY GENERAL'S OFFICE

October 20, 2017 - 1:22 PM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 77047-1
Appellate Court Case Title: Personal Restraint Petition of: Gail Ann Brashear
Superior Court Case Number: 96-1-01273-9

The following documents have been uploaded:

- 770471_Personal_Restraint_Petition_20171020132131D1757700_7694.pdf
This File Contains:
Personal Restraint Petition - Response to PRP/PSP
The Original File Name was RESPONSE.BRASHEAR.pdf

A copy of the uploaded files will be sent to:

- correader@atg.wa.gov
- ellis_jeff@hotmail.com
- jeffreywinellis@gmail.com

Comments:

Sender Name: Katrina Toal - Email: katrinat@atg.wa.gov

Filing on Behalf of: Mandy Lynn Rose - Email: mandyr@atg.wa.gov (Alternate Email:)

Address:
Attorney General's Office, Corrections Division
PO Box 40116
Olympia, WA, 98504-0116
Phone: (360) 586-1445

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