

64346-1

64346-1

NO. 64346-1-1

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

STATE OF WASHINGTON,

Respondent,

v.

WILLIE RAINEY,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR ISLAND COUNTY

The Honorable Alan R. Hancock, Judge
Superior Court Cause No. 08-1-00069-0

2010 JUN -2 AM 10:27

BRIEF OF RESPONDENT

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I. STATEMENT OF THE ISSUES

Appellant Willie Lee Rainey is appealing his sentence for his convictions of first degree burglary and second degree assault, arguing that the crimes involved the same criminal conduct, and that the lower court erred in not considering whether to treat the offenses as the same criminal conduct.

II. STATEMENT OF THE CASE

A. Substantive Facts

This brief adopts the facts set out in the appellant's brief, with a few amendments. Joseph Kisner held a party at the house he rented with his brother Kyle Kisner. 1RP 12-13¹. The defendant, Willie Rainey, was present and at some point during the party got into a fight with the Kisner brothers and another man after Rainey slapped Rainey's girlfriend Jill Glaspie. 1RP 17-21. Rainey then left the party, but came back later that night armed with a gun. 1RP 22. He entered the kitchen of the house,

¹ The verbatim report of proceedings is referenced as follows: 1RP- 6/10/08 and 6/11/08 (filed under 62098—3-1); 2RP- 7/10/08 (filed under 62098-3-1); 3RP- 9/21/09 (filed under 64346-1-1); 4RP- 5/27/08.

pointed the gun at Joseph Kisner and others, and struck Glaspie in the face. 1RP 22-24. Joseph Kisner called 911. 1RP 24.

B. Procedural Facts

The State had originally charged Rainey with two counts of felony violation of a protection order in addition to the burglary and assault charges. Rainey was found guilty by a jury of all counts. CP 35. The State conceded on appeal that the two protection order violation convictions constituted double jeopardy, and the case was remanded for resentencing. *State v. Rainey*, no. 62098-3-1, Div. 1, May 26, 2009. During the resentencing hearing, the State corrected Rainey's offender score. 3RP 3-5. Rainey objected on the record, through counsel, that his assault and burglary convictions should be treated as the same criminal conduct, which would have made his offender score a four, rather than the six he would receive if the crimes were counted as different criminal conduct. 3RP 8-9. The court sentenced Rainey with an offender score of six. 3RP 4, 21-22.

III. ARGUMENT

- A. THE COURT DID NOT FAIL TO EXERCISE ITS DISCRETION ON WHETHER TO TREAT THE BURGLARY AND ASSAULT OFFENSES AS THE SAME CRIMINAL CONDUCT FOR OFFENDER SCORE PURPOSES.

The Court of Appeals should not disturb a trial court's determination that crimes constituted the same criminal conduct unless the trial court abused its discretion or misapplied the law. *State v. Anderson*, 92 Wn.App. 54, 62, 960 P.2d 975, (1998). Here, the offender score used by the trial court is an implicit finding that the crimes did not constitute the same criminal conduct, and the abuse of discretion standard applies. *Id.*

1. The Trial Court Made An Implicit Finding That The Assault And Burglary Were Not The Same Criminal Conduct

The appellant's brief correctly states the three elements required for two crimes to be the "same criminal conduct." App. Br. 6. The crimes must have been committed at the same time and place, involved the same victim, and involved the same criminal intent. RCW 9.94A.589(1)(a). Failure to meet any one of these criteria means that the crimes were not the same criminal conduct, and must be scored separately. *State v. Lessley*, 118 Wn.2d 773, 778, 827 P.2d 996 (1992). Even though the record does

not contain the lower court's findings on the three required elements of "same criminal conduct", the offender score of six that it gave to appellant is an implicit finding that the conduct was not the same. *Anderson*, 92 Wn.App. at 62. All that is required is that the record contains facts which could have led the court to find that one of the three elements was not met. *Id.* In *Anderson*, a case involving an assault and robbery conviction, the court said:

The record contains no findings on any of the elements of the same criminal conduct. Because this court does not make factual findings, we will treat the trial court's calculation of Anderson's offender score as an implicit determination that his offenses did not constitute the same criminal conduct. Just as in cases where the trial court explicitly considers the issue, we will not disturb an implicit determination absent abuse of discretion or misapplication of the law.

Id. The court went on to write that "review for abuse of discretion is appropriate when the facts in the record are sufficient to support a finding either way on the presence of any of the three elements" of "same criminal conduct." *Id.* The court then reviewed the facts of the case and wrote that since the facts could have supported a finding that the defendant's intent had changed, the appeals court would find an implicit determination was made by the lower court on the issue of "same criminal conduct" and the

appellant's brief states that "Kisner was the victim of both crimes," it was actually both Joseph Kisner *and* Kyle Kisner that were the victims of the burglary. In fact, even though Jill Glaspie and Patrick Metcalf were not residents of the house, they too qualify as victims of the burglary because they were present in the kitchen when Rainey entered with the gun. 1RP 22. *See, State v. Davison*, 56 Wn.App. 554, 559, 784 P.2d 1268 (1990) ("under the modern statutory scheme Popal [the guest] was just as much the victim as Sherzai [the resident]").

Since the burglary victimized multiple victims, while the assault only victimized Joseph Kisner, the crimes did not involve the same victim and cannot be treated as the same criminal conduct. *State v. Lessley*, 118 Wn.2d. 773, 779, 827 P.2d 996, (1992) (Because more than one victim was involved in the burglary, it was not the same criminal conduct as the kidnapping). The three requirements for same criminal conduct found in RCW 9.94A.589(1)(a) all must be met in order for a court to find two crimes constitute the same conduct. *Lessley*, 118 Wn.2d at 778. Because there was more than one victim of the burglary, that prong of the "same criminal conduct" test is not met and therefore appellant's crimes cannot constitute the same criminal conduct.

Appellant's brief relies on the statement of the prosecutor at the resentencing hearing as well as the judge's response of "All right" to support his claim that the judge made his ruling on a mistaken view of the law. App. Br. at 4, 5, 8. To the contrary, the record contains facts sufficient to support the judge's determination that the crimes did not constitute the same criminal conduct. In *Anderson* and *Nitsch*, the defendants did not bring up the issue of treating their crimes as the "same criminal conduct" at the trial court. *Anderson*, 92 Wn.App. at 61, *Nitsch*, 100 Wn. App at 519. The appellate court was the first time such an argument was raised in both cases. Here, the issue was presented to the trial judge for his consideration, making a better record of the issue. 3RP 8-9. In *Anderson* and *Nitsch*, the Court of Appeals still found an implicit determination was made that the crimes did not constitute the same criminal conduct, even though there was no evidence that "same criminal conduct" issue was disputed. *Anderson*, 92 Wn.App. at 62 and *Nitsch*, 100 Wn.App. at 525-6. In the present case, the judge was made aware of the issue, lending further support to a finding that the judge made an implicit determination that the assault and burglary did not constitute the same criminal conduct.

2. The Trial Judge Was Not Operating Under A Mistaken View Of The Law Regarding The Burglary Anti-Merger Statute

Under the burglary anti-merger statute, burglary and assault may be sentenced separately in the judge's discretion. RCW 9A.52.050, *Lessley*, 118 Wn.2n at 781-2. However, in order for the judge to even have such discretion, the crimes must qualify as the same criminal conduct. *Id.* at 778. Since the burglary was committed against multiple victims, the *Lessley* case dictates that it can not be considered the same criminal conduct as the assault. *Id.* at 779.

The record further supports the notion that the trial court was not operating under a mistaken view of the law concerning the burglary anti-merger statute. This is seen in the language the judge used when he sentenced Rainey. Judge Hancock imposed the maximum penalty possible under the sentencing range and at the resentencing hearing said such a sentence was "warranted under the fairly egregious facts of this case." 3RP 21. At the original sentencing hearing, Judge Hancock said, "these are very serious offenses," and "I do think that the maximum penalties are appropriate." 2RP 15. Thus, the record shows that Judge Hancock used discretion in deciding to punish appellant at the maximum end of his

sentencing range. Even in the unlikely event that Judge Hancock was able to get around the fact that there were multiple victims to the burglary and thus found that these crimes could have constituted the same criminal conduct, the language he used suggests that he wanted to impose the maximum sentence possible, which would have required him to use his discretion and apply the burglary anti-merger statute to keep the assault and burglary charges separate.

B. APPELLANT DID NOT RECEIVE INEFFECTIVE ASSISTANCE OF COUNSEL.

In Rainey's pro se supplemental brief, he attempts to make two different arguments that his attorney was ineffective. First, he claims that his attorney had a conflict of interest which the lower court had a duty to investigate. Second, he claims that his attorney did not properly inform him as to the scope of a plea deal in two unrelated cases.

1. Appellant Did Not Have Ineffective Counsel Due To His Attorney's Conflict Of Interest

Rainey's first argument is that his attorney, Mr. Hall, had a conflict of interest which prevented him from being effective counsel. At trial counsel's motion to withdraw held on May 27th, 2008, Hall claimed to have a conflict of interest. Mr. Hall's theory was that Rainey had contacted the ACLU and accused the State of prosecutorial misconduct for

violating an earlier plea agreement. 4RP 2-3. If Rainey brought a civil rights claim against Island County, so Mr. Hall argued, Mr. Hall would be his only witness as to what happened during the negotiations for the plea deal. 4RP 3. Mr. Hall argued that because he might be needed as a witness in Rainey's potential civil case against the county, he could not represent appellant in the current matter without a conflict of interest. 4RP 3.

In his Statement of Additional Grounds for Review, Rainey cites the Sixth amendment to the U.S. Constitution, as well as several cases interpreting the Sixth Amendment to support his argument that his rights were violated by his attorney's conflict of interest. App. Pro Se Br. 1. He also cites *State v. Regan*, 143 Wn.App. 419, 177 P.3d 783 (2008), to support the proposition that the Sixth Amendment guarantee of effective assistance of counsel includes a right to counsel that is free from conflict of interest, and that the trial court has a duty to investigate potential conflicts that it knows or reasonably should have known might exist. (App. Pro Se Br. At 1). The *Regan* case, as well as the other case law appellant cites, do not give his case the support he believes they do.

Regan says:

In order to establish any violation of the Sixth Amendment based on a conflict of interest, a

defendant must demonstrate that an actual conflict of interest adversely affected his lawyer's performance. In order to show adverse effect, therefore, Mr. Regan need not demonstrate prejudice-that the outcome of his trial would have been different but for the conflict-but only 'that some plausible alternative defense strategy or tactic might have been pursued' but was not and that 'the alternative defense was inherently in conflict with or not undertaken due to the attorney's other loyalties or interests.'

Regan, 143 Wn.App. at 427-8 (citing *United States v. Stantini*, 85 F.3d 9, 16 (2d Cir. 1996)). The *Regan* opinion then goes on to say "Thus, the conflict (1) 'must cause some lapse in representation contrary to the defendant's interests,' or (2) have 'likely' affected particular aspects of counsel's advocacy on behalf of the defendant." *Regan*, 143 Wn.App. at 428, *State v. Robinson*, 79 Wn.App. 386, 395, 902 P.2d 652 (1995) (quoting *Sullivan v. Cuyler*, 723 F.2d 1077, 1086 (3d Cir. 1983)); *United States v. Miskinis*, 966 F.2d 1263, 1268 (9th Cir. 1992).

Here, the trial court fulfilled its duty by giving Mr. Hall, an opportunity to show the conflict of interest. 4RP 2. After Mr. Hall made his original argument, the judge indicated that she did not see the conflict and asked him to "run me through that again." 4RP 5. Then, after the judge said she would not grant the motion to withdraw, she allowed Mr. Hall to make yet another attempt at his argument. 4RP 8. These repeated

attempts allowed by the judge demonstrate that she fulfilled her duty by fully investigating the conflict of interest argument. Because Mr. Hall was unable to articulate any such conflict, and because even if there was a potential conflict it would not affect the trial at hand, the judge found that there was no conflict which justified Mr. Hall's withdrawal. 4RP 8.

In his pro se supplemental brief, Rainey states that there was a conflict of interest, but never states how the conflict caused a lapse in representation contrary to his interest or how it likely affected particular aspects of counsel's advocacy on his behalf. App. Pro Se Br. at 1, *Regan*, 143 Wn.App. at 428. He fails to demonstrate any plausible alternative defense strategy or tactic that might have been pursued and that such alternative defense was inherently in conflict with or not undertaken due to the attorney's other loyalties or interests. *Id.* Mr. Hall said that there would not be an immediate conflict because even if he were needed as a witness in Rainey's potential civil case, he would not be needed immediately, and not before the matter that was instantly before the court could be resolved. 4RP 5-7. Additionally, the judge invited Mr. Hall to present to her an ethics opinion on the matter so he could more articulately present his conflict of interest argument to the ethics board. 4RP 8. Because appellant did not demonstrate that any potential conflict his

attorney might have would adversely affect his rights, his conflict of interest argument must fail.

2. Appellant Did Not Have Ineffective Assistance Of Counsel Due To His Misunderstanding Of The Scope Of His Plea Deal

Appellant's second argument that he received ineffective assistance of counsel is that he was misled about the scope of a plea agreement reached in unrelated cases that were resolved prior to charges being brought in the case at bench. Rainey asserts that he faced several potential charges from the prosecutor's office, including a drug charge, kidnapping charge, and burglary charge. App. Pro Se Br. 2. Rainey pled to reduced charges pursuant to a plea agreement, and was sentenced to six months imprisonment.² App. Pro Se Br. 2. While Rainey was in jail on those charges, the county filed the charges that were the basis for the present litigation. App. Pro Se Br. 2. Rainey now seems to be claiming that the plea agreement also immunized him from charges arising out of the unrelated incidents in the current case. App. Pro Se Br. 2.

² Rainey was convicted in Island County Cause Number 08-1-00030-4 of possession of cocaine, arising out of a November, 2005 incident. He was also convicted of unlawful imprisonment and violation of a protection order in cause number 07-1-00158-2, arising out of a June, 2007 incident. No Clerk's papers from either case have been certified to this Court. The incident that gave rise to his current conviction occurred on August 5, 2007. 1RP 12

Arguments not raised in the trial court will generally not be considered on appeal. *State v. Riley*, 121 Wn.2d 22, 31, 846 P.2d 1365 (1993) (citing *Van Vonno v. Hertz Corp*, 120 Wn.2d 416, 427, 841 P.2d 1244 (1992)). Rainey failed to raise this issue before the lower court, though Mr. Hall, who represented him in all of the cases had ample opportunity to do so. While RAP 2.5 does allow an issue to be raised for the first time on appeal if there is a “manifest error affecting a constitutional right”, RAP 2.5 does not require appellate review if the record does not contain the facts required for the adjudication of the issue. *Riley*, 121 Wn.2d 31. The record here does not contain any facts that support Rainey’s claim. Because he did not raise the issue below, this court should not now consider it.

With no record before the Court, it is difficult for the State to respond to Rainey’s assertions. It appears that Rainey is troubled by the standard language in nearly every plea agreement made in this county:

[T]he state will agree to not file any additional criminal charges against me, *arising out of the incidents described in the police reports prepared in connection with this case*, a copy of which I have read.

(emphasis added)

Copies of the two Statements of Defendant on Plea of Guilty in the unrelated matters are attached to this brief as Appendices A and B. The

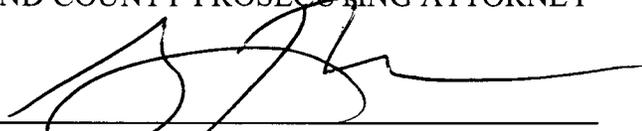
above-quoted language appears in both of the plea statements. No language in the plea agreements implicates the charges investigated in the unrelated August 5, 2007 incident that is the subject of this case. Should the Court require a more complete record to decide the issues raised in Rainey's supplemental brief, either Rainey or the State could make arrangements to supplement the record with the record from those other cases.

IV. CONCLUSION

Because there were multiple victims to the burglary, the assault and burglary committed by appellant cannot be treated as the same criminal conduct. The offender score of six that the sentencing judge gave to appellant was an implicit determination that his crimes were not the same criminal conduct. Appellant offered no proof to establish that he had ineffective assistance of counsel, and he did not raise the issue at trial. Therefore, remand for resentencing is not required in this case. The appeal should be denied.

Respectfully submitted this 1st day of June, 2010.

GREGORY M. BANKS
ISLAND COUNTY PROSECUTING ATTORNEY

By: 

GREGORY M. BANKS
PROSECUTING ATTORNEY
WSBA # 22926

APPENDIX A

5

FILED

FEB 11 2008

SHARON FRANZEN
ISLAND COUNTY CLERK

IN THE SUPERIOR COURT FOR ISLAND COUNTY, WASHINGTON

STATE OF WASHINGTON,

Plaintiff,

vs.

WILLIE LEE RAINEY,

Defendant.

NO. 08-1-00030-4

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY TO NON-SEX OFFENSE
(STTDFG)

SEARCHED

- 1. My true name is: WILLIE LEE RAINEY
- 2. My age is: 31
- 3. The last level of education I completed was 12

4. I Have Been Informed and Fully Understand That:

- (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.
- (b) I am charged with: Possession of Cocaine.

The elements are:

COUNT 1 - Possession of a Controlled Substance Other than Marijuana

On or about November 22, 2005, in the County of Island, State of Washington, the above-named Defendant did unlawfully possess a controlled substance, to-wit: cocaine; contrary to Revised Code of Washington 69.50.4013(1).

5. I Understand I Have the Following Important Rights, and I Give Them All Up by Pleading Guilty:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;

- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

6. **In Considering the Consequences of my Guilty Plea, I Understand That:**

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a **Standard Sentence Range** as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f).)	MAXIMUM TERM AND FINE
1	2	0-6 months		0-6 months	12 months	5 yrs. and/or \$10,000 fine
2						
3						

(F) Firearm, (D) other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8).

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
See attached.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.

(f) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is not more than 12 months. If this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community placement. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community placement. The actual period of community placement, community custody, or community supervision may be as long as my earned early release period. During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, under certain circumstances the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the community custody range established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.728 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody range will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Serious Violent Offenses	24 to 48 months or up to the period of earned release, whichever is longer
Violent Offenses	18 to 36 months or up to the period of earned release, whichever is longer.
Crimes Against Persons as defined by RCW 9.94A.411(2)	9 to 18 months or up to the period of earned release, whichever is longer
Offenses under Chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.660)	9 to 12 months or up to the period of earned release, whichever is longer.

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

If I have not completed my maximum term of total confinement and I am subject to a third violation hearing and the Department of Corrections finds that I committed the violation, the Department of Corrections may return me to a state correctional facility to serve up to the remaining portion of my sentence.

(g) **The prosecuting attorney will make the following recommendation to the judge:**

Upon the court's acceptance of my plea of guilty as charged to Possession of Controlled Substances, Cocaine, the state will agree to not file any additional criminal charges against me arising out of the incidents described in the police reports prepared in connection with this case, a copy of which I have read. At sentencing, the state will recommend that I be ordered to serve 6 months confinement, that I be placed on community custody for a period of one year, that I be

ordered to pay \$217 court costs, a \$500 crime victim assessment, a \$100 DNA collection fee, a \$2,000 drug. The state will further recommend that I obtain a drug/alcohol evaluation and comply with any recommended treatment; that be ordered not to possess nor consume controlled substances without a valid prescription and that I submit to random physiological testing at the direction of my Community Corrections Officer to ensure compliance. This is an agreed recommendation. *To run concurrent with 07-1-00158-2*

[] The prosecutor will recommend as stated in the plea agreement, which is incorporated by reference.

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless there is a finding of substantial and compelling reasons not to do so. I understand the following regarding exceptional sentences:

- (i) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence.
- (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.
- (iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act.
- (iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

I understand that if a standard range sentence is imposed, the sentence cannot be appealed by anyone. If an exceptional sentence is imposed after a contested hearing, either the State or I can appeal the sentence.

- (i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
- (j) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040.
- (k) I understand that I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079, 29A.08.520.
- (l) Public Assistance will be suspended during any period of imprisonment and during any time I am a fugitive or not in compliance with the terms of supervision. (See 42 U.S.C. sec. 608(a)(9)).
- (m) I understand that I will be required to have a biological sample collected for purposes of DNA identification analysis. For offenses committed on or after July 1, 2002, I will be required to pay a \$100 DNA collection fee, unless the court finds that imposing the fee will cause me undue hardship.

Notification Relating to Specific Crimes. If Any of the Following Paragraphs Do Not Apply, They Should Be Stricken and Initialed by the Defendant and the Judge.

- [n] ~~This offense is a most serious offense or strike as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.~~
- [o] ~~The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days' confinement, and up to two years community supervision if the crime was committed prior to July 1, 2000, or up to two years of community custody if the crime was committed on or after July 1, 2000, plus all of the conditions described in paragraph (f). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.~~
- [p] ~~If this crime involves a kidnapping offense involving a minor, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Offender Registration" Attachment.~~
- [q] ~~If this is a crime of domestic violence, I may be ordered to pay a domestic violence assessment of up to \$100. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.~~
- [r] ~~If this crime involves prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.~~
- [s] ~~The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.660. Even if I qualify, the judge may order that I be examined by a licensed or certified treatment provider before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or residential chemical dependency treatment based alternative. If the judge imposes the **prison-based alternative**, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12 months, whichever is greater. During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose a term of community custody of at least one-half of the midpoint of the standard range.~~

~~If the judge imposes the **residential chemical dependency treatment based alternative**, the sentence will consist of a term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, and I will have to enter and remain in a certified residential chemical dependency treatment program for a period of *three to six months*, as set by the court. As part of this sentencing alternative, the court is required to schedule a progress hearing during the period of residential chemical dependency treatment and a treatment termination hearing scheduled three months before the expiration of the term of community custody. At either hearing, based upon reports by my treatment provider and the department of corrections on my compliance with treatment and monitoring requirements and recommendations regarding termination from treatment, the judge may modify the conditions of my community custody or order me to serve a term of total confinement equal to one-half of the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715.~~

~~During the term of community custody for either sentencing alternative, the judge could prohibit me from using alcohol or controlled substances, require me to submit to urinalysis or other testing to monitor that status, require me to devote time to a specific employment or training, stay out of certain areas, pay \$30.00 per month to offset the cost of monitoring and require other conditions, such as affirmative conditions, and the conditions described in paragraph 6(f). The judge, on his~~

or her own initiative, may order me to appear in court at any time during the period of community custody to evaluate my progress in treatment or to determine if any violations of the conditions of the sentence have occurred. If the court finds that I have violated the conditions of the sentence or that I have failed to make satisfactory progress in treatment, the court may modify the terms of my community custody or order me to serve a term of total confinement within the standard range.

- [t] If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.
- [u] ~~If this crime involves the manufacture, delivery, or possession with the intent to deliver methamphetamine, including its salts, isomers, and salts of isomers, or amphetamine, including its salts, isomers, and salts of isomers, a mandatory methamphetamine clean-up fine of \$3,000.00 will be assessed. RCW 69.50.401(2)(b).~~
- [v] If this crime involves a violation of the state drug laws, my eligibility for state and federal food stamps, welfare, and education benefits may be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 862a.
- [w] ~~If this crime involves a motor vehicle, my driver's license or privilege to drive will be suspended or revoked.~~
- [x] ~~If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(13).~~
- [y] ~~If I am pleading guilty to felony driving under the influence of intoxicating liquor or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked or denied. Following the period of suspension, revocation or denial, I must comply with ignition interlock device requirements.~~
- [z] ~~The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[n].~~
- [aa] ~~I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.~~
- [bb] ~~I understand that the offense(s) I am pleading guilty to include a Violation of the Uniform Controlled Substances Act in a protected zone enhancement or manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture enhancement. I understand these enhancements are mandatory and that they must run consecutively to all other sentencing provisions.~~
- [cc] ~~I understand that the offense(s) I am pleading guilty to include a deadly weapon, firearm, or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.~~

~~[dd] I understand that the offenses I am pleading guilty to include both a conviction under RCW 9A.41.040 for unlawful possession of a firearm in the first or second degree and one or more convictions for the felony crimes of theft of a firearm or possession of a stolen firearm. The sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will also be imposed for each firearm unlawfully possessed.~~

~~[ee] I understand that if I am pleading guilty to the crime of unlawful practices in obtaining assistance as defined in RCW 74.08.331, no assistance payment shall be made for at least 6 months if this is my first conviction and for at least 12 months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.~~

~~[ff] The judge may authorize work ethic camp. To qualify for work ethic authorization my term of total confinement must be more than twelve months and less than thirty-six months, I can not currently be either pending prosecution or serving a sentence for violation of the uniform controlled substance act and I can not have a current or prior conviction for a sex or violent offense.~~

7. I plead guilty to:

Count 1: Possession of Controlled Substances, Cocaine

in the Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement:

*On Nov. 22, 2005 in Island County, wa I
did possess cocaine.*

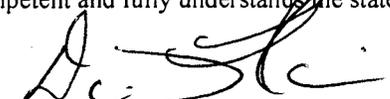
[] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and all appendices and attachments to this Statement of Defendant on Plea of Guilty and the "Offender Registration" Attachment if applicable. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty" including all appendices and attachments. I have no further questions to ask the judge.


Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

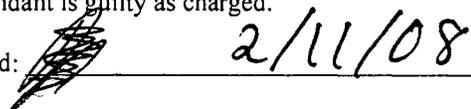

GREGORY M. BANKS
Prosecuting Attorney
WSBA #22926

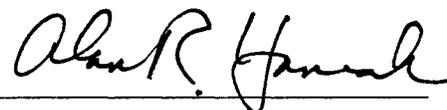

DARRIN HALL
Attorney for Defendant
WSBA #37987

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's declaration is attached.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: 
2/11/08


Judge

APPENDIX TO 6(c)
STATEMENT OF DEFENDANT ON PLEA OF GUILTY

STATE V. WILLIE LEE RAINEY
ISLAND COUNTY SUPERIOR COURT CAUSE NO. 08-1-00030-4

CRIME	DATE OF SENTENCE	SENTENCING COURT (COUNTY & STATE)	DATE OF CRIME	A OR J (ADULT OR JUV)	TYPE OF CRIME
Possession of Controlled Substances	7-30-04	Island Co., WA 03-1-00275-6		A	NV
Unlawful Imprisonment; Violation of No Contact Order	2-11-08	Island Co., WA 07-1-00158-2		A	NV

APPENDIX B

FILED

FEB 1 1 2008

**SHARON FRANZEN
ISLAND COUNTY CLERK**

IN THE SUPERIOR COURT FOR ISLAND COUNTY, WASHINGTON

STATE OF WASHINGTON,

Plaintiff,

vs.

WILLIE LEE RAINEY,

Defendant.

NO. 07-1-00158-2

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY TO NON-SEX OFFENSE
(STTDFG)

SCANNED

- 1. My true name is: Willie Lee Rainey
- 2. My age is: 31
- 3. The last level of education I completed was 12

4. I Have Been Informed and Fully Understand That:

- (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.
- (b) I am charged with: Unlawful Imprisonment and Violation of No Contact, Protection, or Restraining Order – First or Second Offense.

The elements are:

COUNT I – Unlawful Imprisonment – Domestic Violence

On or about June 24, 2007, in the County of Island, State of Washington, the above-named Defendant did knowingly restrain another person, to wit: Jill Glaspie, a family or household member; contrary to Revised Code of Washington 9A.40.010(1).

**COUNT II – Violation of No Contact, Protection, or Restraining Order
First or Second Offense**

On or about June 24, 2007, in the County of Island, State of Washington, the above-named Defendant, with knowledge that the Island County Superior Court had previously issued a protection order, restraining order, or no contact order pursuant to Chapter 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW in *Jill Ann Glaspie vs. Willie Lee Rainey*, Cause No. 06-2-00829-9, did violate the order while the order was in effect by knowingly violation the restraint provisions

SCANNED

therein, and/or by knowingly violating a provision excluding him or her from a residence, a workplace, a school or a daycare, and/or by knowingly coming within, or knowingly remaining within a specified distance of a location; contrary to Revised Code of Washington 26.50.110(1).

5. **I Understand I Have the Following Important Rights, and I Give Them All Up by Pleading Guilty:**

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

6. **In Considering the Consequences of my Guilty Plea, I Understand That:**

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a **Standard Sentence Range** as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f).)	MAXIMUM TERM AND FINE
1	2	4-12 months		4-12 months	12 months	5 yrs. and/or \$10,000 fine
2		0-365 days		0-365 days		1 yr. and/or \$5,000 fine
3						

(F) Firearm, (D) other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8).

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

See attached.

- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.
- (f) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is not more than 12 months. If this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community placement. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community placement. The actual period of community placement, community custody, or community supervision may be as long as my earned early release period. During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, under certain circumstances the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the community custody range established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.728 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody range will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Serious Violent Offenses	24 to 48 months or up to the period of earned release, whichever is longer
Violent Offenses	18 to 36 months or up to the period of earned release, whichever is longer.
Crimes Against Persons as defined by RCW 9.94A.411(2)	9 to 18 months or up to the period of earned release, whichever is longer
Offenses under Chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.660)	9 to 12 months or up to the period of earned release, whichever is longer.

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement

status or other sanctions.

If I have not completed my maximum term of total confinement and I am subject to a third violation hearing and the Department of Corrections finds that I committed the violation, the Department of Corrections may return me to a state correctional facility to serve up to the remaining portion of my sentence.

(g) **The prosecuting attorney will make the following recommendation to the judge:**

In exchange for my agreement to plead guilty, the State has filed an Amended Information on this date. Upon the court's acceptance of my plea of guilty as charged to Unlawful Imprisonment and Violation of No Contact, Protection or Restraining Order – First or Second Offense, the state will agree to not file any additional criminal charges against me, arising out of the incidents described in the police reports prepared in connection with this case, a copy of which I have read. At sentencing, the state will recommend that I be ordered to serve 6 months confinement, that I be placed on community custody for a period of one year, that I be ordered to pay \$217 court costs, a \$500 crime victim assessment, a \$100 DNA collection fee, and that I be ordered to reimburse the county the actual cost of my court-appointed attorney's fees. In addition, the state will further recommend that I have no contact with Jill Glaspie. This is an agreed recommendation.

The prosecutor will recommend as stated in the plea agreement, which is incorporated by reference.

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless there is a finding of substantial and compelling reasons not to do so. I understand the following regarding exceptional sentences:

- (i) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence.
- (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.
- (iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act.
- (iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

I understand that if a standard range sentence is imposed, the sentence cannot be appealed by anyone. If an exceptional sentence is imposed after a contested hearing, either the State or I can appeal the sentence.

- (i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
- (j) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040.

- (k) I understand that I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079, 29A.08.520.
- (l) Public Assistance will be suspended during any period of imprisonment and during any time I am a fugitive or not in compliance with the terms of supervision. (See 42 U.S.C. sec. 608(a)(9)).
- (m) I understand that I will be required to have a biological sample collected for purposes of DNA identification analysis. For offenses committed on or after July 1, 2002, I will be required to pay a \$100 DNA collection fee, unless the court finds that imposing the fee will cause me undue hardship.

Notification Relating to Specific Crimes. If Any of the Following Paragraphs Do Not Apply, They Should Be Stricken and Initialed by the Defendant and the Judge.

- [n] ~~This offense is a most serious offense or strike as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.~~
- [o] ~~The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days' confinement, and up to two years community supervision if the crime was committed prior to July 1, 2000, or up to two years of community custody if the crime was committed on or after July 1, 2000, plus all of the conditions described in paragraph (f). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.~~
- [p] ~~If this crime involves a kidnapping offense involving a minor, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Offender Registration" Attachment.~~
- [q] ~~If this is a crime of domestic violence, I may be ordered to pay a domestic violence assessment of up to \$100. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.~~
- [r] ~~If this crime involves prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.~~
- [s] ~~The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.660. Even if I qualify, the judge may order that I be examined by a licensed or certified treatment provider before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison based alternative or residential chemical dependency treatment based alternative. If the judge imposes the prison based alternative, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12 months, whichever is greater. During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose a term of community custody of at least one-half of the midpoint of the standard range.~~

~~If the judge imposes the residential chemical dependency treatment based alternative, the sentence will consist of a term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, and I will have to enter and remain in a certified residential chemical dependency treatment program for a period of *three to six months*, as~~

set by the court. As part of this sentencing alternative, the court is required to schedule a progress hearing during the period of residential chemical dependency treatment and a treatment termination hearing scheduled three months before the expiration of the term of community custody. At either hearing, based upon reports by my treatment provider and the department of corrections on my compliance with treatment and monitoring requirements and recommendations regarding termination from treatment, the judge may modify the conditions of my community custody or order me to serve a term of total confinement equal to one half of the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715.

During the term of community custody for either sentencing alternative, the judge could prohibit me from using alcohol or controlled substances, require me to submit to urinalysis or other testing to monitor that status, require me to devote time to a specific employment or training, stay out of certain areas, pay \$30.00 per month to offset the cost of monitoring and require other conditions, such as affirmative conditions, and the conditions described in paragraph 6(f). The judge, on his or her own initiative, may order me to appear in court at any time during the period of community custody to evaluate my progress in treatment or to determine if any violations of the conditions of the sentence have occurred. If the court finds that I have violated the conditions of the sentence or that I have failed to make satisfactory progress in treatment, the court may modify the terms of my community custody or order me to serve a term of total confinement within the standard range.

- ~~[t]~~ — If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.
- [u] — If this crime involves the manufacture, delivery, or possession with the intent to deliver methamphetamine, including its salts, isomers, and salts of isomers, or amphetamine, including its salts, isomers, and salts of isomers, a mandatory methamphetamine clean-up fine of \$3,000.00 will be assessed. RCW 69.50.401(2)(b).
- ~~[v]~~ — If this crime involves a violation of the state drug laws, my eligibility for state and federal food stamps, welfare, and education benefits may be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 862a.
- ~~[w]~~ — If this crime involves a motor vehicle, my driver's license or privilege to drive will be suspended or revoked.
- [x] — If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.505(13).
- [y] — If I am pleading guilty to felony driving under the influence of intoxicating liquor or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked or denied. Following the period of suspension, revocation or denial, I must comply with ignition interlock device requirements.
- [z] — The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(n).

~~[aa] I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.~~

~~[bb] I understand that the offense(s) I am pleading guilty to include a Violation of the Uniform Controlled Substances Act in a protected zone enhancement or manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture enhancement. I understand these enhancements are mandatory and that they must run consecutively to all other sentencing provisions.~~

~~[cc] I understand that the offense(s) I am pleading guilty to include a deadly weapon, firearm, or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.~~

~~[dd] I understand that the offenses I am pleading guilty to include both a conviction under RCW 9.41.040 for unlawful possession of a firearm in the first or second degree and one or more convictions for the felony crimes of theft of a firearm or possession of a stolen firearm. The sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will also be imposed for each firearm unlawfully possessed.~~

~~[ee] I understand that if I am pleading guilty to the crime of unlawful practices in obtaining assistance as defined in RCW 74.08.331, no assistance payment shall be made for at least 6 months if this is my first conviction and for at least 12 months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.~~

~~[ff] The judge may authorize work ethic camp. To qualify for work ethic authorization my term of total confinement must be more than twelve months and less than thirty six months, I can not currently be either pending prosecution or serving a sentence for violation of the uniform controlled substance act and I can not have a current or prior conviction for a sex or violent offense.~~

7. I plead guilty to:

count 1: Unlawful Imprisonment – Domestic Violence
count 2: Violation of No Contact, Protection or Restraining Order

in the Second Amended Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

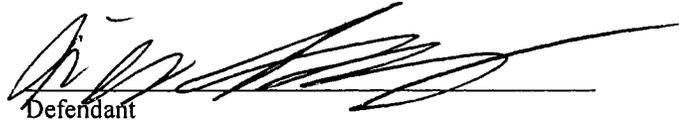
10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement:

*On June 24, 2007, Island County, WA I did knowingly
restrain Jill Mazze and I violated a NCO.*

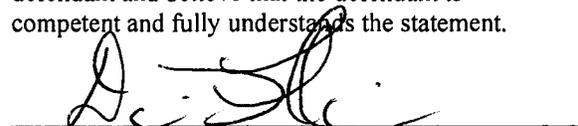
Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and all appendices and attachments to this Statement of Defendant on Plea of Guilty and the "Offender Registration" Attachment if applicable. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty" including all appendices and attachments. I have no further questions to ask the judge.


Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.


GREGORY M. BANKS
Deputy Prosecuting Attorney
WSBA #22926


DARRIN HALL
Attorney for Defendant
WSBA #37987

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's declaration is attached.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: 2/11/08


Judge

APPENDIX TO 6(c)
STATEMENT OF DEFENDANT ON PLEA OF GUILTY

STATE V. WILLIE LEE RAINEY
ISLAND COUNTY SUPERIOR COURT CAUSE NO. 07-1-00158-2

CRIME	DATE OF SENTENCE	SENTENCING COURT (COUNTY & STATE)	DATE OF CRIME	A OR J (ADULT OR JUV)	TYPE OF CRIME
Possession of Controlled Substances	7-30-04	Island Co., WA 03-1-00275-6		A	NV
Possession of Cocaine	2-11-08	Island Co., WA 08-1-00030-4		A	NV