

FILED
May 31, 2016
Court of Appeals
Division I
State of Washington

NO. 74615-4-I

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

STATE OF WASHINGTON,

Respondent,

v.

RAMON PORTER,

Appellant.

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

The Honorable Hollis Hill, Judge

BRIEF OF APPELLANT

JENNIFER WINKLER
Attorney for Appellant

NIELSEN, BROMAN & KOCH, PLLC
1908 E Madison Street
Seattle, WA 98122
(206) 623-2373

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A. ASSIGNMENT OF ERROR

The judgment and sentence and related documents contain confusing scrivener's errors that should be corrected.

Issue Pertaining to Assignment of Error

Where the judgment and sentence and related documents contain scrivener's errors misidentifying various counts, should the case be remanded for correction of the documents?

B. STATEMENT OF THE CASE

The State charged Ramon Porter with second degree identity theft (Count 1), second degree vehicle prowl (Count 2), mail theft (Count 3), making a false or misleading statement to a public servant (Count 4), felony bail jumping (count 5), and misdemeanor bail jumping (Count 6). CP 79-81 (Second Amended Information, attached as Appendix A).

Porter pleaded guilty to Count 2 in June of 2015 as part of an agreement to enter the county's drug court program, and he was sentenced separately as to that count. CP 44-46.

Porter withdrew from drug court, and a jury ultimately convicted Porter on Counts 1, 3, 5 and 6. CP 125-59. The jury, however, deadlocked as to Count 4 (false or misleading statement). See CP 130-32 ("Order Declaring Deadlock and Discharging Jury," attached as Appendix B); RP 627-28. But the order declaring deadlock mistakenly refers to the

false statement charge as “Count 5.” See CP 127 (verdict form); CP 159 (to-convict instruction).

As to the three felony counts, 1, 3, and 5, the court ran the sentences concurrent to each other and sentenced Porter to a prison-based drug offender sentencing alternative (DOSA) totaling 27.75 months of incarceration. CP 176; RCW 9.94A.660. The court ran that sentence concurrent to the sentence for misdemeanor bail jumping, Count 6. RP 656.

The felony judgment and sentence, however, erroneously refers to the felony bail jumping charge as Count 4 on its first and second pages. CP 173, 174 (felony judgment and sentence attached as Appendix C). And the judgment and sentence also refers to the misdemeanor charge that is to run concurrently as Count 4, rather than Count 6. CP 176. The “non-felony” judgment and sentence as to that count, however, correctly identifies the misdemeanor bail jumping as Count 6. CP 170 (Appendix D).

Porter timely appeals. CP 184.

C. ARGUMENT

THIS COURT SHOULD REMAND FOR CORRECTION OF THE SCRIVENER'S ERRORS IN THE JUDGMENT AND SENTENCE AND THE ORDER DECLARING JURY DEADLOCK.

To avoid potentially costly future confusion, this Court should remand for correction of the scrivener's errors misidentifying various counts in the judgment and sentence and the order declaring jury deadlock.

A "scrivener's error" is synonymous with a "clerical mistake." In re Pers. Restraint of Mayer, 128 Wn. App. 694, 701-02, 117 P.3d 353 (2003). "A clerical mistake is one that when amended would correctly convey the intention of the court based on other evidence." State v. Priest, 100 Wn. App. 451, 455, 997 P.2d 452 (2000) (citing Presidential Estates Apartment Assoc. v. Barrett, 129 Wn.2d 320, 326, 917 P.2d 100 (1996)).

The remedy for such an error is remand for correction of the error. Mayer, 128 Wn. App. at 701-02. This Court routinely remands for correction of such clerical mistakes when identified on appeal. See, e.g., State v. Munoz-Rivera, 190 Wn. App. 870, 895, 361 P.2d 182 (2015); State v. Naillieux, 158 Wn. App. 630, 646-47, 241 P.3d 1280 (2010).

Here, the felony judgment and sentence repeatedly misidentifies the felony bail jumping count as Count 4 rather than Count 5. CP 173, 174; but see CP 176 (appearing to correctly refer to charge as Count 5).

The judgment and sentence also misidentifies the misdemeanor charge that is to run concurrent with the felony sentence as Count 4 rather than Count 6. CP 176. But Count 4 was the charge upon which the jury deadlocked and a mistrial was declared. CP 127, 159; RP 628. Adding to the confusion, the order declaring jury deadlock misidentifies the count number upon which the jury deadlocked as Count 5 rather than Count 4. CP 130-32.

Given the series of interlocking inaccuracies, is in the interest of the parties that the superior court's sentence and rulings be clearly reflected in the documents.

Undersigned counsel recognizes the mistakes could be rectified by agreement of the parties without the need for this Court's review and intervention. However, Mr. Porter may wish to exercise his right to file a Statement of Additional Grounds for Review, thereby requiring review of additional issues concerning his convictions and sentence.

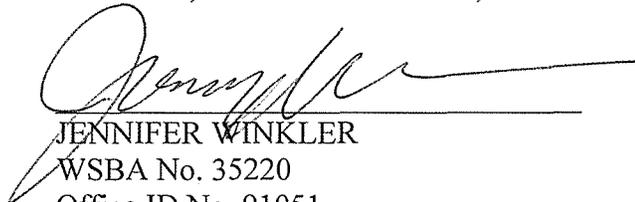
D. CONCLUSION

This case should be remanded to amend the felony judgment and sentence and the “Order Declaring Jury Deadlock and Discharging Jury” to reflect the correct count numbers. Granting such relief will avoid future confusion regarding Mr. Porter’s judgment and sentence.

DATED this 27th day of May, 2016.

Respectfully submitted,

NIELSEN, BROMAN & KOCH, PLLC



JENNIFER WINKLER
WSBA No. 35220
Office ID No. 91051

Attorneys for Appellant

APPENDIX A

FILED
KING COUNTY, WASHINGTON

NOV. 23 2015

SUPERIOR COURT CLERK
BY Geylar Greer
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

KATHLEEN ANNE MESS,
RAMON LAVELLE PORTER
AND EACH OF THEM,

Defendant.

No. 15-C-00624-6 SEA

15-C-00623-8 SEA

SECOND AMENDED INFORMATION
(AMENDED AS TO PORTER ONLY)

I, Daniel T. Satterberg, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse KATHLEEN ANNE MESS, AND RAMON LAVELLE PORTER of the following crime[s], which are of the same or similar character, and which are based on the same conduct or a series of acts connected together or constituting parts of a common scheme or plan: **Identity Theft in the Second Degree, Vehicle Prowl In The Second Degree, Mail Theft, Making a False or Misleading Statement to a Public Servant, and Bail Jumping**, committed as follows:

Count 1: Identity Theft in the Second Degree

That the defendants KATHLEEN ANNE MESS AND RAMON LAVELLE PORTER and each of them in King County, Washington, on or about December 5, 2014, did knowingly obtain, possess, use or transfer a means of identification or financial information, to-wit: the name and credit card and statement for account ending in 6758, and mail containing financial paperwork of another person, living or dead, to-wit: Mei Xu, knowing that the means of identification or financial information belonged to another person, with the intent to commit, or to aid or abet, any crime and obtained an aggregate total of credit, money, goods, services, or anything else of value that was less than \$1500 or obtained no credit, money, goods, services or anything of value;

Contrary to RCW 9.35.020(1), (3), and against the peace and dignity of the State of Washington.

Count 2: Vehicle Prowl In The Second Degree

Daniel T. Satterberg, Prosecuting Attorney
CRIMINAL DIVISION
W554 King County Courthouse
516 Third Avenue
Seattle, WA 98104-2385
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AMENDED INFORMATION - 1

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1 That the defendant KATHLEEN ANNE MESS AND RAMON LAVELLE PORTER in
 2 King County, Washington, on or about December 5, 2014, did unlawfully enter and remain in a
 3 vehicle, to-wit: 2005 Toyota Sienna van belonging to Warren Chang, with intent to commit the
 4 crime of theft against property therein;

5 Contrary to RCW 9A.52.100(1), (2), and against the peace and dignity of the State of
 6 Washington.

7 Count 3: Mail Theft

8 That the defendant RAMON LAVELLE PORTER in King County, Washington, on or
 9 about December 5, 2014, with intent to deprive another of property, did wrongfully obtain ten or
 10 more separate pieces of mail addressed to three or more different addresses, to-wit: 14420 SE
 11 63rd St Bellevue; 14326 SE 63rd St Bellevue; 14425 SE 63rd St Bellevue; 14212 SE 63rd St
 12 Bellevue; 14428 SE 63rd St Bellevue; 14449 SE 63rd St. Bellevue; 14543 SE 60th St Bellevue;
 13 6120 145th Pl SE Bellevue; 14430 SE 61st St Bellevue;

14 Contrary to RCW 9A.56.370 and 9A.56.020(1), and against the peace and dignity of the
 15 State of Washington.

16 Count 4: Making A False Or Misleading Statement To A Public Servant

17 That the defendant RAMON LAVELLE PORTER in King County, Washington, on or
 18 about December 5, 2014, did knowingly make a false or misleading material statement to Brian
 19 Schafer, a public servant, and that this statement was reasonably likely to be relied upon by the
 20 said public servant in the discharge of his official duties;

21 Contrary to RCW 9A.76.175, and against the peace and dignity of the State of
 22 Washington.

23 Count 5: Bail Jumping

24 That the defendant RAMON LAVELLE PORTER in King County, Washington, on or
 about April 9, 2015, being charged with Identity Theft in the Second Degree, a Class C felony,
 and having been released by court order with knowledge of the requirement of a subsequent
 personal appearance before King County Superior Court, a court of the state of Washington, did
 fail to appear as required;

Contrary to RCW 9A.76.170(1), (3)(c), and against the peace and dignity of the State of
 Washington.

Count 6: Bail Jumping

That the defendant RAMON LAVELLE PORTER in King County, Washington, on or
 about April 8, 2015, being charged with and convicted of Vehicle Prowling in the Second
 Degree, a gross misdemeanor or misdemeanor, and having been released by court order with

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knowledge of the requirement of a subsequent personal appearance before King County Superior Court, a court of the state of Washington, did fail to appear as required;

Contrary to RCW 9A.76.170(1), (3)(d), and against the peace and dignity of the State of Washington.

Count 7: Identity Theft in the Second Degree

That the defendant KATHLEEN ANNE MESS in King County, Washington, on or about December 5, 2014, did knowingly obtain, possess, use or transfer a means of identification or financial information, to-wit: the name and 4 check books bearing account number ending in 4415 of another person, living or dead, to-wit: Xuerong Tang, knowing that the means of identification or financial information belonged to another person, with the intent to commit, or to aid or abet, any crime and obtained an aggregate total of credit, money, goods, services, or anything else of value that was less than \$1500 or obtained no credit, money, goods, services or anything of value;

Contrary to RCW 9.35.020(1), (3), and against the peace and dignity of the State of Washington.

DANIEL T. SATTERBERG
Prosecuting Attorney



By: Kathryn E. Meyers, WSBA #43242
Deputy Prosecuting Attorney

APPENDIX B

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KING COUNTY
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SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)
)
) Plaintiff,)
)
 vs.)
)
 Ramon Porter,)
) Defendant.)
)
)

No. 15-C-00623-8

ORDER DECLARING JURY
DEADLOCK AND DISCHARGING
JURY PURSUANT TO CrR 6.10

THIS MATTER came before the undersigned judge on the date set out below for a return of verdict.

1. JURY DEADLOCK (NO VERDICT RETURNED)

JURY INQUIRY pursuant to CrR 6.10 and WPIC 4.70:

The jurors declared that they were hopelessly deadlocked on the following charges:

Count 5 Charge making a false statement to Public Servant

Count _____ Charge _____

Count _____ Charge _____

The court has considered the statements of the jurors, the length of time the jury deliberated, the length of the trial, and the volume and complexity of the evidence.

ORDER DECLARING JURY DEADLOCK AND
DISCHARGING JURY PURSUANT TO CrR 6.10 - 2

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FINDINGS AS TO JURY DEADLOCK:

- The defendant has consented to discharge of the jury.
- The defendant has not consented to discharge of the jury.

The jury is hopelessly deadlocked. There is no reasonable possibility that further deliberations will result in any further verdict as to the charges listed above. There is manifest necessity for declaring a deadlock as to the charges listed above and discharging the jury. See Arizona v. Washington, 434 U.S. 497 (1978); State v. Jones, 97 Wn.2d 159, 163-64 (1982).

A MISTRIAL IS HEREBY DECLARED AS TO THE CHARGES LISTED ABOVE.

2. VERDICT RETURNED ON LESSER CRIMES

The jury returned a verdict as to lesser crimes as to Count(s) _____.

JURY INQUIRY pursuant to CrR 6.10 and WPIC 4.70:

The jurors declared that they were hopelessly deadlocked on the following crimes:

- Count 5 Crime making a false statement
- Count _____ Crime _____
- Count _____ Crime _____

The court has considered the statements of the jurors, the length of time the jury deliberated, the length of the trial, and the volume and complexity of the evidence.

The jury is hopelessly deadlocked. There is no reasonable possibility that further deliberations will result in any further verdict as to the crimes listed above. There is manifest necessity for declaring a deadlock as to the charges listed above and discharging the jury. See Arizona v. Washington, 434 U.S. 497 (1978); State v. Jones, 97 Wn.2d 159, 163-64 (1982).

A MISTRIAL IS HEREBY DECLARED AS TO THE CRIMES LISTED ABOVE.

NO JURY INQUIRY : With the consent of the defendant, the jury was discharged without inquiry as to deadlock.

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3. ORDER

The jury is hereby discharged.

DONE IN OPEN COURT this 2^d day of December, 2015.

Heidi Hill
JUDGE

Presented by:

[Signature]
89324

Deputy Prosecuting Attorney, WSBA #

Approved for entry:

[Signature]

Attorney for Defendant, WSBA # 36731

ORDER DECLARING JURY DEADLOCK AND
DISCHARGING JURY PURSUANT TO CrR 6.10 - 4

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APPENDIX C

FILED
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KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
	)	Plaintiff,
)	
vs.	)	No. 15-C-00623-8 SEA
)	
	)	JUDGMENT AND SENTENCE
RAMON LAVELLE PORTER,	)	FELONY (FJS)
)	
)	
	)	Defendant.

I. HEARING

I.1 The defendant, the defendant's lawyer, Evgeniya D. Mordekhova, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: _____

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 12/02/2015 by Jury Verdict of:

Count No.: I Crime: Identity Theft in the Second Degree
RCW: 9A.35.020(1), (3) Crime Code: 03042
Date of Crime: 12/05/2014

Count No.: III Crime: Mail Theft
RCW: 9A.56.370 and 9A.56.020(1) Crime Code: 02731
Date of Crime: 12/05/2014

Count No.:IV Crime: Bail Jumping
RCW: 9A.76.170(1), (3)(c) Crime Code: 05164
Date of Crime: 04/09/2015

Additional current offenses are attached in Appendix A

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SPECIAL VERDICT or FINDING(S):

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

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

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

- Criminal history is attached in Appendix B.
- One point added for offense(s) committed while under community placement for count(s) ~~every~~ each count(s)

2.4 **SENTENCING DATA:**

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
I	10	II	43-57 months		43-57 months	5 YRS and/or \$10,000
III	n/a	Unranked	0-12 months		0-12 months	5 YRS and/or \$10,000
IV	10	III	51-60 months		51-60 months	5 YRS and/or \$10,000

Additional current offense sentencing data is attached in Appendix C.

2.5 **EXCEPTIONAL SENTENCE**

Findings of Fact and Conclusions of Law as to sentence above the standard range:
Finding of Fact: The jury found or the defendant stipulated to aggravating circumstances as to Count(s) _____

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

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

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

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

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

The Court DISMISSES Count(s) _____

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IV. ORDER

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

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

4.1 RESTITUTION, VICTIM ASSESSMENT, AND DNA FEE:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
- Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(5), sets forth those circumstances in attached Appendix E.
- Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
- Date to be set.
- Defendant waives right to be present at future restitution hearing(s).
- Restitution is not ordered.

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

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

- (a) \$ _____, Court costs (RCW 9.94A.030, RCW 10.01.160); Court costs are waived;
- (b) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs (RCW 9.94A.030); Recoupment is waived;
- (c) \$ _____, Fine; \$1,000, Fine for VUCSA. \$2,000, Fine for subsequent VUCSA (RCW 69.50.430); VUCSA fine waived;
- (d) \$ _____, King County Interlocal Drug Fund (RCW 9.94A.030); Drug Fund payment is waived;
- (e) \$ _____, \$100 State Crime Laboratory Fee (RCW 43.43.690); Laboratory fee waived;
- (f) \$ _____, Incarceration costs (RCW 9.94A.760(2)); Incarceration costs waived;
- (g) \$ _____, Other costs for: _____

4.3 PAYMENT SCHEDULE: The TOTAL FINANCIAL OBLIGATION set in this order is \$ 600 to date

Restitution may be added in the future. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month;

On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied. Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

Court Clerk's trust fees are waived. Interest is waived except with respect to restitution.

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

The defendant is sentenced to the following term(s) of confinement in the custody of the Dept. of Corrections (DOC) to commence immediately; by _____ at _____ a.m./p.m.:
27.75 months (if crime after 6/6/06, 12 month minimum) on Count No. 5,1;
12 months (if crime after 6/6/06, 12 month minimum) on Count No. 3;
_____ months (if crime after 6/6/06, 12 month minimum) on Count No. _____;

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

The terms imposed herein shall be served concurrently.

The term(s) imposed herein shall run CONSECUTIVE CONCURRENT to cause No(s) Count 4 and consecutive to Count 2 (Miss V.P. previously sentenced)
The term(s) imposed herein shall run CONSECUTIVE CONCURRENT to any previously imposed commitment not referred to in this judgment.

Credit is given for time served in King County Jail or EHD solely for confinement under this cause number pursuant to RCW 9.94A.505(6): _____ day(s) or days determined by the King County Jail.

Credit is given for days determined by the King County Jail to have been served in the King County Supervised Community Option (Enhanced CCAP) solely under this cause number.

The court authorizes earned early release credit consistent with the local correctional facility standards for days spent in the King County Supervised Community Option (Enhanced CCAP).

Jail term is satisfied; defendant shall be released under this cause.

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

COMMUNITY CUSTODY: The court further imposes 27.75 months, one-half of the midpoint of the standard range, as a term of community custody during which time the defendant shall comply with the instructions, rules and regulations promulgated by the Department for conduct of the defendant during community custody; shall perform affirmative acts necessary to monitor compliance, shall obey all laws and comply with the following mandatory statutory requirements:

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

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

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

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4.4 (b) **RESIDENTIAL TREATMENT-BASED SPECIAL DRUG OFFENDER**

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

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

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

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

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

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

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

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

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

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

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

Devote time to a specific employment or training.

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

Report as directed to a community corrections officer.

Pay all court ordered legal financial obligations.

Perform _____ community restitution hours on a schedule set by DOC.

Stay out of designated areas as follows: _____

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

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

17?

4.7 CONDITIONS OF COMMUNITY CUSTODY IMPOSED AFTER TERMINATION OF DOSA:

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

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

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

Report as directed to a community corrections officer.

Pay all court ordered legal financial obligations.

Stay out of designated areas as follows: _____

Other conditions: _____

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

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

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

5.0 NO CONTACT: For the maximum term of 5 years, defendant shall have no contact with _____

no direct or indirect contact
Kathleen Mess, Mei Xu, 14420, 14326, 14449, 14212, 14428, 14449, SE Blvd in Bellevue

Date: 12/4/15

Hollis Hill
JUDGE
Print Name: Hollis Hill

Presented by: [Signature]
Deputy Prosecuting Attorney, WSBA# _____
Print Name: Kathryn Meyers

Approved as to form: [Signature]
Attorney for Defendant, WSBA # 36731
Print Name: MORDECAI

FINGER PRINTS



RIGHT HAND
FINGERPRINTS OF:
RAMON LAVELLE PORTER

DEFENDANT'S SIGNATURE: *Ramon Porter*
DEFENDANT'S ADDRESS: Do

Dated: 12/5/15
Heidi Hill
JUDGE

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK
By: *Barbara Miner*
DEPUTY CLERK

CERTIFICATE

OFFENDER IDENTIFICATION

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

S.I.D. NO. WA18971951

DOB: 09/01/1983

SEX: Male

RACE: Black/African American

By: _____
DEPUTY CLERK

1.79

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
	)	Plaintiff,
	)	No. 15-C-00623-8 SEA
vs.	)	JUDGMENT AND SENTENCE (FELONY)
	)	APPENDIX H
RAMON LAVELLE PORTER,	)	COMMUNITY CUSTODY
)	
	)	Defendant.

The Defendant shall comply with the following conditions of community custody, effective as of the date of sentencing unless otherwise ordered by the court.

- 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 restitution;
- 3) Not possess or consume controlled substances except pursuant to lawfully issued prescriptions;
- 4) Pay supervision fees as determined by the Department of Corrections;
- 5) Receive prior approval for living arrangements and residence location; and
- 6) Not own, use, or possess a firearm or ammunition. (RCW 9.94A.706)
- 7) Notify community corrections officer of any change in address or employment;
- 8) Upon request of the Department of Corrections, notify the Department of court-ordered treatment;
- 9) Remain within geographic boundaries, as set forth in writing by the Department of Corrections Officer or as set forth with SODA order.

The defendant shall not consume any alcohol.
 Defendant shall have no contact with: see judgement of sentence

Defendant shall remain within outside of a specified geographical boundary, to wit:

The court finds that the defendant has a chemical dependency (alcohol other substance) that has contributed to his or her offense. Treatment is reasonably related to the circumstances of this crime and reasonably necessary or beneficial to the defendant and the community. (RCW 9.94A.607) Therefore, the defendant shall participate in the following treatment:
substance abuse tx

The defendant shall comply with the following crime-related prohibitions:

Other conditions may be imposed by the court or Department during community custody.

Community Custody shall begin upon completion of the term(s) of confinement imposed herein, or at the time of sentencing if no term of confinement is ordered. The defendant shall remain under the supervision of the Department of Corrections and follow explicitly the instructions and conditions established by that agency. The Department may require the defendant to perform affirmative acts deemed appropriate to monitor compliance with the conditions and may issue warrants and/or detain defendants who violate a condition.

Date: 12/5/15

Hal Hill
 JUDGE

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
	)	Plaintiff,
	)	No. 15-C-00623-8 SEA
vs.)	
	)	JUDGMENT AND SENTENCE,
	)	(FELONY) - APPENDIX B,
RAMON LAVELLE PORTER,	)	CRIMINAL HISTORY
)	
	)	Defendant.

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

Crime	Sentencing Date	Adult or Juv.	Cause Number	Location
Violation of the Uniform Controlled Substances Act	11-01-2013	AF	12-1-05620-6	King Superior Court WA
theft 2nd	07-07-2011	AF	11-1-02377-1	Pierce Superior Court WA
theft 2nd	01-20-2012	AF	1-1-01022-2	Snohomish Superior Court WA
theft 1st	10-28-2011	AF	10-1-09523-0	King Superior Court WA
theft 2nd	10-28-2010	AF	10-1-09523-0	King Superior Court WA
forgery	03-30-2010	AF	09-1-03582-9	King Superior Court WA
protection order viol-felony	07-01-2005	AF	05-1-07321-3	King Superior Court WA

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

Date: 12/5/15 [Signature]
 JUDGE, KING COUNTY SUPERIOR COURT

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

RAMON LAVELLE PORTER,

Defendant.

No. 15-C-00623-8 SEA

APPENDIX G
ORDER FOR BIOLOGICAL TESTING
AND COUNSELING

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at (206) 477-5003 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

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

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

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at (206) 263-2000 to make arrangements for the test to be conducted within 30 days.

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

Date: 12/5/15

Helli Helli

JUDGE, King County Superior Court

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APPENDIX D

_____. This term shall run consecutive to any other term not specifically referenced in this order.

Jail term is satisfied; defendant shall be released under this cause.

(2) The defendant shall serve _____ months of probation under the supervision of the Washington State Department of Corrections (DOC) and comply with the standard rules and regulations of supervision. Probation shall commence immediately but is tolled during any period of confinement. The defendant shall report for supervision within 72 hours of this date or release date if in custody. If DOC declines to supervise, the defendant shall be on unsupervised probation.

The defendant shall be on unsupervised probation for _____ months, subject to the conditions of this sentence. A review hearing is set for _____ at _____ a.m./p.m. in this courtroom.

For the following crimes, probation may be ordered and if probation is ordered, DOC supervision is mandatory: (a) sexual misconduct with a minor in the second degree, custodial sexual misconduct in the second degree, communication with a minor for immoral purposes, or failure to register pursuant to RCW 9A.44.130; (b) a repetitive domestic violence offense where domestic violence was pled and proven after 8/1/2011, if the defendant has a prior conviction for either a felony domestic violence offense or a repetitive domestic violence offense, where domestic violence was pled and proven after 8/1/2011. RCW 9.94A.501.

DOC will not supervise any other nonfelony probation. RCW 9.94A.501(5).

(3) Defendant shall pay to the clerk of this Court:

(a) Restitution is not ordered;

Order of Restitution is attached;

Restitution to be determined at a restitution hearing on (Date) _____ at _____ m.;

Date to be set;

The defendant waives presence at future restitution hearing(s);

(b) \$ _____, Court costs;

(c) \$ _____, Victim assessment, \$500 for gross misdemeanors and \$250 for misdemeanors (mandatory);

(d) \$100 DNA collection fee (RCW 43.43.7541)(mandatory for crimes listed in paragraph 12);

(e) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs;

(f) \$ _____, Fine; \$ _____ of this fine is suspended upon the terms and conditions herein;

(g) TOTAL financial obligation 500 to date _____; *no interest*

The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month; On a schedule established by DOC if it has active supervision of the defendant, or by the county clerk. Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

(4) The defendant shall complete _____ community service hours at a rate of not less than _____ hours per month to be completed by (Date) _____. If DOC supervision is not ordered, this will be monitored by the Helping Hands Program this court.

A review hearing is set on _____, 20____, at _____ a.m./ p.m. in this courtroom.

(5) The defendant shall complete _____ days of Community Work Program (Work Crew).

(6) The defendant shall attend the King County Supervised Community Option (Enhanced CCAP) subject to conditions of conduct ordered this date:

For a period of _____ days.

While in Work/ Education Release.

(7) The defendant shall not purchase, possess, or use any alcohol controlled substance (without lawful prescription). The defendant shall submit to urinalysis and breath testing as required by DOC and submit to search of person, vehicle or home by a Community Corrections Officer upon reasonable suspicion of violation;

(8) The defendant shall obtain a substance abuse evaluation and follow all treatment recommendations; comply w/ felony DOSA conditions

(9) The defendant shall enter into, make reasonable progress and successfully complete a state certified domestic violence treatment program;

(10) The defendant shall have no contact with: _____

(11) The defendant shall have no unsupervised contact with minors.

(12) The defendant shall have a biological sample collected for DNA identification analysis and shall fully cooperate in the testing, as ordered in Appendix G (for harassment, stalking, assault in the fourth degree with sexual motivation, communicating with a minor for immoral purposes, failure to register, custodial sexual misconduct in the second degree, patronizing a prostitute, sexual misconduct with a minor in the second degree, violation of a sexual assault protection order, or any other offense requiring registration under RCW 9A.44.130).

(13) The defendant shall register as a sex offender.

(14) The defendant shall commit no criminal offenses.

(15) Additional conditions of probation are: _____

(16) Additional conditions are attached to and incorporated as Appendix _____

Date: 12/4/10

John Hill
Judge, King County Superior Court
Print Name: John Hill

Presented by [Signature]
Deputy Prosecuting Attorney, WSBA # _____
Print Name: John E. Meyer

Defendant's current address: DOC

Form Approved for Entry: _____

[Signature]
Attorney for Defendant, WSBA # 36791
Print Name: MORDEKAI

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

STATE OF WASHINGTON)	
)	
Respondent,)	
)	
v.	)	COA NO. 74615-4-I
)	
RAMON PORTER,)	
)	
Appellant.)	

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 31ST DAY OF MAY 2016, I CAUSED A TRUE AND CORRECT COPY OF THE **BRIEF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] RAMON PORTER
DOC NO. 884491
COYOTE RIDGE CORRECTIONS CENTER
P.O. BOX 769
CONNELL, WA 99326

SIGNED IN SEATTLE WASHINGTON, THIS 31ST DAY OF MAY 2016.

x Patrick Mayovsky