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SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

STATE OF WASHINGTON, Plaintiff,

No. [REDACTED]

vs.

[REDACTED],  
Defendant.

**MOTION IN SUPPORT OF PETITION  
FOR CERTIFICATE AND ORDER OF  
DISCHARGE (RCW §9.94A.637)**

**MOTION**

Comes now [REDACTED], by and through his attorney, M. Rose Spidell, in the above captioned matter and moves this Court for a certificate and order of discharge effective October 29, 2001, pursuant to RCW 9.94A.637. This motion is based on the following memorandum of points and authorities below, the court records, files, exhibits, and any argument presented at a hearing on this motion.

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**MEMORANDUM**

**A. Introduction**

█ seeks restoration of his fundamental constitutional right to vote. In Washington state, an offender is entitled to discharge and restoration of civil rights upon completion of all requirements of his sentence. RCW 9.94A.637.

On January 9, 1991, at the age of 19, █ was convicted of theft in the second degree. As of October 29, 2001, █ had satisfied all requirements imposed on him in the Judgment and Sentence for that conviction, including the payment of restitution and other legal financial obligations, entitling █ to discharge and restoration of his civil rights. For 17 years, █ has remained free of further criminal convictions, and he has maintained steady employment for many years. █ now moves this Court for a certificate and order of discharge with an effective date of October 29, 2001. The undisputed facts demonstrate that █ had completed all conditions of his judgment and sentence as of October 29, 2001. Thus, pursuant to RCW 9.94A.637, which requires a court to discharge an offender upon completion of all conditions of the sentence, █ is entitled to discharge effective October 29, 2001.

**B. Facts Relevant to Motion**

The following undisputed facts show full completion of the sentencing requirements in this case. They are established by the following documents: Judgment and Sentence, (docket sub-number 15, filed January 9, 1991); a Notice of Violation from the Department of Corrections, dated January 26, 2001; a letter from Melanie A. Smith, Cost of Supervision Program Administrator for Department of Corrections, dated August 10, 2006; an Order Waiving Interest, (docket sub-number 75, filed October 29, 2001); and a Case Financial History, dated July 18, 2007, attached hereto as Exhibits A, B, C, D and E.

1 The Judgment and Sentence. Exhibit A, required [REDACTED] to: (a) serve 15 days in  
2 confinement, converted to 120 hours of community service; (b) complete 12 months of  
3 community supervision; (c) pay a total of \$1,612.00 in legal financial obligations (\$70.00 court  
4 costs, \$100.00 victim penalty assessment, \$1,442 restitution); and (d) have no contact nor go on  
5 the property of William Webster. Theft in the second degree is a class C felony, and, as such, the  
6 no-contact order was effective for five years, expiring on January 9, 1996, thus completing  
7 condition (d). On January 26, 2001, the Department of Corrections submitted a Notice of  
8 Violation, Exhibit B. The Notice indicated that [REDACTED] had paid all court-ordered legal  
9 financial obligations in full, except for \$414.08 in accrued interest, and he owed \$330.00 in costs  
10 of supervision fees. The only violation asserted at the time of the Notice was "Failure to make  
11 payments towards Court-ordered legal financial obligations as required." Notice of Violation, at  
12 1. However, the Notice also stated that "[REDACTED]" adjustment to monetary supervision has  
13 been very good." Id. The Department recommended that a hearing be scheduled, and noted that  
14 the supervision period expired on January 8, 2001, but also stated that "should the Court  
15 determine it is not cost effective to continue supervision, an Order Terminating Supervision is  
16 attached." Id. at 2. Because the only violation noted at the time of the Notice was failure to pay  
17 accrued interest on legal financial obligations, and that violation was subsequently satisfied,  
18 conditions (a) and (b) of the sentence were completed at the time of the Notice.  
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21 A letter from Melanie A. Smith, Cost of Supervision Program Administrator for  
22 Department of Corrections, dated August 10, 2006, Exhibit C, confirms that the outstanding  
23 costs of supervision were waived. On October 29, 2001, in the Order Waiving Interest, Exhibit  
24 D, the Court waived the remaining accrued interest owed on the legal financial obligations,  
25 satisfying the only outstanding obligation from the Judgment and Sentence. Additionally, the  
26 Case Financial History, dated July 18, 2007, Exhibit E, further indicates [REDACTED]' payment of

1 all legal financial obligations, satisfying condition (c). Thus, all requirements of the Judgment  
2 and Sentence were satisfied as of October 29, 2001 and a certificate and order of discharge  
3 should issue with an effective date of October 29, 2001.

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5 **C. Legal Argument**

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7 **1. Because RCW 9.94A.637 Requires Issuance of a Discharge Upon Completion**  
8 **of All Sentencing Conditions, [REDACTED] Is Entitled to Discharge Effective**  
9 **October 29, 2001, the Date by which He Completed All Conditions of His**  
10 **Sentence.**

11 Pursuant to RCW 9.94A.637, [REDACTED] is entitled to discharge effective October 29,  
12 2001, the date by which he completed all sentencing conditions. Contrary to what the State may  
13 argue in this case, entitlement to discharge is not triggered by this motion for entry of a certificate  
14 of discharge. Rather, under the plain language of the statute, it is the *completion of sentencing*  
15 *conditions* which entitles an offender to discharge. RCW 9.94A.637. Thus, although [REDACTED]  
16 brings this motion in February 2008, it is October 29, 2001, the date by which he completed all  
17 sentencing conditions, which should be his effective date of discharge.

18 At the end of his supervision with the Department, [REDACTED] had completed all the  
19 requirements of his sentence except his legal financial obligations. In relevant part, RCW  
20 9.94A.637 provides:

21 When an offender has reached the end of his or her supervision with the  
22 department and has completed all the requirements of the sentence except his or  
23 her legal financial obligations, the secretary's designee shall provide the county  
24 clerk with a notice that the offender has completed all nonfinancial requirements  
25 of the sentence.

26 When the department has provided the county clerk with notice that an offender  
has completed all the requirements of the sentence and the offender subsequently  
satisfies all legal financial obligations under the sentence, the county clerk shall

1 notify the sentencing court, including the notice from the department, which shall  
2 discharge the offender and provide the offender with a certificate of discharge by  
3 issuing the certificate to the offender in person or by mailing the certificate to the  
offender's last known address.

4 RCW 9.94A.637(b)(i) and (ii). This statute provides for automatic restoration of rights upon  
5 completion of all sentencing requirements; the issuance of the discharge is not discretionary, and  
6 does not require any affirmative action by the offender. Id.

7 Pursuant to the plain language of RCW 9.94A.637, "restoration is automatic once the  
8 offender completes his sentence requirements." State v. Swanson, 116 Wn. App. 67, 74, 65 P.3d  
9 343, rev. denied, 150 Wn.2d 1006 (2003) (construing a similarly worded statute directing  
10 restoration of firearm rights upon completion of certain conditions). By establishing the  
11 automatic procedures for issuance of a certificate and order of discharge upon completion of  
12 sentence requirements, the statute ensures that discharge and restoration of rights will not be  
13 dependent upon the fortuitous ability of an offender to: (1) learn of the failure of the Department  
14 and/or county clerk to inform the Court of completion of sentencing requirements as they are  
15 required to do by statute; (2) gather all relevant documents to prove completion of sentencing  
16 requirements; and (3) navigate complicated court procedures and move for entry of the certificate  
17 of discharge.

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19 In order to ensure the timely restoration of rights, the legislature has put the obligation of  
20 informing the Court of completion of sentence requirements in the hands of the Department of  
21 Corrections and the county clerks. RCW 9.94A.637(a), (b), and (c). The statute provides that  
22 once the sentencing requirements are completed, the county clerk "shall notify the sentencing  
23 court . . . which shall discharge the offender." RCW 9.94A.637(b)(ii) (emphasis added). Only in  
24 circumstances where an offender has outstanding nonfinancial sentence requirements following  
25 termination of supervision by the Department, is the burden placed on the offender to provide  
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1 verification to the court of completion of those requirements. RCW 9.94A.637(c). (That is not  
2 the circumstance here where [REDACTED] had only financial obligations outstanding following the  
3 termination of supervision). Even in those cases, the responsibility of informing the court of  
4 completion of legal financial obligations remains with the county clerk. Id.

5 Thus, under the plain language of RCW 9.94A.637, [REDACTED] is entitled to discharge  
6 effective October 29, 2001, the date by which he completed all conditions of his sentence.  
7

8 **2. Legislative History and Analogous Case Law Further Demonstrate that the**  
9 **Effective Date of Discharge is the Date Upon Which All Sentencing**  
10 **Conditions are Satisfied, Not the Date Upon Which a Motion is Brought**  
11 **Seeking Issuance of a Certificate of Discharge.**

12 The legislative history behind the discharge statute reflects the legislature's intent that the  
13 right to vote be restored upon completion of the requirements of a sentence, and that offenders  
14 receive timely notice of this restoration of rights. In 2002, an introduction to amendments to the  
15 discharge statute stated:

16 The legislature recognizes that an individual's right to vote is a hallmark of a free  
17 and inclusive society and that it is in the best interests of society to provide  
18 reasonable opportunities and processes for an offender to regain the right to vote  
19 after completion of all of the requirements of his or her sentence. The legislature  
intends to clarify the method by which the court may fulfill its already existing  
direction to provide discharged offenders with their certificates of discharge.

20 2002 Laws, Chapter 16, § 1. These 2002 amendments implicitly assumed that a discharge would  
21 be issued and rights were in fact being automatically restored as mandated by statute, and  
22 addressed only the process by which offenders are notified of that restoration of rights. See Final  
23 S.B. Rep. on SSB 6240. 57th Leg., Reg. Sess., at 1 (Wash. 2002) (noting that "concerns have  
24 been raised that offenders who have completed all the requirements of their sentence and parole  
25 may not be aware that they have had the right to vote restored." "This bill is intended to help give  
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1 notice to offenders that the right to vote has been restored.”). The legislature clearly did not  
2 intend to condition the right to discharge on the fortuitous ability of an offender to identify the  
3 failure of the automatic restoration process and petition for discharge. Rather, this legislative  
4 history further demonstrates that it is *completion of the requirements of the sentence*, which  
5 triggers the right to discharge and restoration of voting rights.

6 This reading of RCW 9.94A.637 is further supported by the Washington Supreme Court’s  
7 decision in State v. T.K., 139 Wn.2d 320, 987 P.2d 63 (1999). In T.K., the court construed RCW  
8 13.50.050, relating to vacation and sealing of juvenile court records. Based on the mandatory  
9 language in the statute, the Court held that it was the date by which a person completed all  
10 conditions set by the statute, *not* the date on which a motion was made seeking vacation and  
11 sealing, that triggered the entitlement to the benefits of the statute. Id. at 331. T.K. involved  
12 claims of three juveniles who were eligible for vacation of their records before a 1997  
13 amendment to the statute, but who moved for relief after the amendments became effective. Id. at  
14 322-23. To determine whether their records were properly vacated and sealed, the Supreme Court  
15 reviewed the language of the statute at issue. Prior to the amendment, RCW 13.50.050 directed  
16 that a court “shall grant” a motion to seal records upon satisfaction of certain enumerated  
17 conditions. Id. at 331. The Court explained that,

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20 [T]he statute both before and after the 1997 amendments says the court ‘shall’  
21 grant a motion to seal, imposing a mandatory obligation to seal if a juvenile meets  
22 the statutory conditions. Accordingly, once the conditions of the statute are met,  
23 the defendant has a right to relief and a court has the nondiscretionary obligation  
24 to seal records regardless of when the motion is made.

25 T.K., 139 Wn.2d at 331 (citing State v. Webster, 69 Wn. App. 376, 378-79, 848 P.2d  
26 1300 (1993)) (emphasis added).

1           Similarly, RCW 9.94A.637 provides that a court “shall discharge the offender” and  
2 provide a certificate of discharge when all conditions of a sentence have been satisfied. RCW  
3 9.94A.637(1)(b)(ii). Because RCW 9.94A.637 imposes a nondiscretionary obligation on the  
4 court to issue a discharge once statutory conditions are completed, the effective date of discharge  
5 must be determined according to when those conditions were completed, regardless of when a  
6 motion is made.

7           The record demonstrates that [REDACTED] completed all requirements of his sentence as of  
8 October 29, 2001. Pursuant to RCW 9.94A.637, he is entitled to discharge effective on that date.  
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1 **D. Conclusion**

2 For the reasons stated above, [REDACTED] has satisfied all requirements of his sentence in  
3 this case and is entitled to a Certificate of and Order of Discharge with an effective date of  
4 October 29, 2001, pursuant to RCW 9.94A.637. A proposed Certificate and Order of Discharge  
5 is attached hereto as Exhibit F.

6 DATED this 25<sup>th</sup> day of February, 2008.  
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9 AMERICAN CIVIL LIBERTIES UNION  
10 OF WASHINGTON FOUNDATION

11 By: M. Rose Spidell  
12 M. Rose Spidell, WSBA #36038  
13 Staff Attorney

14 Attorneys for Defendant [REDACTED]  
15 For the limited purpose of obtaining a  
16 Certificate and Order of Discharge  
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