

**FILED**

**JAN 03 2006**

DISTRICT COURT  
CLARK COUNTY, WASH.

DISTRICT COURT OF WASHINGTON FOR THE COUNTY OF CLARK or DISTRICT COURT OF CLARK COUNTY or Clark County District Court or District Court of Clark County or DISTRICT COURT OF CLARK COUNTY VANCOUVER, WASHINGTON and Does 1-100,

State of Washington	)	Case 40213
False accuser	)	Supplemental Brief Re: Sentencing
Vs	)	Judicial Notice and Demand
BLEAKLEY, JAMES EDWARD (sic, misnomer)	)	
Falsely accused Demandant	)	
In rerum Natura, Sui Juris, Semper Liber	)	
Dei Gratia*	)	

Comes now the Demandant, whose Christian Appellation is James Edward, Bleakley, the Man, Private Citizen, who is the only party connected in any way to this matter who has suffered and is continuing to suffer Damages due to **FRAUD** and other Crimes and BAD ACTS which continues to be perpetrated upon him by and in the above named "court" and Sworn personnel who work for the City of Vancouver, Washington, in both "Police Department" and "City attorneys office", **AND** under Threat, Duress and Coercion of further False and Malicious Imprisonment and/or Prosecution and/or physical attack, with this Demand this court take Judicial Notice of ALL of the following:

First- and most significantly, from our Constitution of the United States of America  
**Article. IV. Section. 1.**

"Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof." AND

**Section. 2.** "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." AND

**Article. VI. Section 2:**

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

And probably LEAST important of ALL, From the Revised Code of Washington:

**"RCW 5.24.010 Judicial Notice of Constitution and Laws.**

Every court of this state shall take judicial Notice of the Constitution, Common Law, civil Law, and statutes of every state, territory and other jurisdiction of the United States."  
[1941 c 82 § 1; Rem. Supp. 1941 § 1278.]

**RCW 9.94A.210(2).** Either the defendant or the State may appeal an exceptional sentence The appellate court is to review the sentence as set out in RCW 9.94A.210(4):

To reverse a sentence which is outside the sentence range, the reviewing court must find: (a) Either that the reasons supplied by the sentencing judge are **not supported**

by the record which was before the judge or that those reasons do not justify a sentence outside the standard range for that offense; or (b) that the sentence imposed was clearly excessive or clearly too lenient.

The purpose of [the SRA] is to make the criminal justice system *accountable to the public* by developing a system for the sentencing of felony offenders which structures, but does not eliminate, discretionary decisions affecting sentences. If the court sentences outside the standard range, it shall set forth its justification for doing so in written findings and conclusions.

**Fritzler did NOT DO THIS DID HE!?!?!!**

and any sentence outside the standard range shall be subject to review only for abuse of discretion. (Italics ours.) Washington Sentencing Guidelines Comm'n, Report to the Legislature 51 (Jan. 1983).

With that in mind here is again, for your ready reference, AND FOLLOWED BY MORE RELEVANT AND POWERFUL CASE Law

**NATIONAL SURVEY OF ALL STATES: REVISORY POWER OVER SENTENCES**

State	Rule/Statute	File Motion to Reduce, Revise, or Modify	Judge's Rule on Motion	Comments
1. AL	Al. St. Ann. §15-18-8			"The court <u>shall</u> retain jurisdiction and authority <u>throughout [period of sentence]</u> to suspend that portion of the minimum sentence that remains and place the defendant on probation..." Statute limits jurisdiction to particular sentences.
2. AK	AK.R. RCRP 35 AK.St. §12.55.088	Within 180 days of original sentence. Court may not relax this time period by more than 10 days.	Within 180 days of distribution of the written judgment.	Court may not reduce or modify sentence so as to impose term less than minimum required by law.
3. AZ	Az. RCRP §4.3			Court may correct any unlawful sentence or one imposed in an unlawful manner within 60 days of entry of judgment and sentence but before the defendant's appeal, if any, is filed.
4. AR	Ar. St. §16-90-111			Court may reduce sentence within 90 days after sentence imposed or within 60 days after receipt of mandate issued

			with affirmance of judgment or dismissal of appeal.
5. CA	Calif. Penal Code § 1170(d)		No provision for defendant to file a motion but <u>court may, on its own</u> , within 120 days of the date of commitment, <u>recall the commitment and resentence</u> the defendant. At any time, the Director of Corrections or the Board of Prison Terms may request resentencing.
6. CO	CO. ST.RCRP Rule 35	Within 120 days after a.) imposition of sentence; b.) receipt of remittitur issued upon affirmance of judgment or sentence or dismissal of appeal; or c.) entry of any order or judgment of appellate court denying review or affirming judgment.	Court acting on its own initiative may reduce a sentence within time limits to file the motion. Otherwise, no time limit to rule on motion filed by defendant. Case law says <u>time to rule is not "interminable."</u> Should be within reasonable time. <i>People v. Fuqua</i> , 764 P2d 56 (1988). District Attorney may request sentencing court to reduce a sentence of one convicted of a drug offense if he or she has provided substantial assistance in identification, arrest, or conviction of any person for violation of drug laws. (Co. St. Ann. §18-18-409).
7. CT	C.G.S.A. §53a - 39		If sentence is 3 years or less, <u>judge may reduce the sentence at any time.</u> If sentence is greater than 3 years, and if the defendant and state's attorney agree to seek review, <u>judge can reduce sentence at any time.</u>
8. DC	DC RCRP Rule 35	Within 120 days after: a.) sentence is imposed; b.) receipt of mandate affirming or dismissing	Court shall rule on motion within a reasonable time. <u>Court may reduce</u>

		appeal; or c.) entry of judgment of Supreme Court denying review.	<u>sentence without a motion within 120 days after times provided for filing a motion.</u>
9. DE	De. RCRP Rule 35	Within 90 days after: a.) sentence is imposed or, b.) sentence is imposed after remand for new trial or sentencing. Beyond 90 days after sentencing if extraordinary circumstances exist.	No time limit.
10. FL	Fla. RCRP Rule 3.800		Court may reduce sentence within 60 days after: a.) imposition of sentence; b.) receipt of mandate affirming on appeal; c.) receipt of order of appellate court dismissing appeal; or d.) affirmance or dismissal of appeal by highest state or federal court if review is sought there.
11. GE	Ga. St. Ann. §17-10-1		Within one year of the date on which sentence is imposed or within 120 days after receipt of the remittitur upon affirmance of the judgment after direct appeal, whichever is later, <u>court has jurisdiction to correct or reduce the sentence.</u>
12. HI	Rules of Penal Procedure Rule 35		<u>Court may reduce sentence within 90 days after:</u> a.) sentence is imposed; b.) receipt of mandate affirming or dismissing on

appeal; or c.) entry of judgment of U.S. Supreme Court denying review. However, "a motion to...reduce a sentence which is made within the time period aforementioned shall empower the court to act on such motion even though the time period has expired."

13 ID

RCRP  
Rule 35

Within 120 days after:  
a.) entry of judgment; b.)  
entry of order releasing  
retained jurisdiction.

Court may reduce  
sentence within 120  
days after: a.) filing  
of a judgment of  
conviction; or b.)  
court releases  
retained jurisdiction.

14 IL

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Statutes  
Ann. § 5/5-8-  
1(c)

III. Must file motion within  
30 days after sentence  
is imposed.

Court may, without Proponent of motion has  
a motion reduce the duty to exercise diligence  
sentence within 30 in seeking a ruling on the  
days of its motion.  
imposition. If filed  
by defendant court  
must rule within a  
reasonable time.

15 IN

In. St. Ann.  
§35-38-1-17

Court may reduce  
sentence within  
365 days after: a.)  
defendant begins  
serving his  
sentence; b.)  
prosecutor is  
notified; and c.)  
court receives  
report from  
Department of  
Corrections. If  
more than 365  
days have elapsed  
since defendant  
began serving his  
sentence and a  
hearing was held,  
court may reduce

sentence subject to approval of prosecutor.

16. IA

Iowa Code Ann. §§902.4 and 903.2

In cases of felonies, the court may reduce a sentence for a period of one year from the date defendant begins to serve his or her sentence. The court may do this on its own motion or on the recommendation of the director of the division of corrections.

In cases of misdemeanors, the court may reduce a sentence for a period of 30 days from the date the defendant begins to serve his or her sentence.

17. KS

K.S.A. §21-4603(d)

If an appeal is taken and decided adversely to the defendant, the court may reduce the sentence within 120 days after receipt of mandate on appeal. Otherwise, court may reduce sentence within 120 days after sentence is imposed. The court may modify a sentence at any time before expiration of the sentence when it is recommended by the secretary of corrections.

18. KY

KRCRP

Motion must be filed No time limit.

	Rule 11.42	within 3 years after judgment becomes final, unless the motion alleges: a.) facts were unknown to movant previously; or b.) constitutional right did not previously exist and has been held to apply retroactively.	
19 LA	La. Code of Crim. Proc. Articles 822, 881, and 881.1	Motion can be filed within 30 days after imposition of sentence or within such longer period as trial court may set at sentencing hearing.	Prior to the beginning of execution of sentence, court may change sentence. After imposition of sentence begins, in most misdemeanor cases and felony cases where the defendant has <u>not</u> been sentenced to <u>prison with hard labor</u> , court can reduce a sentence at any time.
20. ME	RCRP Rule 35	Once execution of a sentence has begun, a motion may be filed by defendant, prosecutor, or the court and must be made within one year after sentence is imposed and before execution of sentence is complete.	No time limit.
21. MA	Mass. Crim. P. 29(a)	R. Motion must be filed within 60 days after imposition of sentence.	No time limit.
22. MN	Mn. RCRP Rule 28.05 and Rule 28.02		Defendant may appeal as of right from any sentence imposed in a felony case. Defendant may file an appeal to the Court of Appeals within 90 days after sentencing. The Court of Appeals "may review the sentence...to determine

			whether the sentence is inconsistent with statutory requirements, unreasonable, inappropriate, excessive, unjustifiably disparate, or not warranted by the findings of fact issued by the sentencing court."
23. MI	RCRP Rule 6-429		The court may not modify <u>a valid sentence</u> after it has been imposed.
24. MS			Mississippi has no rule or statute providing for motions to revise, modify or reduce sentences.
25. MO	RCRP Rule 29.05	No time limit.	The court shall have power to reduce the punishment within the statutory limits prescribed for the offense if it finds that the <u>punishment is excessive.</u>
26. MT			Montana provides for a sentence review division much like Maryland's 3 circuit judge review. Mt.St. Ann. §46-18-901. Under this statute a defendant has 60 days from the date of imposition of sentence, as long as the sentence is one year or greater, to file an Application for Review of Sentence. There is no time limit within which the judges must issue a decision.
27. NE	Neb. Rev. St. §29-2308		This statute permits the appellate court to reduce the sentence when "in its opinion the <u>sentence is excessive.</u> "
28. NV	N.R.S. §176.033		Any time after a prisoner has been released on parole and has served one-half of the period of parole, or 10 consecutive years on parole. If sentenced to life, the State



			Board of Commissioners may petition for modification of sentence. Nevada has no formal motion to modify sentence procedure; however, the State Board of Parole Commissioners may petition the court to modify a sentence at any time after a prisoner has been released on parole and has served one-half of the period of his parole, or 10 consecutive years on parole for prisoners sentenced to life.
29. NH	NH Rev. St. §651:58		New Hampshire provides for sentence review akin to Maryland's 3 judge panels who may increase or decrease a sentence. The application for review must be filed within 30 days after sentence was imposed unless good cause is shown for filing beyond 30 days. Only those receiving non-mandatory sentences of one year or more may file for review. There is no time limit for a decision on the application.
30. NJ	N.J. RCRP Rule 3:21-10	Motion must be filed within 60 days after date of judgment of conviction. Some exceptions to this deadline permit filing the motion at any time.	Court may reduce sentence on its own or on defendant's motion within 75 days from the date of judgment of conviction.
31. NM	NMRA Rule 5-801	Motion may be filed within 90 days after a.) sentence is imposed; b.) mandate affirming or dismissing appeal; or c.) entry of order of appellate court denying review.	Court shall rule on motion within 90 days after date it is filed or it is deemed to be denied.
32. NY	NY Crim. Pro.		When the court has imposed a sentence of

	§430.10		imprisonment and such sentence is in accordance with law, such sentence may not be changed, suspended or interrupted once the term or period of sentence has commenced.
33 NC	N.C.G.S.A. §15A-1414	Motion may be filed not more than 20 days after entry of judgment.	No time limit.
34. ND	RCRP Rule 35		Motion must be ruled upon within 120 days after: a.) sentence is imposed; b.) receipt of mandate affirming or dismissing appeal; or c.) entry of judgment by U.S. Supreme Court denying review.
35. OH	Oh. St. §2929.20	Only defendant serving a non-mandatory term of 10 years or less may file for reduction of sentence. Applicable time periods for filing vary according to the type of felony involved and prison term imposed.	If the court denies the motion without a hearing, the defendant may file another motion. If a hearing is held, the court shall rule within ten days after the hearing. If court denies motion without a hearing, it must do so within 60 days of its filing.
36 OK	Ok. St. Ann. §982a		Court may reduce sentence within 12 months after a state prison for previous sentence is imposed if court is satisfied that best interests of public will not be jeopardized.
37 OR			Oregon has no provisions in rules or statutes for motions to modify sentences.
38 PA	RCRP	Motion must be filed no	Court must decide On motion of defendant