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CLARK COUNTY

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,)

Plaintiff,)

) Clark County Case No. 13-1-00679-1

VS.)

)
) **ORDER VACATING**
) **UNCONSTITUTIONALLY**
) **OBTAINED CONVICTION**

Defendant.)

The defendant, by and through Brian Conry, and the State of Washington, by and through its attorney, Aaron T. Bartlett, Deputy Prosecuting Attorney for Clark County, and bring this Motion as set forth below.

On November 20, 2015, this Court issued the attached memorandum of disposition, preliminarily granting a joint motion to withdraw the defendant's plea and vacate his Theft in the Second Degree -- Welfare Fraud conviction, subject to the Court of Appeals granting permission to formally enter an order doing the same. On December 1, 2015, the Court of Appeals entered the attached ruling granting permission to this Court to formally enter an order withdrawing the defendant's guilty plea and vacating his conviction.

Based on the stipulation of the parties, and the records and files herein, and the Court being fully advised in the premises;

THE COURT HEREBY FINDS that inasmuch as the defendant's constitutional rights were violated in the prior proceedings, in that he was advised by neither his attorney nor the court

1 that his plea and conviction for Theft in the Second Degree - Welfare Fraud, would legally
2 require he be deported from the United States. The defendant's plea was therefore not knowing
3 and intelligent. Criminal defense counsel was constitutionally ineffective for failure to advise the
4 defendant of the required immigration consequences of his plea.

5 Accordingly, based upon Padilla v. Kentucky, 130 S. Ct. 1473 (2010), State v. Sandoval,
6 171 Wn.2d 163, 170, 249, P.3d 1015 (2011), and under Article 1, Section 22 of the Washington
7 Constitution, and under the Sixth and Fourteenth Amendments of the Constitution of the United
8 States; and CR 7.8 et seq, CrR 4.1 and 4.2, RCW 10.73.090,

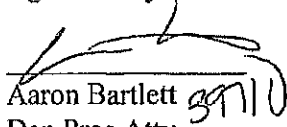
9
10 IT IS THEREFORE ADJUDGED that the motion to vacate judgment challenging the
11 defendant's convictions for Theft in the Second Degree - Welfare Fraud, case number 13-1-
12 00679-1, Superior Court for Clark County, is hereby granted due to the constitutionally
13 ineffective assistance of criminal defense counsel, Diane Sweet.

14 It is THEREFORE ORDERED that the defendant's motion to vacate judgment is hereby
15 GRANTED and his conviction in Clark County Case Number 13-1-00679-1 is hereby
16 VACATED.

17 DATED this 23 day of December, 2015

18
19 
HON. Derek Vanderwood
Judge of the Superior Court

20 Agreed to by;

21 
22 Aaron Bartlett
Dep Pros Atty

23 
24 Brian Patrick Conry
25 Defense Atty

26 
Defendant