

FILED
NOV 3 2016
JILL E. WHELCHER
WHITMAN COUNTY CLERK

16-2-00217-38
DCLR
Declaration/Affidavit
755705



STATE OF WASHINGTON
WHITMAN COUNTY SUPERIOR COURT

ROBERT BARBER,

Petitioner,

v.

WASHINGTON STATE UNIVERSITY,

Respondent.

NO. 16-2-00217-38

DECLARATION OF ADAM JUSSEL

STATE OF WASHINGTON)
County of Whitman) ss.

I, Adam Jussel, state that:

1. I am an Assistant Dean of Students and the Director of the Office of Student Conduct at Washington State University (WSU). I have held these positions since October 2014 and August 2013, respectively. I also serve as one of WSU's University Conduct Officers.

2. Robert Barber is a senior at WSU. I am familiar with Mr. Barber's student conduct file, was the conduct hearing officer for his first student conduct matter, and personally attended his Conduct Board hearing for his second conduct matter.

3. On July 23, 2016, Mr. Barber was involved in a large fight at a house referred to by students as "The Palace." Two students were seriously injured in the fight. One suffered a concussion and the other suffered a severely broken jaw. Five WSU students have faced

1 student conduct charges as a result of the fight. The charges and sanctions against individual
2 students vary in severity depending on the injuries they inflicted on others, the level and nature
3 of their involvement in the altercation, and their past contacts with the Office of Student
4 Conduct.

5 4. The fight on July 23, 2016, was not Mr. Barber's first student conduct violation.
6 An earlier incident occurred in March 2015, when Mr. Barber became angry after his friend
7 was arrested for disorderly conduct. During the arrest of his friend, he hit the side of another
8 student's car with his hand and began to yell expletives, repeating the phrase "fuck with you"
9 and "fuck with me." As his friend was being arrested, he yelled, "Fuck this white shit," "Fuck
10 white people," and "I hate white people." Mr. Barber then yelled "Fuck you frat boy" at a
11 nearby off-duty police officer. Mr. Barber then pointed at the off-duty officer and said, "Once
12 these officers leave I'm going to beat the shit out of you." The off-duty officer told Mr. Barber
13 that he was a police officer and could have him arrested. Mr. Barber pointed at him and said
14 that "he was going to take care of [him] when the cops left and beat [his] ass." The off-duty
15 officer tried to call 911 for help, and Mr. Barber said, "What? Are you a little bitch? Now
16 you're gonna call 911?" The off-duty officer was able to notify the nearby police of the
17 situation, and Mr. Barber was subsequently arrested and cited for harassment, a gross
18 misdemeanor. **Exhibit A.**

19 5. At his student conduct hearing for this incident, in which I acted in my role of
20 conduct officer, Mr. Barber admitted to engaging in disorderly conduct, but said he became
21 angry because people were laughing at his friend. I imposed an educational sanction
22 (specifically, he was required to write a reflection paper). In his reflection paper, Mr. Barber
23 stated that he should have walked away and "I know that I would get in serious trouble for
24 physical assault." **Exhibit B.**

25 6. As a result of Mr. Barber's participation in the July 23, 2016, fight at The
26 Palace, he was charged with violating WSU's Standards of Conduct for Students, specifically

1 abuse of others and reckless endangerment. He was provided with a written notice of charges
2 that informed him of his rights in the student conduct process. **Exhibit C.** He appeared at a
3 Conduct Board hearing with his advisors, including a representative from WSU Football, who
4 also had received a copy of the notice of charges. He chose not to be accompanied by an
5 attorney at the hearing. The Conduct Board also heard sworn testimony from the student
6 Mr. Barber had punched (the complainant) and Pullman Police Detective Scott Patrick. In
7 addition, the Conduct Board reviewed written witness statements from students who were at
8 the party and reviewed three videos of the fight. I participated in and observed his Conduct
9 Board hearing.

10 7. One video of the fight shows Mr. Barber wearing red shorts and a black tank
11 top. It shows him punching another individual, the complainant, who falls to the ground.
12 It then shows Mr. Barber punching the complainant again after he is lying on his back on the
13 ground. At the hearing, Mr. Barber acknowledged that he was the person in the video in the
14 red shorts and black tank top, and that he punched the complainant twice, the second time after
15 the complainant was lying on the ground.

16 8. Detective Patrick provided limited testimony because the police investigation
17 was still ongoing. He stated that the police had interviewed close to 60 individuals who were
18 at the party. He testified regarding the video that had been circulated on social media and that
19 Mr. Barber had been identified as being involved. He stated there was conflicting evidence
20 about whether Mr. Barber was pushed or struck by the complainant prior to hitting the
21 complainant the first time.

22 9. The complainant testified at the hearing that Mr. Barber's companions were
23 setting off firecrackers and he asked them to stop. He said that one of them then set off a
24 firecracker in the crowd. The complainant then told them to leave, using expletives. He then
25 spoke to his roommate, who also tried to get them to leave. The next thing the complainant
26 remembers is waking up on the ground. He was transported to the hospital and treated for a

1 concussion. He said he had watched the video and described it as him getting “blindside
2 clocked.”

3 10. Mr. Barber engaged in cross-examination of the complainant through the
4 Conduct Board Chair by submitting several questions to the Chair to ask the complainant.
5 **Importantly, the Chair asked all the questions he submitted.** Mr. Barber asked the
6 complainant whether he was consuming any substances other than alcohol, and the
7 complainant said he was snorting caffeine but not using any illicit substances, which he said
8 was proven by the “tox screen” done at the hospital when he arrived there that night.
9 Mr. Barber also asked whether complainant remembered trying to fight him, and the
10 complainant responded, “That didn’t happen.”

11 11. Mr. Barber testified that earlier in the evening, the complainant tried to fight
12 him and some of the other football players who were there. He said he saw people at the party
13 doing cocaine. At the time of the assault, he said he felt someone push him from the side,
14 which made him feel threatened, and he reacted to it by punching the person. He stated he did
15 not know who the person was that he punched. Mr. Barber testified that he didn’t know the
16 residents wanted them to leave and he didn’t remember hearing any fireworks. He testified
17 that he had seen the video of the fight, and he acknowledged he was the one wearing the black
18 shirt and red shorts. When the Conduct Board Chair asked Mr. Barber whether it was justified
19 to hit the complainant again after he was on the ground, Mr. Barber answered “yes ma’am.”
20 He said he was just trying to protect himself. When asked if he still felt in danger once the
21 complainant was lying on the ground, Mr. Barber answered yes. He said he just didn’t think
22 and felt threatened.

23 12. Written notes of interviews with witnesses that were reviewed by the Conduct
24 Board included witness statements that Mr. Barber “just turned around and right hooked [the
25 complainant] in the face” and “[the complainant] blacked out for a few minutes.” One witness
26

1 said fireworks were being thrown and he was trying to get people to leave the party when he
2 “noticed [the complainant] was knocked unconscious on the ground getting punched.”

3 13. WSU’s process is non-adversarial and allows the parties to be in separate rooms
4 while the other party is providing testimony. This involves some changing of rooms and some
5 delays in between witnesses. During one delay, the following exchange took place, as
6 documented on the audio recording:

7 12:24 – Jussel explains shuffling down the hall

8 Chair: “Is there anything else you want to tell us?”

9 Jussel: “They aren’t on the line right now, so I shuffled them down the hall”

10 Chair: “Oh okay”

11 Complainant: “Well I guess just back on the caffeine pills . . .”

12 Jussel: “Just a second, we’re going to have to move them back down”

13 Other Board member: “He’s already in here, put him in the holding”

14 Chair: “Put him in a holding pattern”

15 12:40 – Other Board member: “Guess it’s better than a holding cell”

16 Chair: “Holding office”

17 Other Board member: “holding space”

18 14. At the end of the hearing, Mr. Barber read a statement apologizing for causing
19 harm to the complainant and stating that he accepted the consequences of his actions. He
20 requested community service as a sanction instead of expulsion or suspension.

21 15. On September 13, 2016, the Conduct Board issued its decision. The Board
22 rejected Mr. Barber’s claim of self-defense, stating, “We did not believe your claims of self-
23 defense. The man you struck was not even looking toward you when you struck him. And
24 certainly, after he was on the ground and unconscious, he was no threat to you, but you still
25 struck him again.” Based on the facts at the hearing, the Board found by a preponderance of
26 the evidence that Mr. Barber committed the violations of abuse of others and reckless
endangerment. Taking into consideration Mr. Barber’s prior conduct offense in March 2015,
the Conduct Board determined that expulsion was the proper sanction because Mr. Barber was
a risk to other members of the community. **Exhibit D.**

1 16. Mr. Barber appealed the Conduct Board's decision to the University Appeals
2 Board, which is a separate and independent body that reviews appeals on specific grounds as
3 specified in the Standards of Conduct for Students, WAC 504-26-407. The Appeals Board
4 modified the sanction from expulsion to suspension; however, it denied Mr. Barber's request to
5 postpone implementation of the suspension until the end of the fall semester, which would
6 have resulted in no sanction whatsoever since he would be done with his coursework and his
7 athletics at that time. **Exhibit E.**

8 17. On September 16, 2016, Pullman Police Chief Gary Jenkins held a joint press
9 conference with WSU Athletic Director Bill Moos. Chief Jenkins stated that the police found
10 the complainant unconscious on the ground when they arrived. As a result of the police
11 investigation, Mr. Barber was arrested and charged with 2nd degree assault, and the case was
12 forwarded to the Whitman County Prosecutor. The press conference is available at this link:
13 <http://www.spokesman.com/blogs/sportslink/2016/sep/16/pullman-police-press-conference/>

14 18. Mr. Barber received significant procedural protections throughout the student
15 conduct process. These procedures included:

- 16 • Written notice of the allegations against him;
- 17 • Written notice of all anticipated witnesses and documentary evidence that were to
18 be submitted at the Conduct Board hearing;
- 19 • He was allowed to review, in advance of the hearing and with his advisor, all of the
20 evidence against him, including what was submitted at the Conduct Board hearing;
- 21 • He was given a reasonable opportunity to prepare for the hearing;
- 22 • He was given the opportunity to respond to the allegations;
- 23 • He submitted a written statement, which was in the conduct file;
- 24 • He heard all of the witness testimony given at the Conduct Board hearing;
- 25 • All testimony against him was given under oath;
- 26

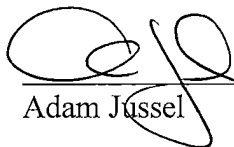
- 1 • He was given the opportunity to engage in cross-examination of the complainant
- 2 through the Conduct Board Chair, who asked every question he requested;
- 3 • He was allowed to call witnesses on his behalf;
- 4 • He had two advisors help him prepare for the hearing and be present throughout the
- 5 hearing;
- 6 • He and his advisors were given the opportunity to take recesses during the hearing
- 7 and confer, which they did; I also asked for a recess specifically so that Mr. Barber
- 8 could confer with his advisors; and
- 9 • He was allowed to appeal the Conduct Board decision, which afforded him a full
- 10 independent review by the Appeals Board.

11 19. Parents, students, and other community members expect WSU to respond
12 promptly and appropriately to allegations of violent student behavior that harms other students.
13 While our goal is largely educating students, it is fundamental that we provide a learning
14 environment that is free from barriers that result from a student harming another. In addition,
15 the University risks significant liability exposure if it fails to act in response to violent student
16 behavior.

17 20. In this case, Mr. Barber seriously injured another student by punching him
18 twice, one while he was on the ground unconscious. Mr. Barber also had a history of
19 harassing, threatening behavior. The University had no choice but to take action.

20 I certify under penalty of perjury under the laws of the state of Washington that the
21 foregoing is true and correct.

22 DATED this 3rd day of November, 2016, at Pullman, Washington.

23
24 
25 Adam Jusel
26



Pullman Police Department
Officer Report for Incident 15-P02167

Nature: Threatening
Location: PNE01

Address: 900 NE Monroe St; blk
PULLMAN WA 99163

Offense Codes: THRE

Received By: Jennifer Treib How Received: O Agency: PPD
 Responding Officers: Shane Emerson, Ruben Harris, TJ Cornish
 Responsible Officer: Shane Emerson Disposition: ACT 03/07/15
 When Reported: 02:22:59 03/07/15 Occurred Between: 02:22:56 03/07/15 and 02:22:56 03/07/15

Assigned To: Detail: Date Assigned: **/**/**
 Status: Status Date: **/**/** Due Date: **/**/**

Complainant:

Last: First: Mid:
 DOB: **/**/** Dr Lic: Address:
 Race: Sex: Phone: City:

Offense Codes

Reported: THRE Threatening Observed:
 Additional Offense: ~~THRE Threatening~~

Circumstances

BM88 No Bias
 SUN Suspectd using Not Applicable
 LT13 Highway/Road/Alley
 OFFN Officer Initiated-NOT


ASIN

Responding Officers: Unit :
 Shane Emerson 464
 Ruben Harris 453
 TJ Cornish 452

Responsible Officer: Shane Emerson
 Received By: Jennifer Treib
 How Received: O Officer Report
 When Reported: 02:22:59 03/07/15
 Judicial Status:
 Misc Entry:

Agency: PPD
 Last Radio Log: 02:40:28 03/07/15 CMPLT
 Clearance: RT Report Taken
 CAA Disposition: ~~ACT~~ Date: 03/07/15
 Occurred between: 02:22:56 03/07/15
 and: 02:22:56 03/07/15

Narrative

RVWD:  OFC: Shane Emerson 464 / SE

CASE #: 15-P02167 Officer-Worn Camera: 2384

SYNOPSIS:

Robert I. Barber (A/M 05/07/94) told off duty Pullman Officer Myklebust, that he was going to assault him. Barber was arrested, transported to the holding facility, processed, cited and released.

NARRATIVE:

On 03/07/15 at approximately 0215 hours, I arrived on scene in the 900 block of NE Monroe Street to back Officer Gordon on a contact. (15-P02166) Officer Gordon was speaking with an individual who had thrown something at a vehicle that was passing by. There was a group of individuals standing on both sides of the street, that apparently were with the subject that Officer Gordon was talking to, some of whom I recognized as WSU football players

I observed a black Jeep approach our location headed southbound. The Jeep had to stop, as Officer Gordon's vehicle was blocking the roadway. There was a male standing on the passenger side of the vehicle, whom I later identified as Robert I. Barber (A/M 05/07/94). I heard a loud bang come from the side of the vehicle as Barber walked over to the east side of the street

The driver of the Jeep pointed at Barber, saying he had just slapped his vehicle. I went over to Barber and told him not to touch other people's vehicles. He said he did not touch the Jeep. I went over to the passenger side of the Jeep and did not observe any damage.

Officer Gordon placed the subject he was speaking to under arrest for disorderly conduct, placed him in his patrol car and moved his vehicle nearby to fill out a citation. As I went to get in to vehicle #12, I heard Barber yell something to the effect of "Fuck this white shit". I backed vehicle #12 down the street and remained on scene to make sure Officer Gordon would be safe.

At that point I observed a subject walking towards me from where the group that Barber had been standing with, whom I recognized as off duty Pullman Police Officer Myklebust. He advised me that Barber had just told him he was going to assault him once we leave the area.

Officer Myklebust later advised me that Barber had specifically said, pointing at him as he did so, that "once these officer's leave I'm going to beat the shit out of you". Officer Myklebust said he advised Barber that he was an off duty officer and should not say that. Officer Myklebust said Barber told him that when we left he was going to "take care of him". (Please see Officer Myklebust's narrative for complete details)

Barber appeared fully capable of causing harm to Officer Myklebust, should Officer Myklebust not have someone to back him, as Barber is approximately 6'2" and 294 lbs. Officer Myklebust said he went to call 911 with his cell phone and Barber said something to the effect of "What? Are you a little bitch? Now you're gonna call 911?". Officer Myklebust then decided to speak to me directly as I was parked nearby.

I requested additional units respond and exited vehicle #12. Whitman County Sheriff Deputy DeRosier was already on scene and approached Barber with me. I

03/14/15

003

placed Barber in handcuffs(DL), advising him he was under arrest for saying he was going to assault Officer Myklebust. I advised him of his full Miranda rights and that I was audio and video recording, stating the time and date. I placed him in the back of vehicle #12 and transported him to the Pullman Police Department. Barber was very respectful with me as I transported him and placed him in to a holding cell. He was later photographed and fingerprinted by WSU interns

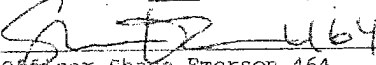
I completed Sector criminal citation #5Z0122814 for RCW 9A.46.020(1), Harassment, Threatening to Harm Person. He was later issued the citation and released from the holding facility.

Case closed.

SE/st

I certify and declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

Dated this 14th day of MARCH, 2015, in Pullman, Washington.



Officer Shane Emerson 464

Supplement

RVWD: (U) POFPC:R. Myklebust #460/RM

CASE #:15-P02167 Officer-Worn Camera:NO

SUPPLEMENTAL NARRATIVE:

On 03/07/15 at approximately 0220 hours I was off duty and in civilian clothes. A friend of mine from out of town, Jake Bredstrand, was with me.

I was watching Officer Gordon interact with the subject of case 15-P02166 near the 900 block of NE Monroe street. A large male tried to talk to Officer Gordon during his investigation and appeared upset by Officer Gordon's presence. I was two blocks from home and decided to make sure the situation did not escalate. I stood in the alley that runs east from NE Monroe street, approximately five feet from the roadway with Bredstrand.

A second large male came from down the alley and began to yell in Officer Gordon's direction. I told the male that he didn't see what happened and he should not escalate the situation. He did not appear to appreciate my comment, but he stopped yelling. The male stood in front of me with a female he appeared to know. (I do not know that male or female's name, but will call the male M2 and the female F1 for the remainder of the report.)

A third male, who I later learned was Robert Barber, walked from across the street and stood next to M2 and F1. I heard the driver of a black SUV tell Officer Emerson that Barber hit his car with his hand. I heard Officer Emerson warn Barber for hitting the vehicle. Officer Emerson and Officer Gordon drove further down the street.

Barber began to yell expletives, some of which were inaudible. He repeated the phrase "fuck with you" and "fuck with me". I believed Barber was talking about the driver of the car that accused him of striking his vehicle, but I could not tell. His speech was slurred at times. When Barber spoke to M2, who was standing near Barber, the volume of his voice was unnecessarily loud for how close he was to M2. I assumed Barber was intoxicated.

Barber began to yell loudly "fuck white people" and "I hate white people". I heard F1 tell Barber to calm down. F1 pointed out that she was white and that Barber liked her so he should stop yelling that. I still had not spoken to Barber nor did it appear he was aware of my presence. Since Officer Emerson and Officer Gordon had left, and Barber was getting louder, I left the side of the street Barber was on and began to walk to the other side of the street. (You can hear Barber begin to yell in Officer Emerson's video.)

I heard Barber yell something to the effect of "fuck you frat boy". When I reached the sidewalk across from Barber I saw that Barber's comment was directed at me. He continued to yell at me and then said "as soon as these police officers leave I'm going to beat the shit out of you".

I told Barber that I was an off duty police officer and if he continued to yell threats at me he was going to be arrested.

Barber pointed at me and said he was going to take care of me when the cops left and "beat your ass". I took my phone out to call 911, but saw that Officer Emerson's vehicle was just down the street. I went to Officer Emerson and requested that Barber be arrested for the threats he made.

03/14/15

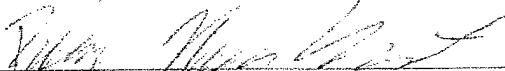
005

Barber pointed at me and gave a specific time that he was going to complete his threat. I felt he meant what he said.

I saw Officer Emerson place Barber under arrest.

I certify and declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

Dated this 14 day of March, 2015, in Pullman, Washington.



Officer R. Myklebust #460

Booking Information:

Booking Number: 72036

Name Number: 345396

Name: BARBER, ROBERT ISAIA

Address: 2025 NE Terre View Dr, D7

Phone: (254)466-4747

PULLMAN, WA 99163

DOB: 05/07/94

Dr Lic: [REDACTED]

Location: ----

Tmp Location: ----

Booking Date: 03/07/15

Arrest Number: 1

Time/Date: 02:22:00 03/07/15

Agency: PPD

Age at Arrest: 20

Location: 900 NE MONROE ST

Officer: Shane Emerson

Arrest Type: VIEW

Area: PPD

Reference: 15-P02167

Disposition:

Offense Number: 141231

BFRO:

Sentenced: No

Statute: 9A.46.020.(1)

NCIC: 0221000

Offense: ASIN Assault, Intimidation

Crime Class: GM

Offense Reference: 5Z0122814

Offense Type: S

Offense Area: PPD

Related Incident: 15-P02167

Law Jurisdiction: DIS

Entry Code: MCRI

Offense Location: 900 NE MONROE ST

Court Code: WTD

Offense Time/Date: 02:22:00 03/07/15

Off Judicial Status:

Billing Agency:

Offense Disposition:

Billing Beg Tm/Dt: **.*.*.* **/**/**

Disposition Date: **/**/**

End Time/Date: **.*.*.* **/**/**

Sentencing Judge:

Alcohol/Drug Invl: No Alc/Drug Inv

Sent. Time/Date: **.*.*.* **/**/**

Sent. Components:

Comments:

CRIMINAL TRAFFIC NON-TRAFFIC LEA. ORI#: WA0380300 COURT ORI#: WA038023J REPORT #: 15-P02167
 IN THE DISTRICT MUNICIPAL COURT OF WHITMAN COUNTY DISTRICT COURT
 STATE OF WASHINGTON COUNTY OF CITY/TOWN OF
 THE UNDERSIGNED CERTIFIES AND SAYS THAT IN THE STATE OF WASHINGTON
 PHOTO ID MATCHED NAME: LAST FIRST MIDDLE
 BARBER ROBERT ISAIA
 DRIVER'S LICENSE NO. STATE WA EXPIRES 05-07-19
 ADDRESS 2025 NE TERRE VIEW DR: D7 STATE WA EXPIRES 05-07-19
 CITY PULLMAN STATE WA ZIP CODE 99163
 EMPLOYER LOCATION
 HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED
 EMPLOYER LOCATION
 HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED

CELLPAGER PHONE NO. (254)466-4747
 RESIDENTIAL PHONE NO. (254)466-4747
 M.P. BLOCK # 900
 CITY/COUNTY OF PULLMAN/WHITMAN
 DID OPERATE THE FOLLOWING VEHICLE/MOTOR VEHICLE ON A PUBLIC HIGHWAY AND
 VEH LIC NO STATE WA EXPIRES
 TR #1 LIC NO STATE WA EXPIRES
 OWNER/COMPANY IF OTHER THAN DRIVER
 ADDRESS
 CITY PULLMAN STATE WA ZIP CODE 99163
 EMPLOYER LOCATION
 HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED

HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED
 EMPLOYER LOCATION
 HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED

HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED
 EMPLOYER LOCATION
 HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED

HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED
 EMPLOYER LOCATION
 HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED

HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED
 EMPLOYER LOCATION
 HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED

HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED
 EMPLOYER LOCATION
 HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED

HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED
 EMPLOYER LOCATION
 HAIR BLK EYES BRO
 WEIGHT 1294
 HEIGHT 6'02"
 SEX M
 RACE A
 DATE OF BIRTH 05-07-94
 VIOLATION DATE 03/07/2015 02:22 LANG.
 ON OR ABOUT 03/07/2015 02:22 LANG.
 INTERPRETER NEEDED

1. VIOLATION/STATUTE CODE 9A.46.020.1
 DID THEN AND THERE COMMIT EACH OF THE FOLLOWING OFFENSES
 D.V. HARASSMENT-GROSS MISDEMEANOR
 D.V.
 D.V.
 D.V.
 D.V.

2. VIOLATION/STATUTE CODE
 D.V.
 D.V.
 D.V.
 D.V.

3. VIOLATION/STATUTE CODE
 D.V.
 D.V.
 D.V.
 D.V.

4. VIOLATION/STATUTE CODE
 D.V.
 D.V.
 D.V.
 D.V.

5. VIOLATION/STATUTE CODE
 D.V.
 D.V.
 D.V.
 D.V.

RELATED # DATE ISSUED 03-07-15
 MANDATORY COURT APPEARANCE APPEARANCE DATE TIME
 TICKET SERVED ON VIOLATOR
 TICKET REFERRED TO PROSECUTOR
 TICKET SENT TO COURT FOR MAILING
 BOOKED

CRIMINAL CITATION
 You are charged with the crime(s) described on this form. You must respond to the court below

WHITMAN COUNTY DISTRICT COURT
 325 SE PARADISE STREET
 PULLMAN WA 99163
 Court Contact Info:
 Phone 1: (509)332-2065
 Website: www.whitmancounty.org

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT I HAVE ISSUED THIS ON THE DATE AND AT THE LOCATION ABOVE, THAT I HAVE PROBABLE CAUSE TO BELIEVE THE ABOVE NAMED PERSON COMMITTED THE ABOVE OFFENSE(S), AND I AM ENTERING MY AUTHORIZED USER ID AND PASSWORD TO AUTHENTICATE IT.

OFFICER SHANE EMERSON
 OFFICER # 464

IF YOU DO NOT APPEAR this may result in a warrant for your arrest and detention in jail. Also, if "Traffic" is checked you may lose your driver's license/privilege.

Traffic citations may go on your driving record.

IF RCW LISTED APPEARS BELOW PLEASE READ
 RCW 46.61.502 Driving Under the Influence (DUI)
 drive a motor vehicle and either: have a 0.08 or higher breath or blood alcohol concentration or THC concentration of 5.00 or higher within 2 hours after driving or be under the influence of or affected by liquor, marijuana, or any drug, or a combination of liquor, marijuana, and any drug.
 RCW 46.20.342(1)(a) First Degree Driving While Suspended/Revoked (DWLS)
 be a habitual traffic offender and drive a motor vehicle while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect.
 RCW 46.20.342(1)(b) Second Degree Driving While Suspended/Revoked (DWLS)
 drive a motor vehicle while an order of suspension or revocation prohibiting such operation is in effect, and not be eligible to reinstate the license or driving privilege.
 RCW 46.20.342(1)(c) Third Degree Driving While Suspended/Revoked (DWLS)
 drive a motor vehicle while the license or privilege to drive is suspended or revoked for (1) failure to furnish proof of satisfactory progress in a required alcoholism or drug treatment program; or (2) failure to furnish proof of financial responsibility pursuant to chapter 46.29 RCW; or (3) failure to comply with chapter 46.29 RCW relating to uninsured accident; or (4) failure to respond to a notice of traffic infraction; failure to appear at a requested hearing; violation of a written promise to appear in court; or failure to comply with the terms of a notice of traffic infraction or citation; or (5) suspension or revocation in another state that would not result in suspension or revocation in this state; or (6) failure to reinstate the driver's license or privilege after suspension or revocation in the second degree; or (7) the person has a suspension under RCW 46.20.267 relating to intermediate driver's licenses, or any combination of the above

One of the following options applies:
 1. If there is a date in the appearance date box you must appear in court at that date and time.
 2. If there is a number in the appearance date box you must appear in court within the number of days indicated
 3. If the appearance date box is blank the court will notify you in writing when to appear. If you do not receive a notice within fifteen (15) days please contact the court immediately.
 When you appear, you will be advised of your constitutional rights and the possible penalties if you are convicted. You also may be asked to enter a plea of NOT GUILTY or GUILTY.

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE

MANDATORY APPEARANCE



Conduct Resolution Agreement
Office of Student Conduct

Name: Robert Barber Student ID: 113040640
Local Address: 2025 NE Tene View Dr. APT 07 Pullman, WA Incident No. 46163
Email: rbarber50@ymail.com Cell Phone: 254-466-4747

Standards that student agrees he or she was responsible for violating:	
WAC 504-26-216	Disorderly conduct
WAC 504-26-209	Policy
WAC 504-26-204	Abuse of staff/officer

Incident date: 1 MAR 2015 Agreement date: 2 APRIL 15
Agreement rationale: Robert agreed to sanctions + violation

Sanction(s)	Due Date(s)	Completion Verification
<input checked="" type="checkbox"/> IMPACT Alcohol 1 (all 3 parts) <input type="checkbox"/> IMPACT Cannabis 1 (all 3 parts) <input type="checkbox"/> IMPACT Other Drug (1:1 Mtg) <input type="checkbox"/> IMPACT Polysubstance (1:1 Mtg) <input type="checkbox"/> IMPACT 2 nd Violation (1:1 Mtg)		
For any of the above checked sanctions, go to adcaps.wsu.edu/impact for instructions.		
<input type="checkbox"/> Hold on Registration until all sanctions are completed.		
<u>Reflection Paper</u>	<u>15 MAY 15</u>	

If a sanction of "Probation" is assigned: Disciplinary probation serves as a warning that future misconduct may result in more severe sanctions, such as suspension or expulsion from the University.

SANCTION AGREEMENT:

I agree that I was responsible for violation(s) of the Standards of Conduct for Students. I agree to fulfill the above listed sanction(s) by the date(s) indicated. I understand I have no right to appeal this agreement.

I understand that any violation of a sanction will be the basis for further action by the University Conduct Officer or the University Conduct Board. Failure to complete sanction(s) may result in a temporary loss of access to register for classes or change class schedule pending a hearing or action by the Office of Student Standards and Accountability.

Student Signature: Robert Barber Date: 2 APRIL 15
Conduct Officer: [Signature] Date: 2 APRIL 15

Responsible Behavior Paper

You are required to write a paper reflecting on your actions in this incident. The assignment is designed to be a reflection of your behavior and decision making. Please focus on the topics below and not on the actions of others or the legal system. The paper should be college level work.

Your letter must be at least 2,000 words, typed, double spaced, grammatically correct, and well written and should be sent as an attachment to Student Conduct at conduct@wsu.edu.

You must do your own work. Do not copy text from the internet or other resources without properly citing your source. Doing so could be an additional violation of the Standards of Conduct, specifically WAC 504-26-202 (Acts of Dishonesty). **Use APA style for all reference citations.** (<http://owl.english.purdue.edu/owl/resource/560/01/>).

This paper should address the following questions/issues not necessarily in this order:
Assignment:

1. Summarize the issues surrounding the student conduct violation.
2. Describe the personal implication of the incident. Could the incident have repercussions in your future career as well?
3. Describe how this incident does not reflect who you are? How did your behavior affect other people (students, university employees, your family, your friends)?
4. Identify and describe your level of responsibility for the violation.
5. How did the behavior fit with your purpose and values?
6. What have you learned from this experience? About yourself, the university, the law/court system, your responsibilities?
7. Describe the privilege of being a WSU athlete, and how your behavior in this situation risked that privilege being taken from you.

Robert Barber

011364040

2011/1000

#28422

May 13, 2015

To Whom It May Concern:

*Approved
D. Baker
6/5/15*

The incident happened on March 21, 2015 around 2:00am on Monroe Street in Pullman, Washington. My friends and I were walking back to our car. As a car passed by, one of my friends threw a piece of beef jerky at the car. The police saw and stopped us. My friend got arrested and that is when I started to get frustrated. I was on the other side of the road and there was a group of people on the other side of the road. They were laughing and teasing my friend that got detained by the police. I walked up to them and told them to stop laughing. They apologized and walked away. Then, out of nowhere, an off duty police officer came into the middle of the street approached me and started laughing at me. I felt like he was mocking me. I felt disrespected. I did not know he was an off duty police officer at the time. I told him to be quite, stop laughing, and called him a racist because I thought he was a fraternity man due to recent incidences in Greek communities at Washington State University and nationwide. It not that I do not like the fraternity but I do not like them being racist to other people. He continued to laugh and I told him that I am going to beat him up when the other police officer left. He went to the on duty police officer and told him that I was threatening him so they arrested me.

I know my actions will affect me in my future career because I have a police record. The police record will make it seem as if I am an irresponsible individual. Right now, I still do not know what I am going to do in my future. I am earning my degree in General Studies with an emphasis is Criminal Justice, Music and Comparative Ethnic Studies but my ultimate goal is to

continue to succeed in football at Washington State University and therefore, be able to play in the National Football League. I recognize that I will not be able to achieve my goals if I continue to behave immaturely or inappropriately. Having a record can make applying for and obtaining jobs a difficult task. I need to grow up and be a mature individual.

*What about the person who had beef with me?
Person who had beef with me?
They were disrespectful!*

This incident shows that I am an angry and bad person. However, I was only mad and acted unbecomingly because I was looking out for my friend that got arrested for something as simple as throwing beef jerky at a moving vehicle. I also felt very disrespected and did not appreciate the way that I was being treated, the way the off duty police officer was interacting with me and was taken back by the fact that I was being arrested. I know that I should have acted in such a manner. I should have just walked away in the first place. Obviously, if I would have done so, I would not have been arrested or be in the position that I am in now.

not a smart move!

NOT

ok

I pride myself on being a polite, kind, friendly, and an easygoing man. In addition to these characteristics, I also value honesty, work ethic, trustworthiness, and perseverance. I am from America Samoa which is very different than Pullman. On occasion, situations are handled differently but I have never gotten in trouble or been arrested before. My actions in regards to this incident reflected the way that conflict is typically dealt with in Samoa. However, I recognize that I must abide my Washington State law and policies. Further, I recognize that I need to be aware of my actions when dealing with disputes in America versus Samoa. Unfortunately, I was unaware that threatening another individual was against the law. Amongst many other things, I have learned a lot since moving to America.

Although I threatened the off duty police officer and told him that I was going to beat him up, I would not have. I can assure the Student Conduct board that. I know that I would get in

serious trouble for physical assault. Beyond getting arrested and having a record, I know that I would be at risk for losing my scholarship and therefore being unable to play football. Football has played a major role on shaping my life. I certainly do not want to do anything that would jeopardize that because I am grateful for the opportunities I have here. This incident also affects my coaches, football program, my advisors, my friends, and my family. The day after I got arrested, my position coach talked to me and told me that he recruited me to come play football, go to school, and get a degree so that I can better myself, have a successful future, and make my family proud. He also said that he did not recruit me to come to WSU and get into trouble, doing inappropriate stuff, partying, and get arrested. This incident has affected the trust between my coach and I. My position coach, Joe Salave'a is a man that I respect tremendously. He is also Polynesian, recruited me in high school and works very hard to recruit other Polynesian players from Samoa. Without him, I would not be where I am today. I would not be going to school I would not be able to play football with some of my closest friends that are also from Samoa. I Further; my family was disappointed in me and I have been working diligently to earn back their trust and respect. I told all of them including my coach that I will try my best to stay out of trouble and also to earn their trust and respect back.

I am responsible for my own actions and the words that came of my mouth to the off duty officer. Although I was not responsible for my friend throwing a beef jerky to a moving car, I could have chosen to react differently to the individual that were mocking him. I know that I need to learn to control my temper and handle conflict with respectful words. The incident that happened on that night will not be happen again. What I did on that night was so selfish and stupid because I let my family down, the university, the football team, coaches, and my friends. Life in Samoa is simple. People have a much more relaxed lifestyle. In Samoa, people are

understanding of others actions and seem to forgive easier. The main thing back in Samoa is respect, people respect each other and mostly we respect the elders. If this incident happen in Samoa, in the morning or a new day they will just talk and forgive each others. I am quickly realizing that there are strict rules in America and at Washington State University. Additionally, as an athlete and representative of the University, I am held to high standards. My position coaches and Coach Mike Leach has told me and the entire football team before that if we get in trouble, our whole name will be on the newspaper and all over social media. That is not necessarily the case for a regular student. I need to be more aware of the fact that I represent the University as a member of the football team and that my actions are looked at closely. I have also learned that when a student breaks the law, they deal with Washington State University police and the Pullman police department. Further, Pullman is a safe town because of the amount of law enforcement. There is a high presence of police officers all around town. Although the police officer should have informed me that he was a police officer, I understand that he is not obligated to do so when he is off duty. Overall, I am honestly lucky that I did not harm the police officer because as my attorney, John Hart informed me, assaulting a police officer is a felony. Being a felon is the last thing I want. My goals would definitely be harder to obtain if I was charged with a felony over something that started as simple as throwing a piece of beef jerky.

The transition from American Samoa to Pullman was very difficult to me. Writing 5-10 pages essay, taking 50-100 questions exams, reading college level textbooks and following lectures in English has been hard. The way that schools operate is also new to me. Overall, everything in Pullman is new to me. Life is ⁱⁿ Samoa is very different. Although I am thankful for football and the relationships I have developed through it, it has been hard to make friends. Additionally, due to my schedule and the cost of flights, I have not been able to return home to

visit my family in almost two years. I am very close with my family and not seeing them ^{weighs} on me. English is my second language. I began learning how to speak and write English when I was 12 years old. Learning how to speak and write fluently has been very hard for me. Pullman has been my first experience of being in America for a long period of time. When I first got here, I was shy and afraid to speak English because I struggle with it. Therefore, sometimes when I get frustrated and cannot use my words as well as I wish I could, I make poor decisions.

This incident can really take away the privilege that I have right now. It could take away my education, my ability to play football and the opportunity to grow as a young adult at Washington State University. High school athletes around the world work very hard to earn the opportunity that I am currently blessed with. To be able to go to a University, let alone a Division 1 school, is a huge accomplishment back home. Many boys strive for it in Samoa. I want to be an example and role model for the boys back home athletically and scholastically.

As of right now, I am on probation for one year through the Pullman Police Department. I have been charged with criminal harassment. My probationary period lasts until March 1, 2016. Being placed on probation is a very frightening thought to me. I know that if I break probation that I am subject to serving 365 days in jail. As previously mentioned, this incident has taken a toll on my relationships with my coaches and family. I have already disappointed them and I would hate to disappoint them further by breaking my probation and going to jail. I also have to pay court fees and participate in community service. The fines are approximately \$400. I do not want my education and football to be taken away because of this incident. It is important for people to learn from their mistakes. More importantly, it is important for people to be given an opportunity to learn and I recognize that this reflection paper and my probationary period is my opportunity to learn. I cannot afford to and do not want to jeopardize that. I want to assure the

Student Conduct board that I have learned from my mistake and am working towards bettering myself not only as an athlete but also as a student, a man, a member of the Washington State University Community and the Pullman community.

Therefore, I ~~am~~ apologize to Washington State University, Student Conduct, my coaches, my advisors, my family, and other students that look up to me and are also dealing with the repercussions of this incident. As a WSU football player, I need to set good example and be role model to younger children and athletes that look up to me. Again, I can assure the Conduct Board that I will try my absolute best from preventing an incident from happening in the future and if conflict arises, I will handle it in a more mature way.



Office of
Student Conduct



22 August 2016

Sent via US Mail and Email: robert.barber@wsu.edu

Robert Barber
4706 Black Forest Ln.
Killeen, TX 76549

Dear Robert,

Our office received a report that you were allegedly involved in an incident that resulted in violations of the University's Standards of Conduct for Students (*Standards*). According to the report we received, on the evening of 22 July 2016 and into the morning of 23 July 2016, you allegedly attended a party at an off-campus residence commonly known as "The Palace." Between approximately 1:00 a.m. and 2:00 p.m., an altercation occurred, during which you allegedly hit another student (the Complainant) in the face with your fist multiple times, causing serious physical injury.

On 18 August 2016, you met with me to discuss the incident described above. You stated that the Complainant was acting "outrageous" during the party and yelling at you. You stated that some people were holding the Complainant back from approaching you, and that your friends were holding you back from approaching the Complainant. The Complainant went away from you, and you sought him out to talk to him. Then, the altercation occurred, during which you stated the Complainant bumped your shoulder. Per your statement today, you "panicked," grabbed the Complainant with your left arm, and struck him with your right closed fist. You stated that you then struck the Complainant again.

This letter is your official notice that you have a hearing before the University Conduct Board beginning at 5:30 p.m. on Wednesday, 7 September 2016, in Lighty 360 – Office of Student Conduct. The hearing will continue until the Conduct Board members are satisfied with their review of relevant information. You are alleged to have violated the *Standards* listed in **Attachment A**.

The information being reviewed in the Conduct Board hearing includes the following:

1. Documents submitted by yourself, if any.
2. Documents submitted by WSU's Office of Student Conduct, including the contents of your conduct file.
3. Witness statements, if any.

The witnesses who are currently planning on testifying are:

1. Detective Scott Patrick, Pullman Police Department. Detective Patrick will be asked to provide testimony regarding the various police interactions with this case, specifically the police response to the incident described in this letter.
2. The Complainant. The complainant may choose to testify at the Conduct Board hearing regarding the incident described in this letter.

If there will be additional witnesses or additional material presented to the Board other than those listed above, I will provide you with notice of and access to that information no later than close of business two days before the hearing.

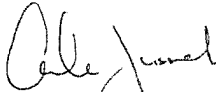
You should review the "Preparing for the Conduct Board Hearing" document, which outlines your rights during this process and is attached hereto as **Attachment B**. Determinations made or sanctions imposed under the Standards of Conduct are not subject to change because criminal charges arising out of the same facts giving rise to the violation of university rules were dismissed, reduced, or resolved in your favor.

If you are found responsible for violating the Standards of Conduct, the Conduct Board has the authority to impose sanctions, which may include suspension or expulsion from the University. You are responsible for reviewing and understanding all of the *Standards*, including the provisions discussing the Conduct Board hearing process, which are described in WAC 504-26-403 and available online at conduct.wsu.edu.

In order to prepare for the hearing, you may wish to review the contents of your student conduct file. Please call 509-335-4532 to arrange a time to do so.

Please contact me if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Jussel". The signature is written in a cursive style with a large initial "A".

Adam Jussel
Director

Enclosures

Attachment A

WAC 504-26-204 - Abuse of others or disruption or interference with the university community. Abuse of others or disruption or interference with the university community includes, but is not limited to:

(1) Physical abuse, threats, intimidation, and/or other conduct that threatens, endangers, harms, or undermines the health, safety, or welfare of the university community or any person, including, but not limited to, domestic or intimate partner violence.

WAC 504-26-224 - Reckless endangerment. Engaging in conduct that creates an unreasonable risk of harm to another person or property.

Attachment B

Preparing for the Conduct Board Hearing

Should I review the conduct file before the hearing?

You have the right to inspect your conduct file, which contains important information related to your hearing. If you wish to review your file to prepare for the hearing, please call 509-335-4532 to arrange a time to do so.

What happens if I fail to appear at the hearing?

If you fail to appear at the hearing, it may proceed in your absence and a decision will be made on responsibility and sanctions, if appropriate. Although sanctions are not pre-determined, the Conduct Board has the authority to suspend or expel students.

May I have an advisor present?

An advisor of your choice may accompany you to this hearing. If you do not have one and would like to be in contact with one, please call the Dean of Students Office at 509-335-5757 and an advisor will be assigned to you. The advisor may provide advice and consultation to you, but may not address the conduct board, conduct officer, or any witnesses during the conduct hearing.

May I exercise the "right to remain silent"?

You will be asked to provide information to the Conduct Board, if you decide to do so. Under the Standards, you have the right to remain silent when charged with any act that may be a violation of criminal law, but if you choose to do so, you give up your opportunity to explain your version of the events.

May I call witnesses?

You may have witnesses called on your behalf; however, you are responsible for informing them of the time, date and location of the hearing. If you have witnesses, you must inform my office of their names, addresses, and telephone numbers, and provide their written statements, if they have not already provided one, to our office no later than close of business two days before the hearing. Your witnesses must submit written statements to my office at least two weekdays prior to the date of the hearing for the Board to review. Witnesses will not be allowed to speak to the Board unless they provide a statement before the hearing.



University Conduct Board



13 September 2016

Sent via US mail and email: (robert.barber@wsu.edu)

Mr. Robert I. Barber
1060 E. Duncan Lane, Apt B
Pullman, WA 99163

4706 Black Forest Lane
Killeen, TX 76549

Dear Mr. Barber:

On Wednesday, 7 September 2016, the Washington State University (WSU) Student Conduct Board was convened to hear charges that you had violated provisions of the University's Standards of Conduct for Students (*Standards*). You were present at the hearing, along with Mr. Antonio Huffman, WSU Director of the Football Operations and Ms Karen Fisher, Associate Dean of Students. Mr. Huffman and Ms Fischer served as your conduct advisors.

You were charged with violating the following *Standards*:

WAC 504-26-204 Abuse of others or disruption or interference with the university community.

Abuse of others or disruption or interference with the university community includes, but is not limited to: (1) Physical abuse, threats, intimidation, and/or other conduct that threatens, endangers, harms, or undermines the health, safety, or welfare of the university community or any person, including, but not limited to, domestic or intimate partner violence. (2) Conduct that disrupts the university community or prevents other students, employees, or guests of the university from completing their duties. (3) Conduct that interferes with or disrupts the university's mission, operations, or activities.

WAC 504-26-224 Reckless endangerment. Engaging in conduct that creates an unreasonable risk of harm to another person or property.

The Conduct Board recorded your plea of *not responsible* for each violation of the *Standards*.

At the hearing, the Board heard sworn testimony from Pullman Police Department Detective, Scott Patrick, from the Complainant, a WSU Student and resident in the Palace where events took place, and from you. Based on these testimonies, along with the contents of the file compiled by the Office of Student Conduct in the course of its investigation, the Board made the following finds of fact—finding each to be true by a preponderance of evidence (more likely than not):

On the evening of Friday, 22 August 2016 and into the morning hours of Saturday, 23 August 2016, you and five friends attended a party at a Phi Sigma Kappa live-out called "The Palace." You told us that you had consumed only three or four beers that day and were sober by the time you were at the Palace. At about 2:00 a.m., the residents of the Palace, including the Complainant, decided that the party was getting out of hand. They determined that some guests had brought fire crackers to the party and had thrown at least one firecracker into the crowd. They told everyone to leave. A melee broke out. A video, later posted online, showed some people punching other people. More specifically, the video also showed you take a step toward and around a man (the Complainant) who was facing away from you and punch him in the face. The video showed the Complainant fall to the ground and land on his back. The video also shows that you punched him a second time (after he was down) and that you were about to punch him a third time when another man, wearing a red hat, intervened. You pushed the individual in the red hat hard enough that he had to take several steps backwards to stay upright.

You told us that you felt someone "push me or hit me from the side," and you panicked and punched the Complainant in self-defense. We did not believe your claims of self-defense. The man you struck was not even looking toward you when you struck him. And certainly, after he was on the ground and unconscious, he was no threat to you, but you still struck him again.

The paramedics found the Complainant unconscious and bleeding from the back of his head. He was taken to the hospital for treatment of a concussion and later had to take time off from work owing to his injuries.

Based on these facts, all found to be true by a preponderance of the evidence, the Conduct Board found you *responsible* for twice striking the Complainant in violation of WAC 504-26-204 (Abuse of others). In addition, we found you *responsible* for recklessly fighting and causing an unreasonable risk of harm to others, in violation of WAC 504-26-114 (Reckless endangerment).

Before assigning a sanction, the Conduct Board reviewed the history of your interactions with the Office of Student Conduct:

Saturday, 7 March 2015. You were arrested for harassment after threatening a police officer. According to your "Reflection Paper," that was assigned to you by the Office of Student Conduct:

You and friends were walking to your car and one of your friends threw a piece of beef jerky at the car. This was observed by a police officer and your friend was arrested. People on the street who witnessed these events were "laughing and teasing [my] friend" and "[I] walked up to them and told them to stop laughing." "Then, out of nowhere, an off duty police officer came into the middle of the street [and] approached me and started laughing at me. I felt like he was mocking me. I felt disrespected. I did not know he was an off duty police officer at the time. I told him to [quit] laughing, and called him a racist He continued to

laugh and I told him that I am going to beat him up when the other police officer left." You also explained that you thought the off duty police officer was a "fraternity man."

In contrast to the police report, however, your Reflection Paper left out some important details. For example, when the off duty police officer whom you threatened took out his cell phone to call 911 and you taunted him: "What? Are you a little bitch? Now you're gonna call 911?"

In your concluding statement at the Board hearing, you told the Board members that, at the party at the Palace, you felt "disrespected" (just as you had when the undercover officer laughed and you threatened to physically harm him). Your feeling of being disrespected, the Board concluded, was what actually led you to strike the Complainant at the party. We concluded that you were acting in a disrespectful manner toward the Complainant. You were at his home, he asked you to "get the fuck out" and you apparently decided that he had no right to ask you to do that. Being sworn at is no justification for physical assault.

The members of the Conduct Board consider yours to be very serious violations of the *Standards*. You attended a party, got asked to leave, and responded by becoming violent. You were not defending yourself, you were punishing the party host for his attitude toward you. We concluded that you had not learned a lesson from being arrested in 2015 for threatening someone you perceived to have been disrespectful toward you.

The members of the Conduct Board concluded that you are a risk to other members of our community. Therefore, we assign the following sanction:

You are expelled from WSU. Moreover, it is the specific intention of the Conduct Board that you not be allowed to graduate from this University.

You have the right to appeal the decision in this case and/or the sanction. If you choose to appeal, you must do so in writing (stating the grounds and arguments) to the Office of Student Standards and Accountability, within twenty-one days of the date of this letter. If you choose not to appeal, this decision becomes final. The following are grounds for appeal:

- (a) Whether the university conduct board hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and to present information that the standards of conduct for students were violated, and giving the accused student a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures are not a basis for sustaining an appeal unless significant prejudice results.
- (b) Whether the decision reached regarding the accused student was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the standards of conduct for students occurred.

- (c) Whether the sanction(s) imposed were appropriate for the violation of the *Standards of Conduct for Students* which the student was found to have committed.
- (d) New information, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original student conduct board hearing.

If you choose to appeal the decisions or the sanctions of the University Conduct Board, the burden of proof shifts from the University to you. The appeal process is a review by the University Appeals Board of the record of the hearing plus the letter of appeal, including any written argument(s) submitted by you, and new evidence if that is the ground for appeal. It is not a new hearing. You can submit your appeal at <https://standards.wsu.edu/for-students/appeal-form/>.

Sincerely,



Lisa J. McIntyre
Chair, University Conduct Board

cc Adam Jussel, Director, Office of Student Conduct



University Appeals Board

October 17, 2016

Sent via US Mail and Email (robert.barber@wsu.edu)

Robert Barber
1060 NE Duncan Lane #B
Pullman, WA 99163

Dear Robert,

On October 13, 2016, the University Appeals Board met to consider your appeal of the Conduct Board's decision issued on September 13, 2016. You were found *responsible* for violating the University's *Standards of Conduct for Students (Standards)*, including WAC 504-26-204 and WAC 504-26-224.

The appeal is a review of the record and the decision; it is not a new hearing. As outlined in WAC 504-26-407, the Appeals Board considers:

- (a) Whether the university conduct board hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and to present information that the standards of conduct for students were violated, and giving the accused student a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures are not a basis for sustaining an appeal unless significant prejudice results.
- (b) Whether the decision reached regarding the accused student was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the standards of conduct for students occurred.
- (c) Whether the sanction(s) imposed were appropriate for the violation of the standards of conduct for students which the student was found to have committed.
- (d) New information, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original student conduct board hearing.

Your appeal was based on WAC 504-26-407 (a) and (c).

The Appeals Board carefully considered the information and rationale provided in your appeal. We found that a procedural error did not occur. Even though you did not indicate WAC 504-26-407(b) as a basis for your appeal, we included in our review a consideration of whether the Conduct

Board's decision was based on substantial information as this appeared consistent with the concerns outlined in your appeal documents. The Board found that substantial information provided by you and others confirmed that you did punch a fellow WSU student after having ample opportunity to remove yourself from the potentially difficult situation. Consequently, the Appeals Board affirms the decision of the Conduct Board issued September 13, 2016.

Consistent with WAC 504-26-405, the Appeals Board considered your previous contact with the Office of Student Conduct when reviewing the appropriateness of sanctions assigned by the Conduct Board for this matter. After careful review of this matter and your previous contact, the Appeals Board found that the sanctions were not appropriate for the violations. Consequently, the Appeals Board affirms the decision, but modifies the sanctions. Your sanctions have been modified to be the following:

You are suspended from attending Washington State University, effective immediately through the end of July, 2017. Upon your return to the institution, you will remain on probation until your undergraduate degree is completed. If you are found to violate *any* University policy during your probationary period, you may be suspended or expelled from the institution.

The Appeals Board also evaluated the facts and circumstances of this matter to determine whether it was necessary to convert the proceedings into a formal adjudicative hearing under the Administrative Procedure Act, and determined that doing so was not necessary.

This is the final order of the University. In conformance with WAC 504-26-407(7), you may petition to delay the date that the final order of the university becomes effective by directing a petition to the chair of the appeals board, or the president or designee, as applicable, within ten calendar days of the date the order is personally delivered to you or placed in the regular U.S. mail, or electronically mailed. The chair, or the president or designee, as applicable, shall have authority to decide whether to grant or deny the request.

Judicial review of this final order may be available under RCW 34.05 by filing a petition for review with Whitman County Superior Court within thirty (30) days from the date that this order was placed in the mail. This order will be placed in the mail on the date listed above.

Sincerely,



Paula M. Adams
Chair, University Appeals Board

cc: Adam Jussel, Director, Office of Student Conduct

October 3, 2016

Washington State University's Office of Student Standards and Accountability:

I am writing to appeal the conduct's board decision of expulsion from Washington State University with the intent to withhold potential to graduate. I was informed of this decision September 13, 2016.

I am appealing upon A) "whether the university conduct board hearing was conducted fairly in light of the charges" and C) "whether the sanction(s) imposed were appropriate for the violation of the *Standards of Conduct for Students* which the student was found to have committed". I am also appealing based upon incorrect information that is stated in my notification.

Further, I am writing because the Conduct Board completely disregarded the police officer's testimony. Officer Scott Patrick stated that some eyewitnesses at the party reported that the Complainant pushed and hit me from the side. He also said that additional witnesses reported that the Complainant was trying to fight them as well.

Additionally, I felt that Lisa McIntyre was attempting to intimidate and mislead me with questions she was asking me. I feel that based on media reports, she already had a pre-determined outcome of my hearing. For example, Lisa stated that she "saw the video 100's times" and that I said I was scared. I did not say I was scared. I said I panicked. She then said, "You don't look scared to me, you look mad." In the video, there is no way she can tell whether or not I was panicked, reacting in self-defense, scared or mad. She cannot see my face in the video and for her to insinuate that I was mad was completely unfair. Does she believe that all Polynesian people look mad just because we are different? In my opinion, Lisa McIntyre only said these things to persuade the Conduct Board and portray me as a monster; of which I am not.

The video from that night is prejudicial as well because it only reveals a 19 second period of time. It doesn't show what led up to the fight nor does it show the prior action of the alleged victim. It doesn't show illegal drug use, the prior skirmishes instigated by the alleged victim, underage drinking, or allowing an unsafe environment that allowed all of this to occur. I feel that I am being singled out as the source of all the issues that night. There were dozens of other people causing problems that night but it

is being made to look that if not for me, none of this would have happened that night and that is simply not the case.

The incorrect information is below:

Incorrect Statement #1: "More specifically, the video also showed you take a step toward and around a man (the Complainant) who was facing away from you and punch him in the face."

Correction: The Complainant was to the side of me. I was in his line of sight.

Incorrect Statement #2: "The video also shows that you punched him a second time (after he was down) and that you were about to punch him the third time when another man, wearing a red hat, intervened."

Correction: I was not about to hit him for the third time. The video shows that I was backing up. Once again, how can Lisa McIntyre make this statement without being biased towards me? I have been told that Lisa has shown a previous bias against males and athletes in the past and I believe that this took place at my conduct hearing as well. There is no way for her to know what my intentions were as the video certainly doesn't show me attempting to hit him again.

Incorrect Statement #3: "And certainly, after he was on the ground and unconscious, he was no threat to you, but you still struck him again."

Correction: It is not possible that the Complainant was unconscious because he was able to stand back up.

Incorrect Statement #4: "In your concluding statement at the Board hearing, you told the Board members that, at the party at the Palace you felt "disrespected"."

Correction: I did not say that I felt disrespected. I said that I felt "threatened" and was acting in self-defense to avoid of getting hit by the Complainant.

Incorrect Statement #5: "You were not defending yourself, you were punishing the party host for his attitude toward you."

Correction: This is an opinion and is untrue. I felt threatened because of his previous actions that night and I felt that he might be on a mind altering drug.

Incorrect Statement #6: "We concluded that you had not learned a lesson from being arrested in 2015 for threatening someone you perceived to have been disrespectful toward you."

Correction: While I understand that the University Conduct Board comprehensively reviews my file, the two incidences are entirely unrelated and contain different circumstances. Further, I can confidently say that I have learned from both and there have been educational outcomes.

Justification regarding inappropriate sanctioning is below:

I am a student at Washington State University. Moreover, I am a senior. Although I am a student-athlete, I value my education first. I am currently enrolled in 3 credits and have 9 weeks left until graduation. More specifically, I have 5 reading quizzes and 2 papers left, all of which I am striving to do my best on. I was born and raised in Samoa and earning an education and gaining a college experience from Washington State University is an honor and a blessing. It is privilege to earn a college degree and is opportunity that I would not have been afforded on the island. I have sincerely been looking forward to and have worked very hard for the chance to put my degree to work upon graduation in December 2016. I am politely asking for an opportunity to do so.

Thank you for your time and consideration. It is appreciated.

Sincerely,

Robert Barber

11364040