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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF HOOD RIVER

Immigrant Defendant
Petitioner,

Post-Conviction Case No.
060096 CC

v.

GENERAL JUDGEMENT

STATE OF OREGON
Defendant-Respondent,

This Post Conviction Relief matter came before the above entitled court on November 14, 2006, the Honorable Paul presiding. The Petitioner appearing by counsel, Brian Patrick Conry, and Defendant State of Oregon appearing by Thomas Sewell, Deputy District Attorney for Hood River County; based on the arguments of counsel, and the records and files herein and the Court being fully advised in the premises;

THE COURT HEREBY FINDS Petitioner's constitutional rights were violated in the underlying criminal proceedings because:

Criminal defense counsel failed to advise immigrant defendant that he will be considered guilty of delivery of a controlled substance to a minor only if he knew that

Minor child was more than three years younger than he, at the time he allegedly committed the offense. As a consequence, Petitioner's plea to Delivery of a Controlled Substance to a Minor was unknowingly and involuntarily entered.

Accordingly, the immigrant defendant was deprived of his right to constitutionally adequate counsel under Article I §11 of the Oregon Constitution, and deprived of his right to effective assistance of counsel under the Sixth Amendment of the Constitution of the United States;

IT IS THEREFORE ADJUDGED that the Petition for Post-Conviction Relief challenging Petitioner's conviction for Delivery of Controlled Substance to a Minor, Case Number 050168CR, Circuit Court for Hood River County, is hereby granted due to the constitutionally ineffective assistance of criminal defense counsel.

It is THEREFORE ORDERED that Petitioner's Petition for Post-Conviction Relief is hereby GRANTED and his conviction in Hood River Circuit Court, Case Number 050168CR, is hereby VACATED for the above reasons.

DATED this 22nd day of November, 2006

19 **PAUL G. CROWLEY**
HON. Paul Crowley
Circuit Court Judge

SUBMITTED BY: Brian Patrick OSB # 82224

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