

67708-0

67708-0

No. 67708-0-I

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

STATE OF WASHINGTON

Appellant

v.

KEVIN E. SLATTUM

Respondent.

BRIEF OF RESPONDENT

INNOCENCE PROJECT NORTHWEST CLINIC
Anna M. Tolin, WSBA #22071
Attorney for Respondent
University of Washington School of Law
P.O. Box 85110
Seattle, WA 98145-1110
(206) 543-3434

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2012 JUN 29 PM 4:41

TABLE OF AUTHORITIES	ii
I. INTRODUCTION	1
II. ASSIGNMENT OF ERROR	1
III. RELEVANT FACTS	2
IV. ARGUMENT	5
A. The Trial Court Properly Concluded that a Convicted Felon Under the Control of the Department of Corrections for Community Custody is Serving a “Term of Imprisonment” and May Be Eligible for Post-Conviction DNA Testing.	5
1. Introduction.	5
2. The ordinary meaning of “imprisonment” supports inclusion of those felons serving the restrictive term of community custody.	6
3. A contextual analysis of RCW 10.73.170 further supports the trial court’s conclusion that the legislature intended a “term of imprisonment” to include community custody.	7
4. While there is no ambiguity in the interpretation of “term of imprisonment” under RCW 10.73.170, however, even legislative history and policy considerations support the trial court’s inclusion of community custody within this term.	11
V. CONCLUSION	13

TABLE OF AUTHORITIES

Cases

<i>Advanced Silicon Materials, L.L.C. v. Grant County</i> , 156 Wn.2d 84, 124 P.3d 294 (2005).....	6
<i>American Continental Ins. Co. v. Steen</i> , 151 Wn.2d 512, 91 P. 3d 864 (2004).....	6
<i>Dep't of Ecology v. Campbell & Gwinn, L.L.C.</i> , 146 Wn.2d 1, 43 P.3d 4 (2002)).	6
<i>In re Blackburn</i> , 168 Wn.2d. 881, 232 P.3d 1091 (2010).....	9
<i>In re Parentage of J.M.K and D.R.K.</i> , 155 Wn.2d 374, 119 P.3d 840 (2005).....	6
<i>State v. Anderson</i> , 132 Wn.2d 203, 937 P.2d 518 (1997).....	9, 10
<i>State v. Gore</i> , 38 Wn.2d 481, 485-86, 681 P.2d 227 (1984).....	12
<i>State v. Gray</i> , 115 Wn. App. 762, 773, 215 P.3d 961 (2009).....	12
<i>State v. Riofta</i> , 166 Wn.2d 358, 209 P.3d 467 (2009) (<i>en banc</i>)	5
<i>State v. Sloan</i> , 121 Wn. App. 220, 87 P.3d 1214 (2004)	9
<i>State v. Winkle</i> , 159 Wn. App. 323, 245 P.3d 249 (2011)	8

Statutes

RCW 9.94A.030.....	8
RCW 9.92.010	8
RCW 9.94A.701(9).....	8

RCW 9.95.062	9, 10
RCW 9.98.010(1).....	8, 11
RCW 9A.40.040.....	10
RCW 10.73.170	passim
RCW 10.95.170	11
RCW Ch. 69.50.....	10

Other Authorities

<i>Black's Law Dictionary, 773</i> (8th Edition 2004).....	6
<i>Webster's Third New International Dictionary</i> 1137 (1993)	6

I. INTRODUCTION

In considering Kevin Slattum's Motion for Post-Conviction DNA testing, the trial court properly interpreted the statutory requirement that a movant is serving a "term of imprisonment." Mr. Slattum was serving an indeterminate life sentence in the Department of Corrections community custody program under an extensive and significant structure of restraint that the legislature considers part of an offender's term of confinement. The term "imprisonment" is ordinarily understood to include periods of confinement both inside *and* outside of prison, and Washington offenders are given equal credit toward for time spent in prison and time spent in community custody. The trial court properly honored the legislature's intent in concluding that convicted felons serving community custody and attempting to prove their innocence are entitled to seek post-conviction DNA pursuant to RCW 10.73.170.

II. ASSIGNMENT OF ERROR

Whether the trial court erred in concluding that an individual confined to the restraints of the community custody portion of a felony sentence is serving a "term of imprisonment" for purposes of the post-conviction DNA testing statute?

III. RELEVANT FACTS

Kevin Slattum filed a motion for post-conviction DNA testing in Snohomish County Superior Court on June 6, 2011 while serving an indeterminate life sentence for second degree rape of a child. CP 16, 102. At the time the motion was filed, Mr. Slattum had completed his minimum term of 102 months confinement in the penitentiary and was serving the community custody portion of his sentence. Pursuant to the terms of his continuing sentence, Mr. Slattum remains under the control and jurisdiction of the Department of Corrections (DOC) and must follow all recommendations of the Independent Sentence Review Board (ISRB), potentially for the rest of his life. *See* Appendix 1 and 2 (DOC Conditions and ISRB Order of Release and Supervision Conditions). These terms require Mr. Slattum to obey all laws and follow all DOC rules and regulations. Mr. Slattum must also comply with more than thirty specific conditions as part of this the extensive supervision structure of community custody. Included are the requirements that he:

- Report to and be available to meet with his Community Corrections Officer (CCO) and follow any verbal or written instruction issued by his CCO;
- Register as a sex offender;

- Remain in his county of residence unless travel is authorized by his CCO;
- Reside in a residence approved by a supervising CCO that is subject to random DOC home visits and inspection;
- Engage in employment or education at a DOC approved location and obtain CCO approval to change job or residence;
- Be subjected to random searches of his person, residence or property;
- Participate in substance abuse and sexual deviancy treatment as directed by CCO;
- Comply with all directives concerning contact with minor children that limit where he can live, spend the night, work, volunteer, socialize, and with whom he can form relationships;
- Comply with all requests for urinalysis, breathalyzer, polygraph or plethysmograph testing to ensure compliance, and submit to a polygraph at least every 90 days.

CP 103, 110-11; Appendix 1 & 2. This is not an exhaustive list of conditions. Failure to comply with any of the conditions subjects an offender both to DOC disciplinary proceedings that can result in an extension of the community custody, return to the penitentiary, and to

potential escape charges. Appendix 1 & 2. Washington's post-conviction DNA statute authorizes testing for convicted felons "serving a term of imprisonment" when a defendant can establish that favorable results will likely prove his or her innocence. RCW 10.73.170. Over the State's objection, the court granted Mr. Slattum's motion for DNA testing concluding that Mr. Slattum's term of community custody satisfied the statutory requirement of imprisonment:

It seems to this court that to limit the access to DNA testing to those who are actually incarcerated is interpreting the statute too narrowly. It may be that an offender is no longer in total confinement, but, nevertheless, he or she is under the direct control of the Department of Corrections. And as I've already indicated, in fact, if he is then placed in total confinement because of a violation, he's given credit for the time spent on community custody.

In this particular case, the community custody is potentially for the life of the defendant. He has severe restrictions and restraints placed on him, and he has affirmative duties under the community custody, and for any violation the defendant faces the possibility of total confinement.

RP 7/29/11 at 38. The trial court denied the State's motion to stay testing pending appeal. As testing has been concluded in Mr. Slattum's case, the State concedes that the issues raised on appeal are moot, but asks this Court to review the trial court's application of RCW 10.73.170 to an individual serving a term of community custody as a matter of substantial public interest. AB 7.

IV. ARGUMENT

A. The Trial Court Properly Concluded that a Convicted Felon Under the Control of the Department of Corrections for Community Custody is Serving a “Term of Imprisonment” and May Be Eligible for Post-Conviction DNA Testing.

1. Introduction.

The trial court’s interpretation of Washington’s post-conviction DNA statute is subject to *de novo* review by this Court. *State v. Riofta*, 166 Wn.2d 358, 365, 209 P.3d 467 (2009) (*en banc*). The State concedes the accuracy of the trial court’s findings of fact and correctly notes that determining whether an individual serving a sentence of community custody qualifies for post-conviction DNA testing is a matter of statutory construction. AB 12.

The legislature identified those individuals who may seek post-conviction DNA testing in an effort to prove their innocence as follows:

A person convicted of a felony in a Washington state court who currently is serving a term of imprisonment may submit to the court that entered the judgment of conviction a verified written motion requesting DNA testing.

RCW 10.73.170 (1). The statute does not specifically define “imprisonment.” A review of the applicable tenets of statutory construction confirms that individuals serving community custody such as Mr. Slattum were meant to be included in those individuals serving a

“term of imprisonment” that potentially qualifies them for post-conviction DNA testing.

This Court’s primary goal when interpreting a statute is to give effect to the Legislature’s intent and purpose. *In re Parentage of J.M.K and D.R.K.*, 155 Wn.2d 374, 387, 119 P.3d 840 (2005); *Advanced Silicon Materials, L.L.C. v. Grant County*, 156 Wn.2d 84, 89, 124 P.3d 294 (2005). The statute’s plain meaning is an “an expression of legislative intent,” *Advanced Silicon Materials*, 156 Wn.2d at 89-90 (quoting *Dep’t of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 11, 43 P.3d 4 (2002)).

2. The ordinary meaning of “imprisonment” supports inclusion of those felons serving the restrictive term of community custody.

In the absence of a statutory definition, the term “imprisonment” must be assigned its ordinary meaning as ascertained from the dictionary. *See American Continental Ins. Co. v. Steen*, 151 Wn.2d 512, 518, 91 P. 3d 864 (2004). The State acknowledges this primary rule of statutory construction, but ignores the inclusive language of the definitions. AB 13. There is no support for the State’s argument that under the plain meaning analysis the Legislature intended ‘imprisonment’ to be defined exclusively as “confinement *in* a jail or prison facility.” AB 15 (emphasis added).

Webster's Dictionary defines imprisonment as "[t]o confine in or as if in a prison." *Webster's Third New International Dictionary* 1137 (1993) (emphasis added). This definition recognizes the understanding that imprisonment is not necessarily incarceration in a traditional prison, but may include *other* forms of restraint. Similarly, Black's Law Dictionary defines "imprisonment" as "1. The act of being confined, esp. in a prison" or "2. The state of being confined; a period of confinement." *Black's Law Dictionary*, 773 (8th Edition 2004). Again, the definition specifically provides that "imprisonment" can encompass forms of confinement not limited to an actual prison.

The plain meaning of "imprisonment" is inclusive of lesser forms of restraint beyond confinement to a traditional correctional facility. The trial court correctly held that a term of community custody with its extensive restrictions and restraints imposed and monitored by the Department of Corrections is "imprisonment" for purposes of the post-conviction DNA testing statute.

3. A contextual analysis of RCW 10.73.170 further supports the trial court's conclusion that the legislature intended a "term of imprisonment" to include community custody.

The plain language of RCW 10.73.10 evidences the Legislature's intent to allow persons serving a term of imprisonment in community custody the right to petition for post-conviction DNA testing. The State

provides only a portion of the Legislature's definition of "community custody" in its brief and ignores the extensive restraints placed on individuals serving such a sentence. AB 13-14. The complete definition of "community custody" is:

that *portion of an offender's sentence of confinement* in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

RCW 9.94A.030(5) (emphasis added). This definition falls squarely within the legal definition of "imprisonment" as being a "period of confinement." *Black's Law Dictionary*, 773 (8th Edition 2004).

The trial court properly interpreted the statute and acknowledged the fact that community custody is encompassed within a term of imprisonment for sentencing purposes, such that convicted persons are required to be given credit for time served for periods of time they spend in community custody. RP 7/29/11 at 38, CP 13. Community custody is considered to be part of the maximum total authorized "term of confinement" in a state correctional institution as authorized by punishment statutes. *See, e.g.* RCW 9.92.010; 9.94A.701(9); *State v. Winkle*, 159 Wn. App. 323, 327, 245 P.3d 249 (2011) (outlining requirement of community custody in sex offense to be included as part of

the maximum period of confinement); *State v. Sloan*, 121 Wn. App. 220, 221, 22487 P.3d 1214 (2004) (total combined time served in jail *and* on community custody cannot exceed the statutory maximum period of confinement).

The State's reliance on *In re Blackburn*, 168 Wn.2d. 881, 232 P.3d 1091 (2010), is misplaced. AB 14. In *Blackburn*, the Washington Supreme Court held that, before DOC may return an offender to prison for violating an "obey all laws" requirement, it must provide the offender with notice of the facts and legal elements of his violation. *Id.* at 882, 886-87. The definition of imprisonment was not before the Court.

Similarly, *State v. Anderson*, 132 Wn.2d 203, 937 P.2d 518 (1997), fails to support the State's position because the statute at issue in *Anderson* – unlike RCW 10.73.170 – included specific language that narrowed the definition of imprisonment for the purpose of granting an offender jail time credit for home detention pending an appeal. The statute at issue, RCW 9.95.062(3), provides:

In case the defendant has been convicted of a felony, and has been unable to obtain release pending the appeal by posting an appeal bond, cash, adequate security, release on personal recognizance, or any other conditions imposed by the court, the time the defendant has been imprisoned pending the appeal shall be deducted from the term for which the defendant was sentenced, if the judgment is affirmed.

The Court held that “RCW 9.95.062(3) authorizes jail time credit only if the defendant has been ‘unable to obtain release . . .’”, however, the defendant was not entitled to jail time credit because he *had* been able to obtain release. *Anderson*, 132 Wn.2d at 208. By explicitly excluding from eligibility those defendants who had obtained release in various ways, the statute narrowed the definition of imprisonment for the purposes of the statute.

The remaining statutory language cited by the State fails to support its narrow interpretation of the term “imprisonment” under the post-conviction DNA statute. The fact that the minimum term of imprisonment for misdemeanor offenders under Chapter 69.50 may only be suspended or deferred if the court finds the minimum term of imprisonment will pose a substantial risk to the defendant’s physical or mental well-being or that local jail facilities are in an overcrowded in no way limits the general use of the term ‘imprisonment’ to confinement in a jail or prison. AB 15. Similarly, the language “[p]ersons who are subject to confinement for an offense punishable by imprisonment may be confined in the jail of any city or county...” (AB 16) does not tell us anything about the definition of “imprisonment.” The fact that certain persons *may be* confined in a jail does not mean that all persons subject to imprisonment will be so confined

given various alternatives to jail confinement that may be utilized by different cities and counties.

When the legislature wants imprisonment to specifically require or be limited by actual imprisonment in a specific setting, it has routinely specified this, as exemplified in two statutes cited by the State. AB 15-16. RCW 9.98.010(1) (addressing the return for trial of persons serving “a term of imprisonment *in a correctional institution*” (emphasis added)) and RCW 10.95.170 (directing that offenders sentenced to death “shall be imprisoned *in the state penitentiary*” (emphasis added)) both specifically qualify the type of imprisonment the legislature intended. These statutes do not support the State’s claim that “imprisonment” always requires confinement in a jail. Instead, they lend further support to the trial court’s conclusions that the conditions of community custody designed as part of a total sentence of confinement fall within RCW 10.73.170’s “term of imprisonment” requirement.

4. While there is no ambiguity in the interpretation of “term of imprisonment” under RCW 10.73.170, however, even legislative history and policy considerations support the trial court’s inclusion of community custody within this term.

The trial court’s interpretation and application of RCW 10.73.170 complied with the plain meaning of the statute. Given the inclusiveness of

the accepted definitions of imprisonment, the statute is not ambiguous. Even if it were, the history and policy considerations behind the post-conviction DNA statute further support the trial court's conclusion.

This Court has previously recognized that the legislative intent behind the most recent amendments to RCW 10.73.170 was to broaden the access to DNA testing. *State v. Gray*, 115 Wn. App. 762, 773, 215 P.3d 961 (2009). Furthermore, in circumstances where there is more than one permissible construction of a statute, the rule of lenity requires the Court "to construe the statute strictly against the State in favor of the accused." *State v. Gore*, 38 Wn.2d 481, 485-86, 681 P.2d 227 (1984). The Legislature's concern about ensuring the wrongly convicted have access to post-conviction DNA testing is not honored by the State's suggested interpretation. There is no logical reason why the legislature would exclude persons such as Mr. Slattum, who are serving potential life sentences under conditions that are considered confinement from seeking relief under the statute, simply because they were no longer serving their sentences inside the walls of a penitentiary. A term of community custody is properly included in the statutory definition of imprisonment.

V. CONCLUSION

The plain language along with the contextual analysis and policy considerations behind RCW 10.73.170 support the trial court's conclusions of law in this case. we respectfully ask this Court to affirm the holding that those serving the restrictive terms of community custody are deemed to be under a "term of imprisonment" and are thus eligible to seek post-conviction DNA testing if the remaining statutory requirements are met.

Dated this 29th day of July, 2012

Respectfully submitted,

INNOCENCE PROJECT NORTHWEST CLINIC



Anna M. Tolin, WSBA #22071
Attorney for Respondent Kevin Slattum

Appendix 1



**STATE OF WASHINGTON
DEPARTMENT OF
CORRECTIONS**

CONDITIONS, REQUIREMENTS, AND INSTRUCTIONS

Offender SLATTUM, KEVIN E.	DOC # 841280	FOS#	County/Cause # SNOHOMISH / 02-1-00071-6 (AA)
-------------------------------	-----------------	------	--

State:

Interstate Compact Supervision Type: Parole Probation Special: _____

I understand that under the provisions of RCW 9.94A or 9.95 or 9.95.270 or 10.77, I am subject to all conditions and requirements the court/Indeterminate Sentence Review Board/Department of Corrections (DOC) has imposed and that the terms of supervision can be revoked, modified, or changed at any time during the course of supervision. Furthermore, I understand that I am under the supervision of the Department of Corrections and that I must comply with the instructions of the Department herein. Should I violate any of these conditions, requirements, or instructions, I understand that I may be brought before the court/Indeterminate Sentence Review Board/DOC Hearing Officer for a hearing and/or imposition of additional sanctions.

STANDARD CONDITIONS:

- Secure written permission from the Community Corrections Officer (CCO) before leaving Washington State.
- Remain within a geographic area as directed by the DOC as follows: **DO NOT ENTER CANADA OR MEXICO.**
- Obtain written permission from the CCO before traveling outside the county in which you reside, unless advised in writing by the CCO that it is not necessary to do so.
- Notify the CCO before changing residence or employment.
- If your sex offense was committed on or after 6/6/96, with a minor child victim, you must avoid contact with victim or minor children of similar age or close proximity where minors congregate, UNLESS authorized by the CCO.
- Abide by written or verbal instructions issued by the CCO.
- **CCI and OAA Only:** Abide by any DOC imposed conditions:

1. **OAA Only:** Obey all municipal, county, state, tribal and federal laws.

Offenders from out of state (FOS), who are being supervised by DOC, and who have been designated as being "victim sensitive" by the sending state, must secure written permission from their community corrections officer prior to changing address, returning to the sending state, or obtaining a travel permit. CCOs will **notify the Washington Interstate Compact Office** of the change or request.

COURT ORDERED CONDITIONS/REQUIREMENTS:

1. Defendant shall comply with instructions, rules and regulations of DOC for the conduct of the defendant during the period of community supervision or custody and any other conditions of community custody as stated in the J & S.
2. Defendant shall not possess firearms, ammunition, explosives and/or body armor.
3. You must consent to random DOC home visits to monitor your compliance with supervision. Home visits include access for purposes of visual inspection of all areas of the residence in which you live or have exclusive or joint control and or access.
4. Report to and be available for contact with the assigned community corrections officer as directed.
5. Work at DOC-approved education, employment and/or community service.
6. Not consume controlled substances except pursuant to lawfully issued prescriptions.
7. Not unlawfully possess controlled substances while in community custody.
8. Pay supervision fees as determined by DOC.
9. Perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC.
10. Your residence, living arrangements and employment must be approved by the supervising CCO.
11. Notify DOC of any change in the defendants address or employment.
12. Community custody for sex offenders may be extended for up to the statutory maximum term of the sentence.

Violation of community custody imposed for a sex offense may result in additional confinement.

13. In addition to other conditions, the defendant shall comply with any conditions imposed by the Indeterminate Sentence Review Board under RCW 9.94A.713; 9.95.420, 425, 430, 435.
14. Defendant shall not consume alcohol.
15. Defendant shall have no contact with minor children without DOC approval.
16. Obey all laws.
17. Have no direct or indirect contact with N.R. (DOB 03/31/88) or any members of N.R.'s family.
18. Pay the costs of crime-related counseling and medical treatment required by N.R.
19. Do not initiate or prolong contact with minor children.
20. Do not seek employment or volunteer positions which place you in contact with or control over minor children.
21. Do not frequent areas where minor children are known to congregate, as defined by the supervising Community Corrections Officer (CCO).
22. Do not possess or access pornographic materials, as directed by the supervising CCO.
23. Do not date women nor form relationships with families who have minor children, as directed by the supervising CCO.
24. Do not remain overnight in a residence where minor children live or are spending the night.
25. Do not possess or consume alcohol and do not frequent establishments where alcohol is the chief commodity for sale.
26. Participate in offense related counseling programs, to include sexual deviancy treatment and Department of Corrections sponsored offender groups, as directed by the supervising CCO.
27. Participate in substance abuse treatment as directed by the supervising CCO.
28. Participate in urinalysis, breathalyzer, polygraph and plethysmograph examinations as directed by the supervising CCO, to ensure conditions of community custody.

FINANCIAL OBLIGATIONS: (NOT APPLICABLE TO FOS CASES)

- The court has ordered me to pay Legal Financial Obligations (LFOs), including accrued interest. I am required to make payments under the following cause numbers and in the amounts listed:

Restitution: _____ Court Costs: 422.38 2804 Attorney Fees: 2739.17
 Fine: _____ Victim's Compensation: \$500.00 Other: _____
 Drug Fund: _____ Lab Fee: _____

I agree to pay not less than \$10 per month beginning 2/1/10 to the Clerk of SNOHOMISH County, located at 3000 ROCKEFELLER AVE., MS 605, EVERETT, WA 98201 until my financial obligation is paid in full.

COMMUNITY SERVICE HOURS:

Complete _____ hours of community service at a rate of _____ hours per week month as directed by the DOC. Report as directed to the DOC.

REPORTING INSTRUCTIONS:

- I am required to report and be available for contact with the assigned CCO as directed until instructed to no longer report, or a court order is issued closing the case.
- Failure to report and/or provide a valid address may result in the filing of escape charges if on community custody status.

KRS
 Sign with initials

Report to: CCO3 GARY RINK
 Address: 1801 GROVE STREET, MARYSVILLE, WA 98270
 Telephone: 360-658-2167

Reporting Instructions: In person on the day(s) listed below, or as otherwise directed by my CCO.

1st 2nd MONDAY TUESDAY
 3rd 4th WEDNESDAY THURSDAY FRIDAY

Other:

COST OF SUPERVISION:

- Unless waived by the court or DOC, I will be assessed a Cost of Supervision (COS) fee of \$20 to \$40 monthly while on active supervision. The amount charged will vary depending on my supervision status and classification level. I will be sent a billing statement detailing my Cost of Supervision and the amount I am required to pay. Beginning 7/11 I will mail my Cost of Supervision fee payments only in the form of a cashier's check or money order, made payable to: Department of Corrections, PO Box 9700, Olympia WA 98507-9700. I will put my name and DOC number on every cashier's check or money order.

NOTICES:

- **Firearms:** I have been advised and understand that if I have been convicted of a crime in category listed below I am prohibited by law from owning, possessing, receiving, shipping, or transporting a firearm, ammunition, or explosives. I understand the prohibition extends to every sort of gun, rifle, or explosive device or similar device, including the frame or receiver of firearms. I understand that this may also be a violation of my supervision per RCW 9.94A.120(16).

- Any Felony Offense

- Misdemeanant Offense (RCW 9.41.040, 10.99.020):

Includes the following misdemeanor offenses, when committed by one family or household member against another, committed on or after July 1, 1993:

Stalking* (RCW 9A.46.110)

Assault 4 (RCW 9A.36.041)

Reckless Endangerment 2 (RCW 9A.36.050)

Coercion (RCW 9A.36.070)

Violation of a Protective Order-No Contact (RCW 10.99.040)*, (RCW 26.50.060, 070, 130)

*Can also be a felony offense.

I further understand that I should seek legal advice if I wish to possess a firearm after I am discharged from supervision.

- **Debt:** I have been advised and understand that failure to make payments toward my legal financial obligations as scheduled can result in an increase in my monthly payment rate and/or referral of my case to the County Clerk's Office for collection. Should I fall behind in my monthly payment in an amount equal or greater than the amount payable for one month, the Department of Corrections may issue a Notice of Payroll Deduction. Without further notice, my employment earnings are subject to a Notice of Payroll Deduction and my earnings or property, or both, are subject to an Order to Withhold and Deliver. Any net proceeds obtained through either a Notice of Payroll Deduction or an Order to Withhold and Deliver will be applied to my court ordered financial obligations. (Not Applicable to FOS Cases)

- **Grievance Procedure:** The DOC grievance procedures have been explained to me and I understand them.

- **Registration:** I have been advised and understand the registration requirements for offenders. K.S.
I have signed DOC 07-023 Registration Notification Requirements. Sign with Initials

- **Arrest, Search, and Seizure:** I am aware that I am subject to search and seizure of my person, residence, automobile, or other personal property if there is reasonable cause on the part of the Department of Corrections to believe that I have violated the conditions/requirements or instructions above. I am also aware that, for the safety and security of Department staff, I am subject to a pat search or other limited security search without reasonable cause when I am in, on, or about to enter Department premises, and when I am about to enter a Department vehicle.

- **Computerized Billing System:** I am aware I will receive a monthly bill from the Department of Corrections for each cause number on which I owe Legal Financial Obligations. I understand I am to mail the stub along with my payment to the appropriate County Clerk. (Not Applicable to FOS Cases)

- **Tolling:** I have been advised that those periods that I am unavailable for supervision (i.e., in jail, on abscond status) will not count towards my supervision period. (FOS Cases subject to Home State rules regarding tolling.)

- **Imposed Conditions:** I am aware that I must submit a written request to my CCO within 24 hours of being served with a DOC Imposed Condition if I wish to appeal the condition.

- **Threats to Staff:** I am aware that if I threaten my Community Corrections Officer or other Department of Corrections staff or contractors I may be arrested and charged under RCW 9A.06.195, and that this may also be a violation of my supervision.
- **Confinement Expectations:** I have been advised, while on supervision/probation, I am required to comply with all facility rules and regulations of the confining facility for any period of confinement. Failure to abide by facility rules and regulations may be addressed through additional violation hearings and sanctions.

I have read or have had read to me the foregoing conditions and sentence requirements which are applicable in my case. Each of these conditions/requirements have been explained to me and I hereby agree to comply with them.

- I have received a copy of the Judgment and Sentence on this cause. K.S.
Sign with Initials

Offender Signature <i>Kevin Matthews</i>	Date 5-25-10
Current Address 15424 5 th AVE NE Marysville WA 98271	
CCO Signature <i>[Signature]</i>	Date 5/25/10
Location 1801 GROVE STREET, MARYSVILLE, WA 98270	Telephone 360-658-2167

Distribution: ORIGINAL - Offender File, COPY - Offender
 CCI/CCP ONLY: ORIGINAL - Central File, COPY - Field File, Offender
 FOS/OOS ONLY: ORIGINAL - Offender File,

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.



CONSENT FOR DRUG/ALCOHOL TESTING (FIELD)

Offender Name SLATTUM, KEVIN E.	DOC Number 841280	Cause Number: 02-1-00071-6 (AA)
---	-----------------------------	---

As a condition of your supervision, you are required to submit to drug / alcohol testing, as directed by the Community Corrections Officer. In addition to the standard conditions of supervision, the Department of Corrections' testing program requires the following:

1. The Community Corrections Officer must be able to contact you to report for testing, either directly or through a reliable person, or as otherwise arranged and agreed upon.
2. When notified to report for testing, you must report on the day indicated. Testing may be required on any day of the week.
3. Your failure to report for testing, following notification, may constitute a violation of your Community Custody.
4. Changes in your address, employment, or telephone numbers must be reported to the Community Corrections Officer immediately.
5. Prior to testing, you must advise the Community Corrections Officer of any drugs, alcohol, narcotics, or medication that you are taking, whether prescribed or not. Any prescribed medicines will require written verification from your doctor.
6. You are not to take any medicines or drugs prescribed for persons other than yourself.
7. You are not to ingest any items containing poppy seeds.
8. Refusal / failure to provide a sample within one hour may result in an infraction / violation, which may result in corresponding sanctions.

Nothing in the above instructions is meant to interfere with legitimate medical treatment. If, as a result of your drug usage, withdrawal is necessary, you are urged to seek detoxification under medical supervision.

FAILURE TO COMPLY WITH ANY OF THE ABOVE INSTRUCTIONS, REFUSAL TO SUBMIT TO TESTING, DELIBERATE EVASION, OR USE OF DEVICES OR ADDITIVES TO AVOID OR ALTER TESTING WILL RESULT IN VIOLATION PROCEEDINGS.

I understand that it may be necessary for the Community Corrections Officer to inform my doctor of my parole / community custody and of this condition of drug/alcohol testing. If this action occurs, a "Release of Information" will be secured prior to contact.

I authorize the current DOC Contracted Laboratory to release the results of all tests submitted by me to the Department of Corrections.

I understand and agree to abide by these additional instructions as part of my supervision, and acknowledge receipt of a copy of these instructions.

Signature <i>Kevin Slattum</i>	Date <i>5-25-10</i>
Witness	Date

*The contents of this document may be eligible for public disclosure.
Social Security Numbers are considered confidential information and will be redacted in the event of such a request.
This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.*



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
P.O. Box 41100 • Olympia, Washington 98504-1100

I understand per RCW 9.94A.631, that after July 26, 2009, for the safety and security of department staff, I may be required to submit to pat searches or other limited security searches by community corrections officers, correctional officers, and other agency approved staff, without reasonable cause, when in or on department premises, grounds, or facilities, or while preparing to enter department premises, grounds, facilities or vehicles. Pat searches of offenders shall be conducted by staff who are the same gender as me, except in emergency situations.

Kevin Statten

Offender Name

5-25-10

Date

DOC Number

Appendix 2

OFFENDER COPY

DocuSign Envelope ID: 9816F79E-E78D-43F1-9BB9-7420E5F00808



STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD
PO BOX 40907 • Olympia, Washington 98504 • (360) 493-9266 FAX (360) 493-9287

IN THE MATTER OF:

Name: SLATTUM, Kevin
DOC#: 841280 Date of Birth: 11-16-63
Time Start: 7-23-02
Date of Sentence: 7-15-02
Max Expiration: Life
Statutory Maximum Term: Life
County: Snohomish Cause #:02-1-00071-6

RECEIVED
APR 23 2010
SCCC Records

ORDER OF RELEASE AND
SUPERVISION CONDITIONS

CCB Offenders
RCW 9.94A.507

Release Date: 5/25/2010

After a careful review of all available information, the Indeterminate Sentence Review Board (ISRB) hereby orders the Secretary of the Department of Corrections (DOC) to release to community custody supervision Kevin SLATTUM, DOC #841280, an inmate of a Washington State Correctional Facility.

You will be on community custody supervision for the length of your statutory maximum term. The ISRB expects compliance with all conditions and your full cooperation with your DOC Community Corrections Officer (CCO).

You must comply with the court ordered conditions for your Snohomish County, 02-1-00071-6 Judgment and Sentence. Those conditions are incorporated in this document and are enforceable by the ISRB. In addition, you must comply with the conditions ordered by your CCO. You must also comply with the following conditions. To request a change to any of the conditions of your release, you must write and have the approval of the Snohomish County Superior Court for Court ordered conditions or the ISRB for all other conditions.

If you violate any condition of your release, either the ISRB or your CCO may issue an order for your arrest and detention. Pending a review of the alleged violation, the ISRB may revoke this release to community custody.

RELEASE TO COMMUNITY CUSTODY IS HEREBY GRANTED SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. Within 24 hours of your release, you must register as a sex offender with the Sheriff of the county where you reside.
2. Within one business day of your release, you must report to your CCO or any other person designated by DOC. Thereafter, you must report as directed.
3. You may not leave the state of Washington without prior written permission from the ISRB and your CCO.
4. You must obey all laws and court orders. You must obey any special conditions imposed by the ISRB. You must obey any written instruction issued by your CCO.
5. You are prohibited from owning, possessing, receiving, shipping, or transporting a firearm, deadly weapon, ammunition or explosives.
6. When requested by your CCO, you must willingly submit to a search of your person, residence, vehicle and/or possessions.
7. You must allow DOC to conduct home visits to monitor your compliance with supervision. Home visits include access for the purpose of visual inspection of all areas of residence where you live or where you have exclusive or joint control or access.



STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD
PO BOX 40907 • Olympia, Washington 98504 • (360) 493-9266 FAX (360) 493-9287

ADDITIONAL CONDITIONS
CCB, RCW 9.94A.507

SLATTUM, Kevin
Offender Name:

841280
DOC#:

Additional Specific Condition(s):

- A. Submit to drug or alcohol monitoring through an agency approved by your CCO. As a condition of release you are required to sign a full release of information allowing the treatment or monitoring agency to release information to your CCO, and the ISRB. This release of information must be effective until this condition is removed by the Board from your conditions of release.
- B. Submit to a polygraph examination to be conducted by a polygraph operator who is certified by the American Polygraph Association. Polygraph examination(s) will be conducted at least every 90 days. The examination will be limited to the following subject matter: Fidelity to release conditions. In accepting release under the condition both the State and the releasee hereby stipulate that the results of the said examination shall be admissible in subsequent release to community custody suspension hearings before the Washington State Indeterminate Sentence Review Board.
- C. Do not use, possess or control any dangerous drugs, narcotics or controlled substances without a valid prescription from a licensed physician. Do not possess any drug paraphernalia.
- D. Obtain sexual deviancy evaluation and follow conditions recommended.

INDETERMINATE SENTENCE REVIEW BOARD

4/22/2010
Date:

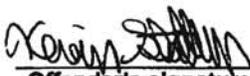
8501698D711C498...
Lynne DeLano
DocuSigned By: Lynne DeLano
Member's signature

A86CE2CC34EMED
Thomas N. Sahlberg
DocuSigned By: Thomas N. Sahlberg
Member's signature

I have read, or have had read to me, the foregoing conditions of my community custody and have been given a copy; I fully understand and I agree, in consideration of granting of community custody, to observe and abide by such conditions.

4-27-10

Date:



Offender's signature:

Kevin SLATTUM

Offender's name:


Witness's signature:

Barbara A St. Lewis



STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD
PO BOX 40907 • Olympia, Washington 98504 • (360) 493-9266 FAX (360) 493-9287

IN THE MATTER OF:

CCB Offender: SLATTUM, Kevin
DOC #: 841280

The conditions of your release must reasonably relate to at least one of the following:

1. The crime of conviction;
2. Your risk to reoffend;
3. The safety of the community.

If you feel the conditions do not relate to the list above, you may file an appeal with ISRB under RCW 9.94A.704 (7) (b). To file an appeal, contact the ISRB with a written request that clearly states which condition(s) does not relate to the list above. Explain why you believe it is unrelated. Mail your appeal to the ISRB at PO Box 40907, Olympia, WA 98504-0907. Appeals must be postmarked no later than one business day from the day you sign the Release Order and Conditions. ISRB business days are Monday through Friday.

The ISRB will hold an Administrative Review of your appeal. The ISRB will notify you in writing with the results of the review.

IMPORTANT NOTE:

All conditions including the condition(s) in question will remain in effect until the ISRB rules that the condition does not correlate to an item above.

I have read, or have had read to me, this notice of my right to appeal a condition or conditions of my release. I understand that I have the right to appeal and that my appeal must be postmarked no more than one business day from today. I understand that I must comply with all conditions until the Board makes a decision regarding my appeal.

Date:

4-27-10

Offender's Signature:

Kevin Slattum

RECEIVED

APR 23 2010



SCCC Records

STATE OF WASHINGTON

INDETERMINATE SENTENCE REVIEW BOARD

4317 Sixth Ave., S.E. * P.O. Box 40907 * Olympia, Washington 98504-0907 * (360) 493-9266
(TDD Relay 1-800-833-6388)

DATE: April 22, 2010

TO: Associate Superintendent, Classification and Treatment
Stafford Creek Corrections Center

SUBJECT: Administrative Board Decision

RE: Kevin SLATTUM
#841280

An administrative decision of the Board in regard to the above-named individual has been made and is as follows:

<u>5-25-10</u>	Offender Release Date
<u>4-13-10</u>	Offender Release Plan

See Release Order for special conditions.

CC: Division of Community Services – Central
Comm. Corrections Officer Gary Rink, Marysville Field Office

File/ch



STATE OF WASHINGTON

INDETERMINATE SENTENCE REVIEW BOARD

4317 Sixth Ave., S.E. * P.O. Box 40907 * Olympia, Washington 98504-0907 * (360) 493-9266
(TDD Relay 1-800-833-6388)

DECISION AND REASONS

NAME:	SLATTUM, Kevin	RECEIVED
NUMBER:	841280	
INSTITUTION:	ISRB	APR 23 2010
TYPE OF MEETING:	Parole Decision	SCCC Records
DATE:	April 20, 2010	
PANEL MEMBERS:	TS & LD	

BOARD DECISION:

The Indeterminate Sentence Review Board approves release for Kevin E. Slattum, DOC #841280 as outlined in the ORP dated 4-13-2010.

The offender will reside in Snohomish County at Mack House at 15424 – 51st Avenue NE, Marysville, WA 98271.

Within 24 hours of release, the offender will report to CCO Gary Rink at the DOC office located at 1801 Grove Street Unit D, Marysville, WA 98270-4333.. The CCO's phone number is 360-658-2167. The Board expects compliance with all conditions and full cooperation with the CCO. The CCO shall immediately report any violation immediately to the Board at isrb@doc1.wa.gov or 360-493-9266.

HISTORY/COMMENTS:

Kevin Slattum is under the jurisdiction of the Board on a conviction in July 15, 2002 in Snohomish County Cause #02-1-00071-4 for Rape of a Child in the Second Degree. His time start is July 23, 2002. His minimum term was set at 102 months. His maximum term is Life.

File materials describe the underlying conviction as Mr. Slattum having sex with a thirteen year old female. The offending behavior included kissing and fondling the victim and penetrating her vagina with his finger. Reports indicate that the victim resisted his sexual advances and behavior and was finally able to get away from him. Mr. Slattum has denied this offense since it occurred. Reports indicate that he told police that he had pulled the victim's friends grandfather off of the victim on a couple of occasions that evening. He further reported that the victim had left with two boys at one point. Mr. Slattum was convicted in a jury trial.

TS & LD: ch
April 20, 2010

CC: Institution
Kevin Slattum
File

CERTIFICATE OF SERVICE

I hereby certify that on the date listed below, I caused to be delivered for filing with the Clerk of the Court of Appeals, Division I, one original and one copy of Respondents Brief and Appendices. A copy of the brief and appendices was also mailed via the United States Postal Service to the following:

Ms. Kathleen Webber
Deputy Prosecuting Attorney
Snohomish County Prosecutor's Office
3000 Rockefeller Avenue, M/S #504
Everett, WA 98201

Dated this 29th day of June, 2012.



Anna M. Tolin

JUN 29 11:41 AM
COURT OF APPEALS DIV I
STATE OF WASHINGTON