

COA NO. 73178-5-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

IN RE PERSONAL RESTRAINT PETITION OF
ARMONDO LAFORGE:

STATE OF WASHINGTON,

Respondent,

v.

ARMONDO LAFORGE,

Petitioner.

FILED
Dec 24, 2015
Court of Appeals
Division I
State of Washington

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

The Honorable Michael C. Hayden, Judge

PETITIONER'S OPENING BRIEF

CASEY GRANNIS
Attorney for Petitioner

NIELSEN, BROMAN & KOCH, PLLC
1908 East Madison
Seattle, WA 98122
(206) 623-2373

TABLE OF CONTENTS

	Page
A. <u>ASSIGNMENTS OF ERROR</u>	1
<u>Issues Pertaining To Assignments Of Error</u>	1
B. <u>STATEMENT OF THE CASE</u>	1
C. <u>ARGUMENT</u>	4
1. THE TRIAL COURT LACKED JURISDICTION IN THE ABSENCE OF A DECLINE HEARING AND REMAND FOR SENTENCING AS A JUVENILE IS AN AVAILABLE REMEDY.....	4
a. The petition is not procedurally barred because the adult division of the superior lacked jurisdiction.....	5
b. The adult court lacked jurisdiction over LaForge's case once the charges were amended to non-automatic decline offenses	6
c. Re-sentencing in accordance with the Juvenile Justice Act is an available remedy for the jurisdictional error	9
d. Trial counsel was ineffective in failing to request a transfer to the juvenile court once the charges were amended to non-automatic decline offenses	15
e. In the event LaForge's case is remanded for a decline hearing, the trial court should first determine whether a fair hearing is feasible given the length of time that has passed	19
D. <u>CONCLUSION</u>	23

TABLE OF AUTHORITIES

Page

WASHINGTON CASES

Dillenburg v. Maxwell,
70 Wn.2d 331, 422 P.2d 783 (1966)..... 9, 10, 19-21

In re Harbert,
85 Wn.2d 719, 538 P.2d 1212 (1975)..... 20

In re Personal Restraint of Dalluge,
152 Wn.2d 772, 100 P.3d 279 (2004)..... 5-10, 13, 14, 16, 17, 20

State v. Kylo,
166 Wn.2d 856, 215 P.3d 177 (2009)..... 16

State v. Maynard,
183 Wn.2d 253, 351 P.3d 159 (2015)..... 6, 7, 10-15, 17, 18

State v. Maynard,
178 Wn. App. 413, 315 P.3d 545 (2013),
rev'd, 183 Wn.2d 253, 351 P.3d 159 (2015)..... 13

State v. Mora,
138 Wn.2d 43, 977 P.2d 564 (1999)..... 7, 8

State v. P.E.T.,
174 Wn. App. 590, 300 P.3d 456, 463 (2013),
remanded for reconsideration on other grounds,
181 Wn.2d 1007, 335 P.3d 940 (2014)..... 21, 22

State v. Phelps,
113 Wn. App. 347, 57 P.3d 624 (2002)..... 8

State v. Posey,
161 Wn.2d 638, 167 P.3d 560 (2007)..... 12

State v. Posey,
174 Wn. 2d 131, 272 P.3d 840 (2012)..... 11, 12, 14, 15, 17

TABLE OF AUTHORITIES

Page

WASHINGTON CASES

State v. Sharon,
33 Wn. App. 491, 655 P.2d 1193 (1982),
aff'd, 100 Wn.2d 230, 668 P.2d 584 (1983)..... 20

State v. Soto,
177 Wn. App. 706, 309 P.3d 596, 598 (2013)..... 8

State v. Thomas,
109 Wn.2d 222, 743 P.2d 816 (1987)..... 15, 16

FEDERAL CASES

Kent v. United States,
383 U.S. 541, 86 S. Ct. 1045, 16 L. Ed. 2d 84 (1966)..... 20

Strickland v. Washington,
466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed.2d 674 (1984)..... 15, 16

United States v. Johns,
728 F.2d 953 (7th Cir. 1984) 22

United States v. Morrison,
449 U.S. 361, 101 S. Ct. 665, 66 L. Ed. 2d 564 (1981)..... 17

OTHER STATE CASES

People v. Ary,
51 Cal.4th 510, 120 Cal.Rptr.3d 431, 246 P.3d 322 (Cal Ct. App. 2011) 22

People v. Lightsey,
54 Cal.4th 668, 143 Cal.Rptr.3d 589, 279 P.3d 1072 (Cal. 2012)..... 22

TABLE OF AUTHORITIES

Page

OTHER AUTHORITIES

Chapter 13.40 RCW.....	1
Former RCW 9.94A.030(37)(vii) (2002).....	7
Former RCW 13.04.030(1)(e)(v)(A), (C) (2000)	2, 7
Former 13.40.110(1)(a), (b) (1997)	7
Juvenile Justice Act	1, 5, 6, 9-11, 13-17, 19, 23
RCW 10.73.090	6
RCW 10.73.090(1).....	5, 6
RCW 10.73.090(3)(a)	6
RCW 13.04.030	6
RCW 13.40.300	6
RCW 13.40.300(1)(a)	10, 18
Sentencing Reform Act.....	3, 4, 8
U.S. Const. amend. VI	15, 17
Wash. Const., art. I, § 22	15

A. ASSIGNMENTS OF ERROR

1. The adult division of the superior court lacked jurisdiction to sentence petitioner as an adult in the absence of a juvenile decline hearing.

2. Trial counsel provided ineffective assistance in failing to move for transfer of the case to juvenile court.

Issues Pertaining to Assignment of Error

1. Whether the trial court erred in sentencing petitioner as an adult in the absence of a juvenile decline hearing because the amended charges to which petitioner pled guilty did not require automatic decline to the adult court?

2. Whether trial counsel provide ineffective assistance in failing to move for transfer of the case to juvenile court following amendment of the charges, where no legitimate tactic justified the failure and petitioner was deprived of the benefits of being treated as a juvenile?

3. Whether remand to the superior court for resentencing in accordance with the Juvenile Justice Act, chapter 13.40 RCW, is an available remedy?

4. In the event a retrospective decline hearing is an appropriate remedy, whether the trial court on remand must first determine such a hearing is feasible given the passage of years?

B. STATEMENT OF THE CASE

On January 7, 2003, the State charged Armondo LaForge with first degree robbery and first degree rape for events that took place on December 22, 2002. App. A. LaForge was 16 years old at the time, but he was charged in the adult division of the King County Superior Court because the charges required automatic decline of juvenile court jurisdiction. Former RCW 13.04.030(1)(e)(v)(A), (C) (2000). On December 4, 2003, the State added deadly weapon enhancements. App. B.

On December 15, 2003, the State amended the charges to second degree robbery and second degree rape without deadly weapon enhancements. App. C. LaForge pled guilty to these amended charges in adult court. App. D, E. Defense counsel filed a written request for an exceptional sentence downward on the ground that the standard range sentence was excessive. App. F. Counsel asked the court to take LaForge's age into account. Id. at 3. Counsel also requested the court to place LaForge in the Green Hill juvenile facility "so that he can be housed with other juvenile offenders and take advantage of the classes offered at Green Hill." Id. at 6.

The State opposed the exceptional sentence request, specifically taking defense counsel to task for asking the court to consider LaForge's age: "The defense ignores the fact that the legislature has expressly

provided that when a juvenile offender commits a specific crime that the juvenile offender is automatically subject to adult court jurisdiction." App. G (State's Response to Defense Request at 2).

At the 2004 sentencing hearing, defense counsel backed off on youth as a stand-alone mitigating factor "because it's clear from case law, it is difficult to use just age. So, that is not going to be the basis." App. H (RP at 10). The court rejected the exceptional sentence request, but took LaForge's age into account in deciding not to impose the top of the standard range: "you are still 17 years old. But because of the nature of the offense, you were not given a chance to go into the juvenile justice system. You will go into the adult system; which is going to be tough for a 17 year old. Absolutely no doubt, it is going to be tough." Id. at 15-16. The court denied the defense request to place LaForge in the juvenile facility due to the length of the sentence he would be serving. Id. at 18.

The court sentenced LaForge as an adult under the Sentencing Reform Act, imposing a standard range, indeterminate sentence of 95 months to life for the second degree rape conviction concurrent with 14 months for the second degree robbery conviction. App. I. The rape conviction carries a lifetime term of community custody. Id. LaForge did not appeal.

In November 2014, LaForge filed a pro se personal restraint petition, arguing he is entitled to dismissal of his convictions, or, in the alternative, to be resentenced as a juvenile because the trial court failed to hold a decline hearing and his attorney was ineffective in failing to move the case to juvenile court after the State amended the charges to offenses that did not require automatic adult court jurisdiction. See Personal Restraint Petition. In response, the State conceded error but disagreed with LaForge's requested remedy. See State's Response. The Court of Appeals assigned counsel to assist LaForge with his petition.

C. ARGUMENT

- 1. THE TRIAL COURT LACKED JURISDICTION IN THE ABSENCE OF A DECLINE HEARING AND REMAND FOR SENTENCING AS A JUVENILE IS AN AVAILABLE REMEDY.**

Error occurred in 2004. Once the State amended the charges to non-automatic decline offenses, jurisdiction reverted to the juvenile court. Because the juvenile court never declined jurisdiction, the superior court lacked authority to sentence LaForge as an adult under the Sentencing Reform Act (SRA). Fast forward to 2016, and LaForge continues to serve a sentence that the court never had authority to impose. It is undisputed that LaForge is entitled to some remedy. The debate is over what remedy is appropriate.

The State insists the only remedy available is the one given in In re Personal Restraint of Dalluge, 152 Wn.2d 772, 100 P.3d 279 (2004): a retrospective decline hearing, after which the convictions stand if the court would have declined jurisdiction, and a "new trial" in adult court if juvenile jurisdiction would have been retained. The premise of the State's argument is that once juvenile jurisdiction is lost, even improperly, the defendant can never gain the benefits of being sentenced as a juvenile.

That premise is mistaken. The law in this area has evolved since Dalluge. Even where the defendant has since turned 18 years old, the remedy of being sentenced in accordance with the Juvenile Justice Act (JJA) is available where juvenile court jurisdiction was improperly bypassed. That is the remedy LaForge seeks and that is the remedy he is entitled to.¹

a. The petition is not procedurally barred because the adult division of the superior lacked jurisdiction.

As a threshold matter, LaForge's petition is properly before this Court because the trial court lacked jurisdiction. RCW 10.73.090(1) provides "No petition or motion for collateral attack on a judgment and sentence in a criminal case may be filed more than one year after the judgment becomes final if the judgment and sentence is valid on its face

¹ In this brief, LaForge does not advance the argument that dismissal due to preaccusatorial delay is available.

and was rendered by a court of competent jurisdiction." LaForge's judgment became final in 2004, when the judgment and sentence was filed and no appeal was taken. RCW 10.73.090(3)(a).

However, the time bar the specified in RCW 10.73.090 applies only if the judgment and sentence was "rendered by a court of competent jurisdiction." RCW 10.73.090(1). As argued below, the adult division of the superior court lacked jurisdiction over LaForge's case once the charges were amended and jurisdiction reverted to the juvenile court. "Absent the juvenile court's waiver of its exclusive jurisdiction, the adult criminal court did not have jurisdiction, i.e., it did not possess the power or authority to render a judgment in these proceedings." Dalluge, 152 Wn.2d at 785. Because the judgment in LaForge's case was not "rendered by a court of competent jurisdiction," his personal restraint petition is not procedurally barred, regardless of the timing of its filing. Id. The State appropriately concedes the point. State's Response at 10.

b. The adult court lacked jurisdiction over LaForge's case once the charges were amended to non-automatic decline offenses.

A juvenile defendant has the statutory right to be prosecuted under the provisions of the Juvenile Justice Act if the State files charges before the defendant turns 18, subject to limited exceptions. State v. Maynard, 183 Wn.2d 253, 262, 351 P.3d 159 (2015); RCW 13.04.030; RCW

13.40.300. Although a defendant has no constitutional right to be tried as a juvenile, juvenile court offers an offender important benefits. Maynard, 183 Wn.2d at 259. Chief among them, adjudication as a juvenile avoids the stigma of an adult criminal conviction and provides less harsh penalties. Id. at 259-60.

One of the exceptions to juvenile court jurisdiction involves offenses that automatically preclude the juvenile court's jurisdiction. The original charges against LaForge — first degree robbery and first degree rape — were automatic decline offenses. Former RCW 13.04.030(1)(e)(v)(A), (C) (2000); Former RCW 9.94A.030(37)(vii) (2002) (definition of "serious violent offense" includes first degree rape).

Once the State amended the charges against LaForge to the non-automatic decline charges of second degree robbery and second degree rape, jurisdiction reverted to the juvenile court. The law is clear: "once a prosecutor amends an information to charge offenses that do not result in automatic adult court jurisdiction, the adult criminal court must remand the matter to the juvenile court for a decline hearing." Dalluge, 152 Wn.2d at 785 (citing State v. Mora, 138 Wn.2d 43, 54, 977 P.2d 564 (1999)); see Former 13.40.110(1)(a), (b) (1997) (addressing decline hearing).

The decline hearing never took place in LaForge's case, even though he was under 18 years old. Instead, LaForge was convicted and sentenced as an adult on the amended charges as if the juvenile court did not have jurisdiction. That was error. The adult division of the superior court lacked jurisdiction once the charges were amended to non-automatic decline offenses. Mora, 138 Wn.2d at 45. As a result, that court lacked authority to enter the convictions and sentence LaForge as an adult under the SRA. The juvenile court retained jurisdiction unless it decided to transfer jurisdiction following a decline hearing. As the decline hearing did not take place, jurisdiction remained with the juvenile court. Dalluge, 152 Wn.2d at 785.

"If the trial court exceeds its sentencing authority, its actions are void." State v. Soto, 177 Wn. App. 706, 713, 309 P.3d 596, 598 (2013) (citing State v. Phelps, 113 Wn. App. 347, 354-55, 57 P.3d 624 (2002)). The trial court in LaForge's case exceeded its sentencing authority by imposing an adult SRA sentence in the absence of jurisdiction to do so. LaForge's sentence is therefore void. Yet, over a decade later, he continues to serve it. See App. H at 5 (lifetime term of community custody imposed). What is to be done?

c. Re-sentencing in accordance with the Juvenile Justice Act is an available remedy for the jurisdictional error.

In Dalluge, the State charged a 17-year-old defendant with crimes that automatically granted exclusive jurisdiction to the adult criminal court. Dalluge, 152 Wn.2d at 776. The State later amended the charges, rendering the adult court's jurisdiction no longer mandatory but subject to the juvenile court declining jurisdiction. Id. at 776, 783. The trial court did not remand to juvenile court for a decline hearing. Id. at 776. Instead, the trial court proceeded to trial, where the jury convicted the defendant. Id. The Supreme Court held the trial court erred by not remanding for a decline hearing. Id. at 785, 789.

Relying on Dillenburg v. Maxwell, 70 Wn.2d 331, 355-56, 422 P.2d 783 (1966), the Dalluge court concluded "where the defendant has since turned 18, the appropriate remedy for a trial court's failure to remand to juvenile court is remand to the adult criminal court for a de novo hearing on whether declination would have been appropriate. If declination would have been appropriate, then the conviction stands, but if not, the defendant is entitled to a new trial." Dalluge, 152 Wn.2d at 786-87.

Dalluge and Dillenburg treat the age of 18 as the point of no return, resulting in the remedy of a new trial in adult court if juvenile jurisdiction

would not have been declined. Dillenburg, 70 Wn.2d at 355-56 ("Should he, however, be over the age of 18 years at the time the conviction be set aside, he is then amenable to prosecution as an adult, and a new trial should be granted to him."); Dalluge, 152 Wn.2d at 785-86 ("If declination would have been appropriate, then the conviction stands. Otherwise, the conviction is set aside and a new trial must occur in adult criminal court if the defendant has since turned 18.").

The State argues Dalluge provides the sole remedy for LaForge. But the remedy LaForge seeks is a juvenile sentence. Neither Dalluge nor Dillenburg reach the question of what sentencing scheme the person is subject to. Subsequent Supreme Court decisions show the remedy of being sentenced in accordance with the Juvenile Justice Act is available even where the defendant is now over 18 years old.

Maynard is instructive. In that case, the State charged Maynard in juvenile court shortly before his 18th birthday. Maynard, 183 Wn.2d at 256. Defense counsel did not move for an order to extend the court's statutory jurisdiction as provided in RCW 13.40.300(1)(a) before Maynard turned 18. Id. As a result, the juvenile court lost jurisdiction. Id. The State then re-filed the charges in adult superior court. Id. The Supreme Court held defense counsel provided ineffective assistance in failing to move for an extension of juvenile court jurisdiction before Maynard

turned 18. Id. Counsel's deficient conduct prejudiced Maynard because he lost the benefits of being prosecuted as a juvenile. Id. at 261. "If counsel had moved to extend jurisdiction, the juvenile court could have entered an appropriate order." Id.

The Supreme Court rejected the trial court's dismissal of the charge as a remedy, but directed the State to reoffer the plea proposal of deferred disposition and remand the case for further proceedings consistent with the JJA. Id. at 264. After noting "[t]he only absolute prohibition we see to applying the JJA is when the defendant allegedly committed the crime after the age of 18," the Court saw "no prohibition to extending the trial court's authority to apply provisions of the JJA as a remedy for the violation of a juvenile's right to effective assistance of counsel." Id. at 263.

Maynard shows the remedy of a juvenile sentence is available even where the defendant is now over 18 years old. That is the remedy LaForge seeks. There is no statutory bar to that remedy because LaForge was 16 years old at the time of offense.

For guidance, Maynard looked to State v. Posey, 174 Wn. 2d 131, 272 P.3d 840 (2012) (Posey II). Maynard, 183 Wn.2d at 263-64 ("As in Posey II, if Maynard is convicted, the trial court may still impose a juvenile sentence."). The Supreme Court in Posey II upheld the trial court's application of the JJA to an adult improperly denied juvenile

jurisdiction. Posey II, 174 Wn.2d at 133. The State charged a 16-year-old with three counts of second degree rape and one count of first degree assault. Id. at 133. By statute, the first degree assault charge required the juvenile court to automatically decline juvenile jurisdiction, and the case proceeded to trial in superior court. Id. at 134. The jury convicted Posey of two counts of second degree rape but acquitted Posey on the count of first degree assault — the charge that automatically transferred the case from juvenile court to superior court. Id. The trial judge then sentenced Posey under adult sentencing guidelines. Id.

In Posey I, the Supreme Court affirmed the convictions but held "once Posey was acquitted of the enumerated charge, the matter should have been remanded to juvenile court for a decline hearing or sentencing because . . . the legislative intent underlying the automatic decline provision is to impose more severe punishment on juveniles who have *committed* certain criminal offenses." State v. Posey, 161 Wn.2d 638, 647, 167 P.3d 560 (2007). The mandate issued after Posey turned 21. Posey II, 174 Wn.2d at 134.

On remand, Posey argued the juvenile court lacked jurisdiction to sentence him because he was 21 years old and the trial judge agreed. Id. The trial judge, however, acting as a superior court judge, sentenced Posey

within the standard juvenile sentencing range. Id. at 135. The Supreme Court in Posey II affirmed the trial court's sentence. Id. at 142.

Posey II, like Maynard, shows the remedy of a juvenile sentence is available where the defendant is now over 18 years old. More than that, Posey II shows a trial court, on remand, can simply sentence the defendant in accordance with the JJA without holding a decline hearing. That is what the trial court did in that case and the Supreme Court upheld the sentence. Dalluge calls for a declination hearing to be held where the adult court did not have jurisdiction, but Posey II shows the trial court can dispense with the hearing and proceed directly to sentencing the defendant as a juvenile.

Maynard, meanwhile, put a new spin on Dalluge. The Court of Appeals in Maynard relied on Dalluge for the remedy of remand to adult court for a new trial. State v. Maynard, 178 Wn. App. 413, 419, 315 P.3d 545 (2013), rev'd, 183 Wn.2d 253, 351 P.3d 159 (2015). The Supreme Court rejected the Court of Appeals' proposed remedy. Maynard, 183 Wn.2d at 261 n.1. The Supreme Court found "Dalluge does not control this case because Maynard did not request a new trial as a remedy." Id.

Maynard described the Dalluge remedy as such: "the defendant was entitled to a hearing to determine if the juvenile court should have retained jurisdiction, and if so, the defendant requested a new trial in adult

court." Id. (citing Dalluge, 152 Wn.2d at 786-87). The Court continued: "Apparently, the defendant felt a new trial would provide adequate relief. Here, Maynard does not ask for a new trial; he asks for dismissal, a remedy that we find unwarranted. We do, however, agree with Maynard that a new trial in adult court would not adequately resolve the harm." Maynard, 183 Wn.2d at 261 n.1. "Without any remedy, Maynard already faces the prospect of trial as an adult because the juvenile court's statutory authority lapsed. To hold that his remedy is to be tried as an adult means, in effect, that he will receive no remedy at all." Id.

Similarly, granting LaForge a new trial in adult court if juvenile jurisdiction would have been retained is no remedy at all. He already pled guilty. He does not seek to aside the conviction. Giving him the opportunity to plead guilty again in adult court would be a meaningless exercise. Maynard teaches that the remedy envisioned in Dalluge is not the only one available. Maynard sees the Dalluge remedy as an artifact of what the defendant asked for rather than the only one possible. Maynard, 183 Wn.2d at 261 n.1 ("Apparently, the defendant felt a new trial would provide adequate relief. Here, Maynard does not ask for a new trial[.]"). As in Maynard, "Dalluge does not control this case" because LaForge does not "request a new trial as a remedy." Id. LaForge requests to be resentenced under the JJA. The adult division of the superior court has the

authority to resentence LaForge in accordance with the JJA. The fact that he is now over 18 years old is no barrier to that remedy. Maynard and Posey II show this to be true.

In sum, Posey II demonstrates the adult division of the superior court has the authority to impose a juvenile sentence without holding a retrospective decline hearing on whether juvenile jurisdiction would have been retained. Posey II, 174 Wn.2d at 133, 142. In accord with Posey II, LaForge requests remand for imposition of a juvenile sentence without a decline hearing.

If this Court disagrees with that request, the alternative remedy is remand for a juvenile decline hearing and, if the trial court finds there would have been no decline, imposition of a juvenile sentence. That alternative remedy is supported by Posey II and Maynard, both of which recognize juvenile sentencing is available to those who are now over 18 years old.

- d. Trial counsel was ineffective in failing to request a transfer to the juvenile court once the charges were amended to non-automatic decline offenses.**

LaForge had the right to the effective assistance of counsel. Strickland v. Washington, 466 U.S. 668, 685-86, 104 S. Ct. 2052, 80 L. Ed.2d 674 (1984); State v. Thomas, 109 Wn.2d 222, 229, 743 P.2d 816 (1987); U.S. Const. amend. VI; Wash. Const., art. I, § 22. Defense

counsel is ineffective where (1) the attorney's performance was deficient and (2) the deficiency prejudiced the defendant. Strickland, 466 U.S. at 687. Deficient performance is that which falls below an objective standard of reasonableness. Thomas, 109 Wn.2d at 225-26. Only a legitimate strategy or tactic constitutes reasonable performance. State v. Killo, 166 Wn.2d 856, 869, 215 P.3d 177 (2009).

Here, there is no legitimate reason why LaForge's trial counsel failed to move for transfer of the case to juvenile court following amendment of the charges to non-automatic decline offenses. In fact, counsel argued for an exceptional sentence downward because the standard adult sentence was excessive. App. F, H. More than that, counsel asked the superior court to order detention at Green Hill, a juvenile facility. Id. In light of counsel's attempt to convince the court to treat LaForge like a juvenile, it is clear the failure to get the case back to juvenile court was a result of not realizing the jurisdictional error. Oversight is not strategy. See Maynard, 183 Wn.2d at 261 (counsel "did not move to extend the juvenile court's jurisdiction before he turned 18, not because of a legitimate tactic but because of an absence of judgment."). LaForge was prejudiced because he was deprived of the benefits of being prosecuted under the JJA, including a less onerous sentence. Id.

The State will argue the ineffective assistance claim does not get LaForge a better remedy than the one identified in Dalluge. The Court in Dalluge did not reach the merits of the ineffective assistance issue based on the attorney's failure to request remand to juvenile court after the amended information was filed. Dalluge, 152 Wn.2d at 789 n.10. In dicta, the Court mused even if counsel was ineffective, "any error is remedied by our remand to superior court. If the superior court determines that the juvenile court would likely have declined jurisdiction, then Dalluge did not suffer actual prejudice resulting from trial counsel's performance. If the superior court instead determines that the juvenile court would have retained jurisdiction, then Dalluge will receive a new trial, the same remedy he would receive if he prevailed in his claim of ineffective assistance of trial counsel." Id.

As argued above, the remedy specified in Dalluge is not the only one available. Maynard and Posey II show sentencing in accordance with the JJA is a remedy and that is the one LaForge requests. Maynard recognized the remedy for ineffective assistance under the Sixth Amendment "should be tailored to the injury suffered from the constitutional violation and should not unnecessarily infringe on competing interests." Maynard, 183 Wn.2d at 262 (quoting United States v. Morrison, 449 U.S. 361, 364, 101 S. Ct. 665, 66 L. Ed. 2d 564 (1981)).

The remedy of juvenile sentencing was tailored to the injury suffered by Maynard due to ineffective assistance. The same remedy is tailored to LaForge's harm: he too was improperly deprived of juvenile jurisdiction due to counsel's ineffectiveness. The different routes taken to arrive at the same destination are immaterial.

The State might argue remand for a decline hearing is a sufficient remedy because, if the superior court determines that the juvenile court would have declined jurisdiction, then LaForge did not suffer actual prejudice resulting from trial counsel's performance. Dalluge, 152 Wn.2d at 789 n.10.

But the Supreme Court in Maynard looked at prejudice in a different way: "Maynard also suffered prejudice because of counsel's deficient conduct: he lost the benefits of being prosecuted as a juvenile. If counsel had moved to extend jurisdiction, the juvenile court *could have* entered an appropriate order." Maynard, 183 Wn.2d at 261 (emphasis added). Of significance, extension of juvenile jurisdiction is not automatic upon request. Extension is a discretionary decision for the court that must be justified by written reasons. RCW 13.40.300(1)(a). The juvenile court could have denied Maynard's request for extension had one been made, just as a juvenile court could decline to retain jurisdiction. Maynard showed prejudice from losing the benefits of being prosecuted as a

juvenile, even though it is unknown whether the juvenile court would have in fact extended jurisdiction. The Supreme Court could have remanded Maynard's case to the trial court for a hearing on whether juvenile jurisdiction would have been extended, but it did not do that. Instead, it simply directed resentencing in accordance with the JJA.

Under the same reasoning, the only prejudice LaForge needs to show is losing out on the benefits of being treated as a juvenile under the JJA due to the adult court's improper retention of jurisdiction. He need not show the juvenile court would have retained jurisdiction following a decline hearing to be entitled to being sentenced as a juvenile under the JJA as a remedy for his ineffective assistance of counsel claim.

- e. **In the event LaForge's case is remanded for a decline hearing, the trial court should first determine whether a fair hearing is feasible given the length of time that has passed.**

If this Court remands for a retrospective decline hearing, the question is whether a viable hearing can still be held. LaForge was 16 years old when the decline hearing should have taken place. Over 11 years will have passed before the trial court deals with this matter on remand. The Supreme Court envisioned the remedy of a retrospective decline hearing to be proper "in the ordinary case." Dillenburg, 70 Wn.2d at 355. LaForge's case, however, may not be ordinary due to the passage

of time. For this reason, the trial court on remand should be tasked with determining whether a feasible Dillenburg hearing can be held.

The salient question is "whether declination would have been appropriate." Dalluge, 152 Wn.2d at 787. Stated another way, whether the convicted person "should have been dealt with as a juvenile." Dillenburg, 70 Wn.2d at 355. At the retrospective hearing, the trial court is to determine "whether the facts before the juvenile 'session' of the superior court in the first instance warranted and justified the transfer for criminal prosecution." Id. The question in LaForge's case, then, is whether "the facts" that would have been present before the juvenile court in 2004 are still available for a retrospective decline hearing in 2016.

In 2004, LaForge would have been in the position of arguing for the juvenile court to retain jurisdiction at a decline hearing based on facts available at the time. Are those facts, whatever they may be, still available in 2016? Have contemporaneous investigatory reports of the juvenile authorities been retained? Are witnesses lost? Are memories dimmed?

The decline hearing is "critically important." In re Harbert, 85 Wn.2d 719, 723, 538 P.2d 1212 (1975) (quoting Kent v. United States, 383 U.S. 541, 554, 86 S. Ct. 1045, 16 L. Ed. 2d 84 (1966)). The State must provide an opportunity for a decline hearing that comports with "the essentials of due process and fair treatment." State v. Sharon, 33 Wn. App.

491, 495, 655 P.2d 1193 (1982) aff'd, 100 Wn.2d 230, 668 P.2d 584 (1983). If LaForge's right to present evidence at the retrospective decline hearing is compromised due to the passage of time, then the hearing cannot be said to be an accurate vehicle for determining whether jurisdiction would have been retained at a decline hearing in 2004. And if the retrospective hearing is a faulty mechanism for determining the juvenile jurisdiction question, then it cannot provide proper relief to LaForge.

The decline question is a time-sensitive one because the trial court is tasked with determining, in retrospect, whether LaForge should have been treated as a juvenile based on the facts available at the time the juvenile court should have held the decline hearing. Dillenburg, 70 Wn.2d at 355. For this reason, a determination needs to be made that a feasible retrospective hearing can still take place over 11 years later.

The approach to retrospective competency hearings provides guidance. Appellate courts have remanded for a "retrospective competency determination" when trial courts fail to hold a required competency hearing or when proper procedures for determining competency are otherwise not followed. State v. P.E.T., 174 Wn. App. 590, 605, 300 P.3d 456, 463 (2013), remanded for reconsideration on other grounds, 181 Wn.2d 1007, 335 P.3d 940 (2014). Before a trial court

engages in a retrospective competency determination, it must first decide "whether a meaningful hearing on the defendant's competency at the prior proceedings is still possible." P.E.T., 174 Wn. App. at 605-06 (quoting United States v. Johns, 728 F.2d 953, 958 (7th Cir. 1984)). The trial court on remand is to determine "whether a retrospective competency hearing is feasible and, if so, to conduct such a hearing is both appropriate and permissible." P.E.T., 174 Wn. App. at 606 (quoting People v. Lightsey, 54 Cal.4th 668, 710, 143 Cal.Rptr.3d 589, 279 P.3d 1072 (Cal. 2012)). "Feasibility in this context means the availability of sufficient evidence to reliably determine the defendant's mental competence when tried earlier." P.E.T., 174 Wn. App. at 606 (quoting Lightsey, 54 Cal.4th at 710) (quoting People v. Ary, 51 Cal.4th 510, 520, 120 Cal.Rptr.3d 431, 246 P.3d 322 (Cal Ct. App. 2011)). The burden is on the State to show the hearing is feasible. P.E.T., 174 Wn. App. at 606-07 (citing Lightsey, 54 Cal.4th at 710-11).

The same reasoning is applicable to retrospective decline hearings, especially those where the passage of time is great. In both situations, a fact-finding hearing should have been held in the past and now the trial court must retrospectively determine what the facts would have been to support a court order. A feasible retrospective decline hearing is one in which sufficient evidence exists to reliably determine whether juvenile

jurisdiction would have been declined. The trial court should make the feasibility determination. The burden should be on the State to show the retrospective hearing is feasible. If the trial court determines the hearing is not feasible, then the remedy LaForge requests is sentencing in accordance with the JJA. As argued above, that remedy is the only meaningful one available to him.

D. CONCLUSION

For the reasons set forth, LaForge requests remand for sentencing in accordance with the Juvenile Justice Act. If this Court declines to remand for that purpose, the alternative is remand to determine whether a retrospective decline hearing is feasible. If the hearing is not feasible, LaForge should be resentenced in accordance with the Juvenile Justice Act. If the hearing is feasible and the trial court determines the juvenile court would have retained jurisdiction, then LaForge should be resentenced in accordance with the Juvenile Justice Act.

DATED this 24th day of December 2015

Respectfully Submitted,

~~NIELSEN, BROMAN & KOCH, PLLC~~

CASEY GRANNIS
WSBA No. 37301
Office ID No. 91051
Attorneys for Petitioner

APPENDIX A

FILED

2003 JAN -7 PM 3:13

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

WARRANT ISSUED
CHARGE COUNTY \$110.00

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 v.)
 JULIAN D. MOLZHON, and)
 ARMONDO T. LAFORGE)
 and each of them,)
)
 Defendants.)

No. 03-C-03741-5 SEA
03-C-03742-3 SEA ✓

INFORMATION

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse JULIAN D. MOLZHON and ARMONDO T. LAFORGE, and each of them, of the crime of Robbery in the First Degree, committed as follows:

That the defendants JULIAN D. MOLZHON and ARMONDO T. LAFORGE, and each of them, in King County, Washington on or about December 22, 2002, did unlawfully and with intent to commit theft take personal property of another, to-wit: U.S. currency and an ATM card from the person and in the presence of Christopher Duarte, against his will, by the use or threatened use of immediate force, violence and fear of injury to such person or his property, and in the commission of and in immediate flight therefrom the defendant was armed with a deadly weapon, to-wit: a knife;

Contrary to RCW 9A.56.200(1)(a)(i) and 9A.56.190, and against the peace and dignity of the State of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse ARMONDO T. LAFORGE of the crime of Rape in the First Degree, a crime of the same or similar character and based on the same

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

1 conduct as another crime charged herein, which crimes were part of
2 a common scheme or plan and which crimes were so closely connected
3 in respect to time, place and occasion that it would be difficult
4 to separate proof of one charge from proof of the other, committed
5 as follows:

6 That the defendant ARMONDO T. LAFORGE in King County,
7 Washington on or about December 22, 2002, by forcible compulsion
8 did engage in sexual intercourse with another person named
9 Christopher Duarte, under circumstances where the defendant or an
10 accessory used or threatened to use a deadly weapon or what
11 appeared to be a deadly weapon, to-wit: a knife;

12 Contrary to RCW 9A.44.040(1)(a), and against the peace and
13 dignity of the State of Washington.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
NORM MALENG
Prosecuting Attorney

By: J. Ritchie
Jennifer G. Ritchie, WSBA #24046
Senior Deputy Prosecuting Attorney

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

CAUSE NO. 03 C 03742 3SEA

ORIG.



Seattle
Police
Department

**CERTIFICATE FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 02-571681
UNIT FILE NUMBER

That Anthony Stevenson is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case Number 02-571681;

There is probable cause to believe that Armondo Theodore LAFORGE, DOB: 08-20-1986 committed the crime (s) of Rape, Kidnapping and Robbery.

This belief is predicated on the following facts and circumstances:

That on December 22nd, 2002, between the hours of approximately 0630 and 0900, within the City of Seattle, County of King and State of Washington, the suspects LAFORGE and MOLZHON robbed the victim Christopher Duarte of money and cigarettes in the 11100 block of Aurora Avenue North. LAFORGE then led the victim to behind a building at 13200 Aurora Avenue North where he raped the victim at knifepoint.

The victim Duarte, a resident of North Seattle, was walking to work at approximately 0630 hrs, December 22nd, 2002. Duarte was approached by the suspects LAFORGE and MOLZHON in the 11000 block of Aurora Avenue North. LAFORGE asked Duarte for a cigarette, which Duarte gave him. Duarte continued to walk northbound with LAFORGE and MOLZHON walking behind him. Duarte heard jogging behind him and turned to see LAFORGE looking up and down Aurora Avenue. After the vehicles passed by, LAFORGE shoved Duarte against a fence and said, "What's up punk? Give me your money." When Duarte told LAFORGE he had no money, LAFORGE said, "You're lying." LAFORGE pulled a knife from his pants pocket and said, "Tell me you don't have any money." LAFORGE shoved Duarte against the fence again and possibly cut Duarte's left hand with the knife. LAFORGE then told Duarte, "Show me your wallet." Duarte pulled out his wallet and said, "See, I don't have anything." LAFORGE took Duarte's pack of Marlboro cigarettes and his small black Bic lighter. LAFORGE took Duarte's wallet and handed it to MOLZHON. LAFORGE told MOLZHON to look through the wallet. MOLZHON did so and pulled out Duarte's ATM card. LAFORGE asked Duarte for the PIN number and how much money was in the account. Duarte gave LAFORGE the PIN number and told him there was \$200.00 in the account. LAFORGE ordered Duarte saying, "Walk with us." Both suspects and Duarte walked toward the Albertson's store at 13000 Aurora Avenue North. LAFORGE threw Duarte's pack of cigarettes on the ground as they walked. When they arrived at the Albertson's store, MOLZHON went inside with Duarte's ATM card. LAFORGE told Duarte to walk with him between the K-Mart store and the Staples Store at 13200 Aurora Avenue North. LAFORGE put the knife away and started acting as if he were Duarte's "friend." LAFORGE said he was going to try to teach Duarte, "not to be a punk." LAFORGE pretended like he was going to hit Duarte and said, "What would you do if I did that?" LAFORGE asked Duarte how old he was, then said something to the effect of he was 16 and his friend was 17, and Duarte shouldn't let a 16 and 17-year-old "play" him like that. LAFORGE then asked, "What if I were to tell you to strip naked?" Duarte told him he wouldn't do it. Then LAFORGE said, "What if I had a knife?" and pulled the knife out again. Duarte said, "Well, I don't have a choice." They went into the "Dumpster area" between K-Mart and Staples, and Duarte took all of his clothes off. LAFORGE asked Duarte how many times he had had sex, and whether he had ever had sex "with a guy." LAFORGE then said, "Would you suck my dick?" Duarte again said no. LAFORGE said, "In this situation, with a knife?" Duarte gave LAFORGE oral sex (LAFORGE had unzipped his pants, and his erect penis was sticking out through the fly) while sitting on a barbecue; then LAFORGE touched Duarte's genital area. LAFORGE made Duarte switch places and said he "wanted to get [Duarte] hard," but Duarte didn't have an erection. Duarte told LAFORGE he was cold, and he was allowed to put his clothes back on (his pants were pulled down, however). LAFORGE told Duarte to "turn around and bend over," and asked, "Have you ever been fucked?"



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 02-571681
UNIT FILE NUMBER

LAFORGE penetrated Duarte's anus. Duarte said, "I tried to ignore it and just let it happen. I hoped it would be over soon and he would leave me alone." Duarte believed LAFORGE would hurt or kill him if he didn't do what he said. LAFORGE said, "OK, that's enough; come on, let's take a walk." On the way back to Albertson's, LAFORGE told Duarte to tell his friend that they had gone to Duarte's friend's house to try to get more money, but that he wasn't home. When they got to Albertson's, they didn't see MOLZHON. They went to the bus stop at 130th and Aurora, and they saw MOLZHON walking towards them. MOLZHON wanted to know where they had been. LAFORGE told Duarte, "Stand right here. If you run, I'll chase you and I'll stab you. If you run into a store, I'll chase you and stab you. I don't care if people see me." LAFORGE and MOLZHON then walked about ten feet away from Duarte and talked so Duarte couldn't hear what they were saying. They walked back to where Duarte was standing, LAFORGE said, "My friend was only able to get \$20." MOLZHON was holding a piece of paper, and LAFORGE ripped it from his hands and threw it on the ground. LAFORGE made Duarte accompany him into the Albertson's to try to get more money out of his account. However, the machine said there were "insufficient funds." LAFORGE got mad and said, "I should kill you." LAFORGE repeated that if Duarte "tried anything funny," he would "chase him down and stab him." LAFORGE kept pretending like he was going to punch Duarte. As soon as they left the store, LAFORGE again threatened to stab Duarte. Duarte said that throughout this entire incident, LAFORGE repeatedly called him names like punk, bitch, pussy, and stupid, and threatened to stab him, beat him, and slit his throat. They returned to the bus stop at 130th and Aurora, where they rejoined MOLZHON. LAFORGE kept acting like he was going to hit Duarte. MOLZHON got angry at LAFORGE, and told him to stop bothering Duarte, that he had done enough. MOLZHON was also angry that LAFORGE kept referring to him as "Julian," because he said he had a warrant for his arrest and didn't want to be picked up. MOLZHON took a small electronic item from his pocket and threw it on the ground, shattering it. He picked it up a second time and threw it down on the steps behind the bus stop. Duarte described the device as a clock or radio, made of gray or silver plastic with some black on it. At one point, MOLZHON mentioned that he lives in Shoreline. LAFORGE gave Duarte his ATM card back, but took his Washington ID card and social security card. LAFORGE said, "If you call the cops, I know where you live and where you work." MOLZHON asked, "Why do you need his social security card?" and LAFORGE replied, "Because I want him to know I have his personal information." The #358 bus arrived, and LAFORGE made Duarte get on with him and MOLZHON. Duarte believes it was around 8:30 or 9 am. He said there were about ten people on the bus, and described the driver. They rode the bus to approximately 155th and Aurora, where all three got off. LAFORGE gave Duarte fifty cents and told him to cross the street and take the bus back to Seattle. Duarte used the payphone to call his dad. Duarte's parents met him at that location and called the fire department who treated him at the scene and suggested the parents take him to the hospital. Duarte's parents drove him to Northwest Hospital where he was treated and directed to go to Harborview Medical Center for a rape examination. Duarte's parents drove him there.

Detectives Stevenson and Stampfl responded to the various crime scenes. They located an empty pack of "Marlboro red" cigarettes in the 11100 block Aurora Avenue North. They located a broken silver and black travel clock in the stairwell leading to the Albertson's store near North 130th Street and Aurora Avenue North. They located an enclosed area with cinder block walls and a gate that would normally house garbage dumpsters with items victim Duarte described along with the barbecue inside. Officer Clark gave Detective Stampfl (3) videotapes, which he recovered, from the Albertson's store and US Bank employees.

Detective Stampfl obtained a printout of transactions on the ATM machine at 13000 Aurora Avenue North, which showed several transactions between 0658 hrs and 0702 hrs. Detective Stevenson reviewed the videotapes, which showed an individual matching MOLZHON's description making transactions at the ATM machine at 0659 hrs until shortly after 0700 hrs. The videotapes also showed an individual matching the description of LAFORGE at the ATM machine with victim Duarte at 0654 hrs. Detective Stevenson had still pictures made of this video from several images.





**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 02-571681
UNIT FILE NUMBER

Detective Stevenson ran a check of the name "Julian" in the Seattle Police Department JEMS system and was able to find a picture of MOLZHON, which looked similar to the ATM picture. Detective Stevenson ran a check of MOLZHON's name through the Seattle Police Department RMS system and found MOLZHON was involved as a suspect in SPD case #02-504329 along with LAFORGE. Detective Stevenson noted that LAFORGE's height and weight was similar to that which Duarte described of the suspect. Detective Stevenson ordered a Washington State Department of Licensing photograph of LAFORGE. Detectives Stevenson and Stampfl created photomontages of LAFORGE and MOLZHON. The victim Duarte positively identified LAFORGE as the person who robbed, kidnapped and raped him from the photomontage.

On 01-02-2003 Detectives Stevenson, Fields and Grossman responded to 2201 Southwest Holden Street #P-103, Seattle, Washington and contacted LAFORGE's sister Mitchelline Bear. Bear stated it was her apartment and invited Detectives inside. Bear was asked if LAFORGE was there and she said he was. Bear called LAFORGE who came from the back of the apartment and was arrested. LAFORGE was transported to the Seattle Police Department Special Assault Unit.

LAFORGE was advised of his rights and stated he understood. LAFORGE gave a taped confession of the Robbery stating that he shoved the victim (Duarte), showed him a knife and yelled for him to give up his money. LAFORGE said that they obtained the victims ATM card and his PIN number and made him go with them to the Albertson's store while MOLZHON withdrew cash. LAFORGE said that he went with the victim to a friend's (of the victim's) apartment to get more money. LAFORGE said that he was drunk and could not remember the whole incident but that he didn't think that he had oral sex with the victim. LAFORGE admitted to making the victim walk several blocks with him from the initial contact, to the store and then to the friend's apartment. LAFORGE said he made the victim get on the bus with him and MOLZHON so that he wouldn't report the incident to police. LAFORGE said that the victim acted scared the entire time. LAFORGE admitted to collecting \$120.00 to \$130.00 cash from MOLZHON after MOLZHON withdrew the money from the victim's account.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 2nd day of January, 2003, at Seattle, Washington.

 #5442

1
2
3
4
5
6
7 CAUSE NO. 03-C-03741-5 SEA
8 CAUSE NO. 03-C-03742-3 SEA

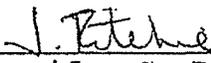
9 PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR
10 CONDITIONS OF RELEASE

11 The State incorporates by reference the Certification for
12 Determination of Probable Cause written by Detective Anthony
13 Stevenson in Seattle Police case number 02-571681.

14 REQUEST FOR BAIL

15 The State requests bail in the amount of \$100,000 for each
16 defendant and asks the court to issue an order prohibiting contact
17 with the victim, Christopher Duarte.

18 Although it appears that neither defendant has criminal
19 history, their violent actions in this case justify a high bail
20 amount as they pose a significant threat to the community.

21
22
23
24
25
26
27

Jennifer G. Ritchie, WSBA #24046

Prosecuting Attorney Case
Summary and Request for Bail
and/or Conditions of Release - 1

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

APPENDIX B

FILED
KING COUNTY, WASHINGTON

DEC - 4 2003

SUPERIOR COURT CLERK
CRIMINAL PRESIDING

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

8	THE STATE OF WASHINGTON,)	
)	
9	Plaintiff,	)	No. 03-C-03741-5 SEA
		)	03-C-03742-3 SEA
10	v.)	
	JULIAN D. MOLZHON, and)	
11	ARMONDO T. LAFORGE	)	AMENDED INFORMATION AS
	and each of them,	)	TO DEFENDANT ARMONDO T. LAFORGE
12		)	ONLY
)	
13	Defendants.)	
)	

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse ARMONDO T. LAFORGE of the crime of Robbery in the First Degree, committed as follows:

That the defendant ARMONDO T. LAFORGE, in King County, Washington on or about December 22, 2002, did unlawfully and with intent to commit theft take personal property of another, to-wit: U.S. currency and an ATM card from the person and in the presence of Christopher Duarte, against his will, by the use or threatened use of immediate force, violence and fear of injury to such person or his property, and in the commission of and in immediate flight therefrom the defendant was armed with a deadly weapon, to-wit: a knife;

Contrary to RCW 9A.56.200(1)(a)(i) and 9A.56.190, and against the peace and dignity of the State of Washington.

And I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington further do accuse the defendant ARMONDO T. LAFORGE at said time of being armed with a deadly weapon, to-wit: a knife, under the authority of RCW 9.94A.125 and 9.94A.310.

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

13A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

COUNT II

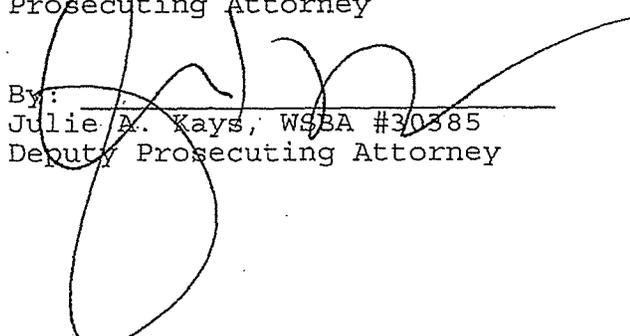
And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse ARMONDO T. LAFORGE of the crime of Rape in the First Degree, a crime of the same or similar character and based on the same conduct as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant ARMONDO T. LAFORGE in King County, Washington on or about December 22, 2002, by forcible compulsion did engage in sexual intercourse with another person named Christopher Duarte, under circumstances where the defendant or an accessory used or threatened to use a deadly weapon or what appeared to be a deadly weapon, to-wit: a knife;

Contrary to RCW 9A.44.040(1)(a), and against the peace and dignity of the State of Washington.

And I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington further do accuse the defendant ARMONDO T. LAFORGE at said time of being armed with a deadly weapon, to-wit: a knife, under the authority of RCW 9.94A.125 and 9.94A.310.

NORM MALENG
Prosecuting Attorney

By: 
Julie A. Kays, WSBA #30385
Deputy Prosecuting Attorney

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

APPENDIX C

FILED
KING COUNTY, WASHINGTON

DEC 15 2003

**SUPERIOR COURT CLERK
BY: MOLLY MAGISTAD
DEPUTY**

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

THE STATE OF WASHINGTON,)
)
Plaintiff,)
)
v.)
JULIAN D. MOLZHON, and)
ARMONDO T. LAFORGE)
and each of them,)
)
Defendants.)

No. 03-C-03741-5 SEA
/ 03-C-03742-3 SEA

SECOND AMENDED INFORMATION AS TO
DEFENDANT ARMONDO T. LAFORGE ONLY

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse ARMONDO T. LAFORGE of the crime of Robbery in the Second Degree, committed as follows:

That the defendant ARMONDO T. LAFORGE in King County, Washington on or about December 22, 2002, did unlawfully and with intent to commit theft take personal property of another, to-wit: U.S. currency and ATM card, from the person and in the presence of Chris Duarte, against his will, by the use or threatened use of immediate force, violence and fear of injury to such person or his property and the person or property of another;

Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace and dignity of the State of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse ARMONDO T. LAFORGE of the crime of Rape in the Second Degree, a crime of the same or similar character and based on the same conduct as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were so closely

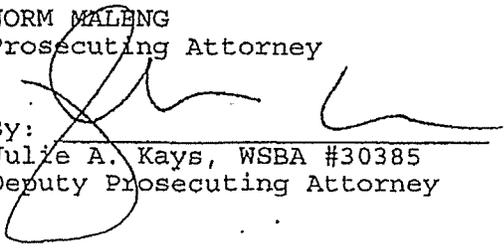
Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

1 connected in respect to time, place and occasion that it would be
2 difficult to separate proof of one charge from proof of the other,
committed as follows:

3 That the defendant ARMONDO T. LAFORGE in King County,
4 Washington on or about December 22, 2002, by forcible compulsion
did engage in sexual intercourse with another person, named Chris
5 Duarte;

6 Contrary to RCW 9A.44.050(1)(a), and against the peace and
dignity of the State of Washington.

7
8 NORM MALENG
Prosecuting Attorney

9
10 By: 
Julie A. Kays, WSBA #30385
11 Deputy Prosecuting Attorney

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED
KING COUNTY, WASHINGTON

DEC 15 2003

SUPERIOR COURT CLERK
BY: MOLLY MAGSTAD
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)	
)	
Plaintiff,	)	No. 03-C-03741-5 SEA
	)	03-C-03742-3 SEA
v.)	
JULIAN D. MOLZHON, and)	
ARMONDO T. LAFORGE	)	MOTION AND ORDER PERMITTING FILING
and each of them,	)	OF A SECOND AMENDED INFORMATION AS
	)	TO DEFENDANT ARMONDO T. LAFORGE
	)	ONLY
Defendants.)	

COMES NOW the State of Washington by Norm Maleng, King County Prosecuting Attorney, by and through his deputy, and moves the court for an order permitting the filing of a second amended information in the above entitled cause.

That Julie A. Kays is a Deputy Prosecuting Attorney in and for King County, Washington, and is familiar with the records and files herein, and certifies that:

- () Newly available information is set forth in the prosecutor's case summary and request for bail.
- () The Amended Information more accurately reflects the Defendant's Conduct.

x Plea Negotians

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 15 day of December, 2003, at Seattle, Washington.

Julie A. Kays
By Julie A. Kays, WSBA #30385
Deputy Prosecuting Attorney

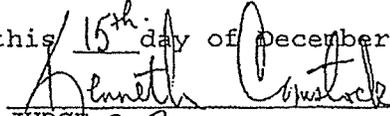
Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

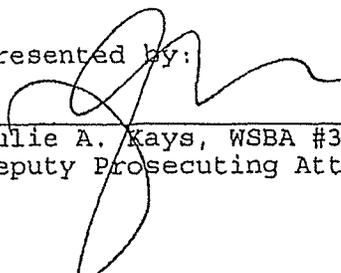
ORDER

THIS MATTER having come before this court upon the motion of the Prosecuting Attorney, good cause having been demonstrated, and the defendant not being prejudiced in any substantial right, the State of Washington is allowed to file a second amended information herein.

DONE IN OPEN COURT this 15th day of December, 2003.



JUDGE 

Presented by: 

Julie A. Kays, WSBA #30385
Deputy Prosecuting Attorney

APPENDIX D

FILED

04 JAN -9 PM 3:00

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON
FOR

NO. 03-C-03742-35EA

STATE OF WASHINGTON

Plaintiff

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY TO SEX OFFENSE
(STIDFG)

vs.
Armando La Forge

Defendant.

(Alford
Plea)

Court II:
Rape 2°

1. My true name is: Armando La Forge
2. My age is: 17
3. I went through the 11th grade.
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:
 - (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.
 - (b) I am charged with: Rape 2°
The elements are: To engage in sexual intercourse with another person by forcible compulsion.
5. I UNDERSTAND I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:
 - (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
 - (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
 - (c) The right at trial to hear and question the witnesses who testify against me;

143

- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a STANDARD SENTENCE RANGE as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f))	MAXIMUM TERM AND FINE
1						
2	2	95 to 125m	N/A	95 to 125m	Life	Life \$50,000
3						

*(F) Firearm, (D) other deadly weapon

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.

- (f) For sex offenses committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is not more than 12 months. If the period of confinement is more than one year, the judge will order me to serve three years of community custody or up to the period of earned early release, whichever is longer. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For sex offenses committed on or after July 1, 2000 but prior to September 1, 2001: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, the judge will sentence me to community custody for a period of 36 to 48 months or up to the period of earned release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For sex offenses committed on or after September 1, 2001:

*applies **

(i) Sentencing under RCW 9.94A.712: If this offense is for any of the offenses listed in subsections (aa) or (bb), below, the judge will impose a maximum term of confinement consisting of the statutory maximum sentence of the offense and a minimum term of confinement either within the standard range for the offense or outside the standard range if an exceptional sentence is appropriate. The minimum term of confinement that is imposed may be increased by the Indeterminate Sentence Review Board if the Board determines by a preponderance of the evidence that it is more likely than not that I will commit sex offenses if released from custody. In addition to the period of confinement, I will be sentenced to community custody for any period of time I am released from total confinement before the expiration of the maximum sentence. During the period of community custody I will be under the supervision of the Department of Corrections and I will have restrictions and requirements placed upon me and I may be required to participate in rehabilitative programs.

(aa) If the current offense is any of these offenses or attempt to commit any of these offenses:

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree committed when I was at least 18 years old.	Rape of a child in the second degree committed when I was at least 18 years old.
Child molestation in the first degree committed when I was at least 18 years old.	Indecent liberties by forcible compulsion
Any of the following offenses with a finding of sexual motivation:	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Kidnapping in the second degree	Assault in the first degree
Assault in the second degree	Assault of a child in the first degree
Burglary in the first degree	

(bb) If the current offense is any sex offense and I have a prior conviction for any of these offenses or attempt to commit any of these offenses:

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree	Rape of a child in the second degree
Child molestation in the first degree	Indecent liberties by forcible compulsion
Any of the following offenses with a finding of sexual motivation:	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Kidnapping in the second degree	Assault in the first degree
Assault in the second degree	Assault of a child in the first degree
Burglary in the first degree	

(ii) If this offense is for a sex offense that is not listed in paragraph 6(f)(i), then in addition to sentencing me to a term of confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, the judge will sentence me to community custody for a period of 36 to 48 months or up to the period of earned release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

(g) The prosecuting attorney will make the following recommendation to the judge: 110 months in custody, lifetime community custody; sexual behavior eval & follow all trmt recs; avg/alcohol eval & follow all trmt recs; NO contact for life w/ CHRIS DUANE or his family; NO contact w/ Molzhan; lifetime sex offender regst - All conditions as deemed appropriate by DOC; VFA; RESTITUTION

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either the state or I can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

(j) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040.

(k) Public assistance will be suspended during any period of imprisonment.

(l) I will be required to register where I reside, study or work. The specific registration requirements are described in the "Offender Registration" Attachment.

- (m) I will be required to have a biological sample collected for purposes of DNA identification analysis. For offenses committed on or after July 1, 2002, I will be required to pay a \$100 DNA collection fee.
- (n) I will be required to undergo testing for the human immunodeficiency (AIDS) virus.

NOTIFICATION RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS DO NOT APPLY, THEY SHOULD BE STRICKEN AND INITIALED BY THE DEFENDANT AND THE JUDGE.

applies →

(o) This offense is a most serious offense or strike as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the offense for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. In addition, if this offense is (1) rape in the first degree, rape of a child in the first degree, rape in the second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child molestation in the first degree, or (2) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation, or (3) any attempt to commit any of the offenses listed in this sentence and I have at least one prior conviction for one of these listed offenses in this state, in federal court, or elsewhere, the offense for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.

(p) Special sex offender sentencing alternative:

For offenses committed before September 1, 2001: The judge may suspend execution of the standard range term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under former RCW 9.94A.120(8) (for offenses committed before July 1, 2001) or RCW 9.94A.670 (for offenses committed on or after July 1, 2001). If the judge suspends execution of the standard range term of confinement, I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater; I will be ordered to serve up to 180 days of total confinement; I will be ordered to participate in sex offender treatment; I will have restrictions and requirements placed upon me; and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

For offenses committed on or after September 1, 2001: The judge may suspend execution of the standard range term of confinement or the minimum term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.670. If the judge suspends execution of the standard range term of confinement for a sex offense that is not listed in paragraph 6(f)(i), I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater. If the judge suspends execution of minimum term of confinement for a sex offense listed in paragraph 6(f)(i), I will be placed on community custody for the length of the statutory maximum sentence of the offense. In addition to the term of community custody, I will be ordered to serve up to

180 days of total confinement; I will be ordered to participate in sex offender treatment; I will have restrictions and requirements placed upon me; and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

~~[q] If this is a crime of domestic violence and if I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150. Ke. Acl~~

[r] If the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.

~~[s] If this offense involves a motor vehicle, my driver's license or privilege to drive will be suspended or revoked. If I have a driver's license, I must now surrender it to the judge. Ke. Acl~~

~~[t] The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[o]. Ke. Acl~~

~~[u] I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise. Ke. Acl~~

~~[v] I understand that the offense(s) I am pleading guilty to include a deadly weapon or firearm enhancement. Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements. Ke. Acl~~

7. I plead guilty to:

count II : Rape 2°

count _____

count _____

in the Amended Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement: At least I do not believe that I committed this crime. I have reviewed the police reports ^{with my lawyer} and I understand that if this case went to trial, there is a substantial likelihood that I would be convicted. So, I have decided to plead guilty to take advantage of the prosecutor's offer.
- Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.
12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

[Signature]
Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

[Signature]
Defendant's Lawyer Bar # 28041
Matthew T. Hale
Print Name

[Signature]
Prosecuting Attorney Bar #
Julie A. Kaye
Print Name

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is attached.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: 12-15-03

[Signature]
Judge
[Signature]

Case Name: State v. LaForsc Cause No.: 03-C-03742-3 SEA

"OFFENDER REGISTRATION" ATTACHMENT: sex offense, or kidnapping offense involving a minor as defined in RCW 9A.44.130. (If required, attach to Statement of Defendant on Plea of Guilty.)

Because this crime involves a sex offense, or a kidnapping offense involving a minor as defined in RCW 9A.44.130, I will be required to register with the sheriff of the county of the state of Washington where I reside. If I am not a resident of Washington but I am a student in Washington or I am employed in Washington or I carry on a vocation in Washington, I must register with the sheriff of the county of my school, place of employment, or vocation. I must register immediately upon being sentenced unless I am in custody, in which case I must register at the time of my release with the person designated by the agency that has me in custody and I must also register within 24 hours of my release with the sheriff of the county of the state of Washington where I will be residing, or if not residing in the state of Washington, where I am a student, where I am employed, or where I carry on a vocation.

If I leave this state following my sentencing or release from custody but later move back to Washington, I must register within 30 days after moving to this state or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections. If I leave this state following my sentencing or release from custody, but later while not a resident of Washington I become employed in Washington, carry on a vocation in Washington, or attend school in Washington, I must register within 30 days after attending school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections.

If I change my residence within a county, I must send written notice of my change of residence to the sheriff within 72 hours of moving. If I change my residence to a new county within this state, I must send written notice of the change of address at least 14 days before moving to the county sheriff in the new county of residence, I must register with the sheriff of the new county within 24 hours of moving, and I must also give written notice of my change of address to the sheriff of the county where last registered within 10 days of moving. If I move out of Washington State, I must send written notice within 10 days of moving to the new state or foreign country to the county sheriff with whom I last registered in Washington State.

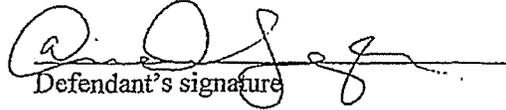
If I move to another state, or if I work, carry on a vocation, or attend school in another state I must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. I must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom I last registered in Washington State.

If I am a resident of Washington and I am admitted to a public or private institution of higher education, I shall, within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff of the county of my residence of my intent to attend the institution.

If I lack a fixed residence, I am required to register. Registration must occur within 24 hours of release in the county where I am being supervised if I do not have a residence at the time of my release from custody or within 48 hours, excluding weekends and holidays, after ceasing to have a fixed residence. If I enter a different county and stay there for more than 24 hours, I will be required to register in the new county. I must also report in person to the sheriff of the county where I am registered on a weekly basis. The weekly report will be on a day specified by the county sheriff's office, and shall occur during normal business hours. I am required to provide a list of the locations where I have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level and shall make me subject to disclosure to the public at large pursuant to RCW 4.24.550.

If I apply for a name change, I must submit a copy of the application to the county sheriff of the county of my residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If I receive an order changing my name, I must submit a copy of the order to the county sheriff of the county of my residence and to the state patrol within five days of the entry of the order.
RCW 9A.44.130(7).

Date: 12-15-03


Defendant's signature

CAUSE NO. _____



Seattle
Police
Department

**CERTIFICATE FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 02-571681
UNIT FILE NUMBER

That Anthony Stevenson is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case Number 02-571681;

There is probable cause to believe that Armondo Theodore LAFORGE, DOB: 08-20-1986 committed the crime (s) of Rape, Kidnapping and Robbery.

This belief is predicated on the following facts and circumstances:

That on December 22nd, 2002, between the hours of approximately 0630 and 0900, within the City of Seattle, County of King and State of Washington, the suspects LAFORGE and MOLZHON robbed the victim Christopher Duarte of money and cigarettes in the 11100 block of Aurora Avenue North. LAFORGE then led the victim to behind a building at 13200 Aurora Avenue North where he raped the victim at knife point.

The victim Duarte, a resident of North Seattle, was walking to work at approximately 0630 hrs, December 22nd, 2002. Duarte was approached by the suspects LAFORGE and MOLZHON in the 11000 block of Aurora Avenue North. LAFORGE asked Duarte for a cigarette, which Duarte gave him. Duarte continued to walk northbound with LAFORGE and MOLZHON walking behind him. Duarte heard jogging behind him and turned to see LAFORGE looking up and down Aurora Avenue. After the vehicles passed by, LAFORGE shoved Duarte against a fence and said, "What's up punk? Give me your money." When Duarte told LAFORGE he had no money, LAFORGE said, "You're lying." LAFORGE pulled a knife from his pants pocket and said, "Tell me you don't have any money." LAFORGE shoved Duarte against the fence again and possibly cut Duarte's left hand with the knife. LAFORGE then told Duarte, "Show me your wallet." Duarte pulled out his wallet and said, "See, I don't have anything." LAFORGE took Duarte's pack of Marlboro cigarettes and his small black Bic lighter. LAFORGE took Duarte's wallet and handed it to MOLZHON. LAFORGE told MOLZHON to look through the wallet. MOLZHON did so and pulled out Duarte's ATM card. LAFORGE asked Duarte for the PIN number and how much money was in the account. Duarte gave LAFORGE the PIN number and told him there was \$200.00 in the account. LAFORGE ordered Duarte saying, "Walk with us." Both suspects and Duarte walked toward the Albertson's store at 13000 Aurora Avenue North. LAFORGE threw Duarte's pack of cigarettes on the ground as they walked. When they arrived at the Albertson's store, MOLZHON went inside with Duarte's ATM card. LAFORGE told Duarte to walk with him between the K-Mart store and the Staples Store at 13200 Aurora Avenue North. LAFORGE put the knife away and started acting as if he were Duarte's "friend." LAFORGE said he was going to try to teach Duarte, "not to be a punk." LAFORGE pretended like he was going to hit Duarte and said, "What would you do if I did that?" LAFORGE asked Duarte how old he was, then said something to the effect of he was 16 and his friend was 17, and Duarte shouldn't let a 16 and 17-year-old "play" him like that. LAFORGE then asked, "What if I were to tell you to strip naked?" Duarte told him he wouldn't do it. Then LAFORGE said, "What if I had a knife?" and pulled the knife out again. Duarte said, "Well, I don't have a choice." They went into the "Dumpster area" between K-Mart and Staples, and Duarte took all of his clothes off. LAFORGE asked Duarte how many times he had had sex, and whether he had ever had sex "with a guy." LAFORGE then said, "Would you suck my dick?" Duarte again said no. LAFORGE said, "In this situation, with a knife?" Duarte gave LAFORGE oral sex (LAFORGE had unzipped his pants, and his erect penis was sticking out through the fly) while sitting on a barbecue; then LAFORGE touched Duarte's genital area. LAFORGE made Duarte switch places and said he "wanted to get [Duarte] hard," but Duarte didn't have an erection. Duarte told LAFORGE he was cold, and he was allowed to put his clothes back on (his pants were pulled down, however). LAFORGE told Duarte to "turn around and bend over," and asked, "Have you ever been fucked?"



CERTIFICATION FOR DETERMINATION OF PROBABLE CAUSE

INCIDENT NUMBER 02-571681 UNIT FILE NUMBER

LAFORGE penetrated Duarte's anus. Duarte said, "I tried to ignore it and just let it happen. I hoped it would be over soon and he would leave me alone." Duarte believed LAFORGE would hurt or kill him if he didn't do what he said. LAFORGE said, "OK, that's enough; come on, let's take a walk." On the way back to Albertson's, LAFORGE told Duarte to tell his friend that they had gone to Duarte's friend's house to try to get more money, but that he wasn't home. When they got to Albertson's, they didn't see MOLZHON. They went to the bus stop at 130th and Aurora, and they saw MOLZHON walking towards them. MOLZHON wanted to know where they had been. LAFORGE told Duarte, "Stand right here. If you run, I'll chase you and I'll stab you. If you run into a store, I'll chase you and stab you. I don't care if people see me." LAFORGE and MOLZHON then walked about ten feet away from Duarte and talked so Duarte couldn't hear what they were saying. They walked back to where Duarte was standing, LAFORGE said, "My friend was only able to get \$20." MOLZHON was holding a piece of paper, and LAFORGE ripped it from his hands and threw it on the ground. LAFORGE made Duarte accompany him into the Albertson's to try to get more money out of his account. However, the machine said there were "insufficient funds." LAFORGE got mad and said, "I should kill you." LAFORGE repeated that if Duarte "tried anything funny," he would "chase him down and stab him." LAFORGE kept pretending like he was going to punch Duarte. As soon as they left the store, LAFORGE again threatened to stab Duarte. Duarte said that throughout this entire incident, LAFORGE repeatedly called him names like punk, bitch, pussy, and stupid, and threatened to stab him, beat him, and slit his throat. They returned to the bus stop at 130th and Aurora, where they rejoined MOLZHON. LAFORGE kept acting like he was going to hit Duarte. MOLZHON got angry at LAFORGE, and told him to stop bothering Duarte, that he had done enough. MOLZHON was also angry that LAFORGE kept referring to him as "Julian," because he said he had a warrant for his arrest and didn't want to be picked up. MOLZHON took a small electronic item from his pocket and threw it on the ground, shattering it. He picked it up a second time and threw it down on the steps behind the bus stop. Duarte described the device as a clock or radio, made of gray or silver plastic with some black on it. At one point, MOLZHON mentioned that he lives in Shoreline. LAFORGE gave Duarte his ATM card back, but took his Washington ID card and social security card. LAFORGE said, "If you call the cops, I know where you live and where you work." MOLZHON asked, "Why do you need his social security card?" and LAFORGE replied, "Because I want him to know I have his personal information." The #358 bus arrived, and LAFORGE made Duarte get on with him and MOLZHON. Duarte believes it was around 8:30 or 9 am. He said there were about ten people on the bus, and described the driver. They rode the bus to approximately 155th and Aurora, where all three got off. LAFORGE gave Duarte fifty cents and told him to cross the street and take the bus back to Seattle. Duarte used the payphone to call his dad. Duarte's parents met him at that location and called the fire department who treated him at the scene and suggested the parents take him to the hospital. Duarte's parents drove him to Northwest Hospital where he was treated and directed to go to Harborview Medical Center for a rape examination. Duarte's parents drove him there.

Detectives Stevenson and Stampfl responded to the various crime scenes. They located an empty pack of "Marlboro red" cigarettes in the 11100 block Aurora Avenue North. They located a broken silver and black travel clock in the stairwell leading to the Albertson's store near North 130th Street and Aurora Avenue North. They located an enclosed area with cinder block walls and a gate that would normally house garbage dumpsters with items victim Duarte described along with the barbecue inside. Officer Clark gave Detective Stampfl (3) videotapes, which he recovered, from the Albertson's store and US Bank employees.

Detective Stampfl obtained a printout of transactions on the ATM machine at 13000 Aurora Avenue North, which showed several transactions between 0658 hrs and 0702 hrs. Detective Stevenson reviewed the videotapes, which showed an individual matching MOLZHON's description making transactions at the ATM machine at 0659 hrs until shortly after 0700 hrs. The videotapes also showed an individual matching the description of LAFORGE at the ATM machine with victim Duarte at 0654 hrs. Detective Stevenson had still pictures made of this video from several images.



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 02-571681
UNIT FILE NUMBER

Detective Stevenson ran a check of the name "Julian" in the Seattle Police Department JEMS system and was able to find a picture of MOLZHON, which looked similar to the ATM picture. Detective Stevenson ran a check of MOLZHON's name through the Seattle Police Department RMS system and found MOLZHON was involved as a suspect in SPD case #02-504329 along with LAFORGE. Detective Stevenson noted that LAFORGE's height and weight was similar to that which Duarte described of the suspect. Detective Stevenson ordered a Washington State Department of Licensing photograph of LAFORGE. Detectives Stevenson and Stampfl created photomontages of LAFORGE and MOLZHON. The victim Duarte positively identified LAFORGE as the person who robbed, kidnapped and raped him from the photomontage.

On 01-02-2003 Detectives Stevenson, Fields and Grossman responded to 2201 Southwest Holden Street #P-103, Seattle, Washington and contacted LAFORGE's sister Mitchelline Bear. Bear stated it was her apartment and invited Detectives inside. Bear was asked if LAFORGE was there and she said he was. Bear called LAFORGE who came from the back of the apartment and was arrested. LAFORGE was transported to the Seattle Police Department Special Assault Unit.

LAFORGE was advised of his rights and stated he understood. LAFORGE gave a taped confession of the Robbery stating that he shoved the victim (Duarte), showed him a knife and yelled for him to give up his money. LAFORGE said that they obtained the victims ATM card and his PIN number and made him go with them to the Albertson's store while MOLZHON withdrew cash. LAFORGE said that he went with the victim to a friend's (of the victim's) apartment to get more money. LAFORGE said that he was drunk and could not remember the whole incident but that he didn't think that he had oral sex with the victim. LAFORGE admitted to making the victim walk several blocks with him from the initial contact, to the store and then to the friend's apartment. LAFORGE said he made the victim get on the bus with him and MOLZHON so that he wouldn't report the incident to police. LAFORGE said that the victim acted scared the entire time. LAFORGE admitted to collecting \$120.00 to \$130.00 cash from MOLZHON after MOLZHON withdrew the money from the victim's account.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 2nd day of January, 2003, at Seattle, Washington.

 #5442

1
2
3
4
5
6
7 SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

8 THE STATE OF WASHINGTON,)
)
 9 Plaintiff,) No. 03-C-03741-5 SEA
) 03-C-03742-3 SEA
 10 v.)
 11 JULIAN D. MOLZHON, and)
 ARMONDO T. LAFORGE) SECOND AMENDED INFORMATION AS TO
 and each of them,) DEFENDANT ARMONDO T. LAFORGE ONLY
 12)
 13 Defendants.)
 14)

15 COUNT I

16 I, Norm Maleng, Prosecuting Attorney for King County in the
 17 name and by the authority of the State of Washington, do accuse
 ARMONDO T. LAFORGE of the crime of Robbery in the Second Degree,
 committed as follows:

18 That the defendant ARMONDO T. LAFORGE in King County,
 19 Washington on or about December 22, 2002, did unlawfully and with
 intent to commit theft take personal property of another, to-wit:
 20 U.S. currency and ATM card, from the person and in the presence of
 Chris Duarte, against his will, by the use or threatened use of
 21 immediate force, violence and fear of injury to such person or his
 property and the person or property of another;

22 Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace
 23 and dignity of the State of Washington.

24 COUNT II

25 And I, Norm Maleng, Prosecuting Attorney aforesaid further do
 26 accuse ARMONDO T. LAFORGE of the crime of Rape in the Second
 Degree, a crime of the same or similar character and based on the
 same conduct as another crime charged herein, which crimes were
 27 part of a common scheme or plan and which crimes were so closely

Norm Maleng
 Prosecuting Attorney
 W 554 King County Courthouse
 Seattle, Washington 98104-2312
 (206) 296-9000

1 connected in respect to time, place and occasion that it would be
2 difficult to separate proof of one charge from proof of the other,
3 committed as follows:

4 That the defendant ARMONDO T. LAFORGE in King County,
5 Washington on or about December 22, 2002, by forcible compulsion
6 did engage in sexual intercourse with another person, named Chris
7 Duarte;

8 Contrary to RCW 9A.44.050(1)(a), and against the peace and
9 dignity of the State of Washington.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
NORM MALENG
Prosecuting Attorney

By: _____
Julie A. Kays, WSBA #30385
Deputy Prosecuting Attorney

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

GENERAL SCORING FORM

Violent Offenses

Use this form only for the following offenses: Arson 1 and 2; Assault 2; Assault of a Child 2; Bail Jumping with Murder 1; Drive-by Shooting; Explosive Devices Prohibited; Extortion 1; Homicide by Watercraft, by Being under the Influence of Intoxicating Liquor or any Drug; Homicide by Watercraft, by Disregard for the Safety of Others; Homicide by Watercraft, by the Operation of any Vessel in a Reckless Manner; Kidnapping 2; Leading Organized Crime; Malicious Explosion 1 and 2; Malicious Placement of Explosives 1; Manslaughter 2; Sexually Violent Predator Escape; Robbery 1 and 2; Use of a Machine Gun in Commission of a Felony.

OFFENDER'S NAME <i>Armando LaFarge</i>	OFFENDER'S DOB <i>8.20.86</i>	STATE ID#
JUDGE	CAUSE# <i>03.C.03742.3SEA</i>	FBI ID#

In the case of multiple prior convictions for offenses committed before July 1, 1986, for purposes of computing the offender score, count all adult convictions served concurrently as one offense and all juvenile convictions entered on the same date as one offense (RCW 9.94A.525).

ADULT HISTORY:

Enter number of serious violent and violent felony convictions x 2 =
 Enter number of other nonviolent felony convictions x 1 =

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions x 2 =
 Enter number of other nonviolent felony dispositions x 1/2 =

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct)

Enter number of other serious violent and violent felony convictions *PAGE 20* 1 x 2 = 2
 Enter number of other nonviolent felony convictions x 1 =

STATUS AT TIME OF CURRENT OFFENSES:

If on community placement at time of current offense, add 1 point + 1 =

Total the last column to get the Offender Score (Round down to the nearest whole number)	2
---	----------

STANDARD RANGE CALCULATION*

<i>POB 20</i>	<i>IV</i>	<i>2</i>	TO	<i>12+</i>	TO	<i>14</i>
CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE		LOW STANDARD SENTENCE RANGE		HIGH STANDARD SENTENCE RANGE

- If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-13 or III-14 to calculate the enhanced sentence.
- * Multiply the range by 75% if the current offense is an attempt, conspiracy or solicitation.

FELONY PLEA AGREEMENT

Date of Crime: 12-22-02 Date: 12-12-03

Defendant: Armando LaFarge Cause No: 03-G-03742-3 (SEA/KNT)

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is as follows:

On Plea To: As charged in Count(s) I & II of the original 2nd amended information.

With Special Finding(s): deadly weapon - firearm, RCW 9.94A.510(3); deadly weapon other than firearm, RCW 9.94A.510(4); sexual motivation, RCW 9.94A.835; protected zone, RCW 69.50.435; domestic violence, RCW 10.99.020; other

DISMISS: Upon disposition of Count(s) the State moves to dismiss Count(s):

REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.530, the parties have stipulated that the following are real and material facts for purposes of this sentencing:

The facts set forth in the certification(s) for determination of probable cause and prosecutor's summary. The facts set forth in Appendix C;

RESTITUTION: Pursuant to RCW 9.94A.753, the defendant shall pay restitution in full to the victim(s) on charged counts and

agrees to pay restitution in the specific amount of \$ agrees to pay restitution as set forth in Appendix C;

OTHER: NO CONTACT W/ VICTIM & VICTIM'S FAMILY; NO CONTACT W/ JULIAN MOLZKON; sexual deviancy eval & follow all trtmt recs; substance abuse eval & follow all trtmt recs; comply w/ all DOC conditions; sex offender registry; lifetime community custody

CRIMINAL HISTORY AND OFFENDER SCORE:

The defendant agrees to the foregoing Plea Agreement and that the attached sentencing guidelines scoring form(s) (Appendix A) and the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). The State makes the sentencing recommendation set forth in the State's sentence recommendation.

The defendant disputes the Prosecutor's Statement of the Defendant's Criminal History, as follows: (1) Conviction: Basis: (2) Conviction: Basis:

The State's recommendation may change if the score used by the court at sentencing differs from that set out in Appendix A.

Maximum on Count(s) I is not more than 10 years each and \$ 20,000 fine each. Maximum on Count(s) II is not more than life years each and \$ 50,000 fine each.

Mandatory Minimum Term(s) pursuant to RCW 9.94A.540 only:

Mandatory weapon sentence enhancement for Count(s) is months each; for Count(s) is months each. This/these additional term(s) must be served consecutively to each other and to any other term and without any earned early release.

The State's recommendation will increase in severity if additional criminal convictions are found or if the defendant commits any new charged or uncharged crimes, fails to appear for sentencing or violates the conditions of release.

Signatures of Defendant and Attorney for Defendant #28041

Signatures of Deputy Prosecuting Attorney and Judge, King County Superior Court

Prater

**APPENDIX B TO PLEA AGREEMENT
PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY
(SENTENCING REFORM ACT)**

Defendant: **ARMONDO T LAFORGE**

FBI No.:

State ID No.:

DOC No.:

This criminal history compiled on: **January 08, 2003**

- None known. Recommendations and standard range assumes no prior felony convictions.
- Criminal history not known and not received at this time. WASIS/NCIC last received on 01/08/2003

Adult Felonies - None Known

Adult Misdemeanors - None Known

Juvenile Felonies - None Known

Juvenile Misdemeanors - None Known

Comments

Prepared by:



Virginia Christmas, CCA
Department of Corrections

STATE'S SENTENCE RECOMMENDATION
(SEX OFFENSE - SENTENCE OVER ONE YEAR ONLY)

Date of Crime: 12-22-02
Defendant: Armando LaFarge

Date: December 12, 2003
Cause No: 03-C-05742-3 SBA/KNT

State recommends that the defendant be sentenced to a term of TOTAL CONFINEMENT in the Department of Corrections as follows:

Count I 13 months. Count III _____ months. Count V _____ months.
Count II 110 months. Count IV _____ months. Count VI _____ months.

with credit for time served as provided under RCW 9.94A.120(17). Terms on each count to run concurrently consecutively with each other. Terms to be served concurrently/consecutively with: _____

WEAPONS ENHANCEMENT - RCW 9.94A.310: The above recommended term(s) of confinement include the following weapons enhancement time: _____ months for Ct. _____, _____ months for Ct. _____, _____ months for Ct. _____; which is/are mandatory, served without good time and served consecutive to any other term of confinement. The total of all recommended terms of confinement in this cause is _____ months.

EXCEPTIONAL SENTENCE: This is an exceptional sentence and the substantial and compelling reasons for departing from the presumptive sentence range are set forth on the attached form.

State will consider recommending the Special Sex Offender Sentencing Alternative RCW 9.94A.120(7)(a) after reviewing evaluation of the defendant.

NO CONTACT: For the maximum term, defendant have no contact with crime victim(s); others: Victim's family; Julian Molzau

MONETARY PAYMENTS: Defendant makes the following monetary payments under the supervision of the Department of Corrections for up to ten years pursuant to RCW 9.94A.120(12) and RCW 9.94A.145.

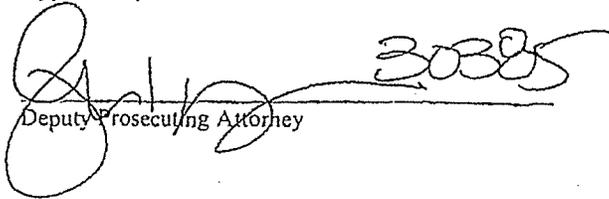
- Restitution as set forth in the "Plea Agreement" page and Appendix C.
- Court costs; mandatory \$500 Victim Penalty Assessment, recoupment of cost for appointed counsel.
- Fine of \$ _____.
- Costs of incarceration in King County Jail at \$50 per day. RCW 9.94A.145(2).
- Emergency response costs, \$ _____.
- RCW 38.52.430.
- Extradition Costs of \$ _____.

COMMUNITY PLACEMENT: Pursuant to RCW 9.94A.120(9) mandatory for any defendant sentenced to the Department of Corrections for a sex offense committed after 7/1/88 but before 7/1/90 for a period of one year and for sex offense committed on or after 7/1/90 and before 6/6/96 for a period of two years. Community placement incorporates community custody, in lieu of earned early release, and post-release supervision subject to statutory mandatory conditions found in RCW 9.94A.120(9)(b) and other discretionary conditions that may be set by the court found in RCW 9.94A.120(9)(c). The State recommends the following discretionary conditions: _____

→ **COMMUNITY CUSTODY:** Pursuant to RCW 9.94A.120(10) mandatory for any defendant sentenced to the Department of Corrections for a sex offense committed on or after 6/6/96 but before 7/1/00 for three years, and for sex offense committed on or after 7/1/00 for 36 to 48 months, or up to the period of earned early release, whichever is greater, and commences upon the defendant's release from confinement. While in community custody the defendant is required to comply with standard Department of Corrections conditions as required in RCW 9.94A.120(15) and set forth in RCW 9.94A.120(9)(b), and any discretionary conditions set by the court and set forth in RCW 9.94A.120(9). If this offense was committed on or after 7/1/00, the defendant also may be required to comply with discretionary conditions set by the court pursuant to RCW 9.94A.120(11)(b) and set forth in RCW 9.94A.120(9)(b)(i) - (vi), and RCW 9.94A.120(9)(c)(i) - (vi). The defendant also may be required to comply with other affirmative conditions, imposed by the court pursuant to RCW 9.94A.120(11)(b). The State recommends the following discretionary conditions: lifetime → see plea agreement for forms

BLOOD TESTING: HIV blood testing is mandatory under RCW 70.24.340. DNA testing is mandatory under RCW 43.43.754. Driver's license revocation is mandatory if car used in commission of the crime. RCW 46.20.285.

REGISTRATION: ALL persons convicted of sex offenses are required to register pursuant to RCW 9A.44.130.

Approved by:

Deputy Prosecuting Attorney

APPENDIX E

FILED

04 JAN -9 PM 3:01

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON
FOR

NO. 03-C-03742-3
~~03-C-03041-SEA~~

STATE OF WASHINGTON

Plaintiff

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY TO NON-SEX
OFFENSE
(STIDFG)

Court I:
Robbery 2^o

vs.
Armando La Forge
Defendant.

1. My true name is: Armando La Forge

2. My age is: 17

3. I went through the 11th grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

(b) I am charged with: Robbery 2^o
The elements are: To unlawfully take personal property from the person of another against his will by the use of immediate force, violence, or fear of injury.

5. I UNDERSTAND I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

(a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;

(b) The right to remain silent before and during trial, and the right to refuse to testify against myself;

(c) The right at trial to hear and question the witnesses who testify against me;



142

- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a STANDARD SENTENCE RANGE as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f))	MAXIMUM TERM AND FINE
1	2	12-14 m	N/A	12-14 m	18-36 months	10 yrs. \$20,000
2						
3						

*(F) Firearm, (D) other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.

(f) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is not more than 12 months. If this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community placement. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community placement. The actual period of community placement, community custody, or community supervision may be as long as my earned early release period. During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the community custody range established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.150 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody range will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Serious Violent Offenses	24 to 48 months or up to the period of earned release, whichever is longer.
Violent Offenses	18 to 36 months or up to the period of earned release, whichever is longer.
Crimes Against Persons as defined by RCW 9.94A.440(2)	9 to 18 months or up to the period of earned release, whichever is longer.
Offenses under Chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.120(6))	9 to 12 months or up to the period of earned release, whichever is longer.

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

(g) The prosecuting attorney will make the following recommendation to the judge: 13 months in custody; time to run concurrent w/ Page 2^o; community custody; no contact for maximum term w/ ~~Julia~~ Julia Molzhan; DNA/alcohol eval & follow all trmt recs; no contact for maximum term w/ Chris DeArate & his family;
~~X~~ The prosecutor will recommend as stated in the plea agreement, which is incorporated by reference.
Comply w/ all conditions deemed appropriate BY DOC; VPA; RESTITUTION.

- (h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either the state or I can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.
- (i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
- (j) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040.
- (k) Public assistance will be suspended during any period of imprisonment.
- (l) I understand that I will be required to have a biological sample collected for purposes of DNA identification analysis. For offenses committed on or after July 1, 2002, I will be required to pay a \$100 DNA collection fee.

NOTIFICATION RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS DO NOT APPLY, THEY SHOULD BE STRICKEN AND INITIALED BY THE DEFENDANT AND THE JUDGE.

- [m] This offense is a most serious offense or strike as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.
- ~~[n] The judge may sentence me as a first-time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days' confinement, and up to two years community supervision if the crime was committed prior to July 1, 2000, or up to two years of community custody if the crime was committed on or after July 1, 2000, plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.~~ *RC AIL*
- ~~[o] If this crime involves a kidnapping offense involving a minor, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Offender Registration" Attachment.~~ *RC AIL*
- ~~[p] If this is a crime of domestic violence and if I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.~~ *RC AIL*
- ~~[q] If this crime involves prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.~~ *RC AIL*

~~[r] The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under former RCW 9.94A.120(6) (for offenses committed before July 1, 2001) or RCW 9.94A.660 (for offenses committed on or after July 1, 2001). This sentence could include a period of total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions described in paragraph 6(e). During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose community custody of at least one-half of the midpoint of the standard range that must include appropriate substance abuse treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. Additionally, the judge could prohibit me from using alcohol or controlled substances, require me to devote time to a specific employment or training, stay out of certain areas, pay thirty dollars per month to offset the cost of monitoring and require other conditions, including affirmative conditions.~~ *Ke. Ad*

[s] If the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.

~~[t] If this crime involves the manufacture, delivery, or possession with the intent to deliver methamphetamine or amphetamine, a mandatory methamphetamine clean-up fine of \$3,000.00 will be assessed. RCW 69.50.401(a)(1)(ii).~~ *Ke. Ad*

~~[u] If this crime involves a violation of the state drug laws, my eligibility for state and federal food stamps, welfare, and education benefits will be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 862a.~~ *Ke. Ad*

~~[v] If this crime involves a motor vehicle, my driver's license or privilege to drive will be suspended or revoked. If I have a driver's license, I must now surrender it to the judge.~~ *Ke. Ad*

~~[w] If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(8).~~ *Ke. Ad*

~~[x] The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[m].~~ *Ke. Ad*

~~[y] I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.~~ *Ke. Ad*

~~[z] I understand that the offense(s) I am pleading guilty to include a deadly weapon or firearm enhancement. Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements.~~ *Ke. Ad*

[aa] I understand that the offenses I am pleading guilty to include both a conviction under RCW 9.41.040 for unlawful possession of a firearm in the first or second degree and one or more convictions for the felony crimes of theft of a firearm or possession of a stolen firearm. The sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will also be imposed for each firearm unlawfully possessed.

RC
AK

[bb] I understand that if I am pleading guilty to the crime of unlawful practices in obtaining assistance as defined in RCW 74.08.331, no assistance payment shall be made for at least 6 months if this is my first conviction and for at least 12 months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.

RC
AK

7. I plead guilty to:

count I : Robbery 2°

count _____

count 2°

in the Amended Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement:

On or about December 22, 2002, I did
unlawfully take personal property from the
person of another against his will by the use
or threatened use of immediate force, violence, or
fear of injury in King County, WA. To wit: I
used force to take Christopher Dewart's ATM card and

together w/ another

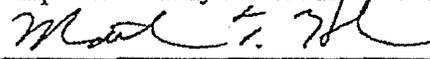
[] Instead of making a statement, I agree that the court may review the police reports and/or a U.S. statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

Wiley

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment, if applicable. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.


Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.


Defendant's Lawyer Bar # 28041

Matthew T. Hale
Print Name


Prosecuting Attorney Bar # 30385

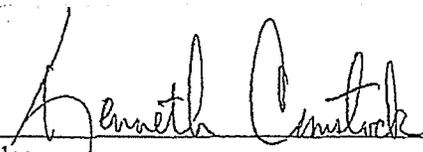
Julie Anne KAYS
Print Name

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is attached.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: 12-15-03


Judge



CAUSE NO. _____



Seattle
Police
Department

**CERTIFICATE FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 02-571681
UNIT FILE NUMBER

That Anthony Stevenson is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case Number 02-571681;

There is probable cause to believe that Armondo Theodore LAFORGE, DOB: 08-20-1986 committed the crime (s) of Rape, Kidnapping and Robbery.

This belief is predicated on the following facts and circumstances:

That on December 22nd, 2002, between the hours of approximately 0630 and 0900, within the City of Seattle, County of King and State of Washington, the suspects LAFORGE and MOLZHON robbed the victim Christopher Duarte of money and cigarettes in the 11100 block of Aurora Avenue North. LAFORGE then led the victim to behind a building at 13200 Aurora Avenue North where he raped the victim at knifepoint.

The victim Duarte, a resident of North Seattle, was walking to work at approximately 0630 hrs, December 22nd, 2002. Duarte was approached by the suspects LAFORGE and MOLZHON in the 11000 block of Aurora Avenue North. LAFORGE asked Duarte for a cigarette, which Duarte gave him. Duarte continued to walk northbound with LAFORGE and MOLZHON walking behind him. Duarte heard jogging behind him and turned to see LAFORGE looking up and down Aurora Avenue. After the vehicles passed by, LAFORGE shoved Duarte against a fence and said, "What's up punk? Give me your money." When Duarte told LAFORGE he had no money, LAFORGE said, "You're lying." LAFORGE pulled a knife from his pants pocket and said, "Tell me you don't have any money." LAFORGE shoved Duarte against the fence again and possibly cut Duarte's left hand with the knife. LAFORGE then told Duarte, "Show me your wallet." Duarte pulled out his wallet and said, "See, I don't have anything." LAFORGE took Duarte's pack of Marlboro cigarettes and his small black Bic lighter. LAFORGE took Duarte's wallet and handed it to MOLZHON. LAFORGE told MOLZHON to look through the wallet. MOLZHON did so and pulled out Duarte's ATM card. LAFORGE asked Duarte for the PIN number and how much money was in the account. Duarte gave LAFORGE the PIN number and told him there was \$200.00 in the account. LAFORGE ordered Duarte saying, "Walk with us." Both suspects and Duarte walked toward the Albertson's store at 13000 Aurora Avenue North. LAFORGE threw Duarte's pack of cigarettes on the ground as they walked. When they arrived at the Albertson's store, MOLZHON went inside with Duarte's ATM card. LAFORGE told Duarte to walk with him between the K-Mart store and the Staples Store at 13200 Aurora Avenue North. LAFORGE put the knife away and started acting as if he were Duarte's "friend." LAFORGE said he was going to try to teach Duarte, "not to be a punk." LAFORGE pretended like he was going to hit Duarte and said, "What would you do if I did that?" LAFORGE asked Duarte how old he was, then said something to the effect of he was 16 and his friend was 17, and Duarte shouldn't let a 16 and 17-year-old "play" him like that. LAFORGE then asked, "What if I were to tell you to strip naked?" Duarte told him he wouldn't do it. Then LAFORGE said, "What if I had a knife?" and pulled the knife out again. Duarte said, "Well, I don't have a choice." They went into the "Dumpster area" between K-Mart and Staples, and Duarte took all of his clothes off. LAFORGE asked Duarte how many times he had had sex, and whether he had ever had sex "with a guy." LAFORGE then said, "Would you suck my dick?" Duarte again said no. LAFORGE said, "In this situation, with a knife?" Duarte gave LAFORGE oral sex (LAFORGE had unzipped his pants, and his erect penis was sticking out through the fly) while sitting on a barbecue; then LAFORGE touched Duarte's genital area. LAFORGE made Duarte switch places and said he "wanted to get [Duarte] hard," but Duarte didn't have an erection. Duarte told LAFORGE he was cold, and he was allowed to put his clothes back on (his pants were pulled down, however). LAFORGE told Duarte to "turn around and bend over," and asked, "Have you ever been fucked?"



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 02-571681
UNIT FILE NUMBER

LAFORGE penetrated Duarte's anus. Duarte said, "I tried to ignore it and just let it happen. I hoped it would be over soon and he would leave me alone." Duarte believed LAFORGE would hurt or kill him if he didn't do what he said. LAFORGE said, "OK, that's enough; come on, let's take a walk." On the way back to Albertson's, LAFORGE told Duarte to tell his friend that they had gone to Duarte's friend's house to try to get more money, but that he wasn't home. When they got to Albertson's, they didn't see MOLZHON. They went to the bus stop at 130th and Aurora, and they saw MOLZHON walking towards them. MOLZHON wanted to know where they had been. LAFORGE told Duarte, "Stand right here. If you run, I'll chase you and I'll stab you. If you run into a store, I'll chase you and stab you. I don't care if people see me." LAFORGE and MOLZHON then walked about ten feet away from Duarte and talked so Duarte couldn't hear what they were saying. They walked back to where Duarte was standing, LAFORGE said, "My friend was only able to get \$20." MOLZHON was holding a piece of paper, and LAFORGE ripped it from his hands and threw it on the ground. LAFORGE made Duarte accompany him into the Albertson's to try to get more money out of his account. However, the machine said there were "insufficient funds." LAFORGE got mad and said, "I should kill you." LAFORGE repeated that if Duarte "tried anything funny," he would "chase him down and stab him." LAFORGE kept pretending like he was going to punch Duarte. As soon as they left the store, LAFORGE again threatened to stab Duarte. Duarte said that throughout this entire incident, LAFORGE repeatedly called him names like punk, bitch, pussy, and stupid, and threatened to stab him, beat him, and slit his throat. They returned to the bus stop at 130th and Aurora, where they rejoined MOLZHON. LAFORGE kept acting like he was going to hit Duarte. MOLZHON got angry at LAFORGE, and told him to stop bothering Duarte, that he had done enough. MOLZHON was also angry that LAFORGE kept referring to him as "Julian," because he said he had a warrant for his arrest and didn't want to be picked up. MOLZHON took a small electronic item from his pocket and threw it on the ground, shattering it. He picked it up a second time and threw it down on the steps behind the bus stop. Duarte described the device as a clock or radio, made of gray or silver plastic with some black on it. At one point, MOLZHON mentioned that he lives in Shoreline. LAFORGE gave Duarte his ATM card back, but took his Washington ID card and social security card. LAFORGE said, "If you call the cops, I know where you live and where you work." MOLZHON asked, "Why do you need his social security card?" and LAFORGE replied, "Because I want him to know I have his personal information." The #358 bus arrived, and LAFORGE made Duarte get on with him and MOLZHON. Duarte believes it was around 8:30 or 9 am. He said there were about ten people on the bus, and described the driver. They rode the bus to approximately 155th and Aurora, where all three got off. LAFORGE gave Duarte fifty cents and told him to cross the street and take the bus back to Seattle. Duarte used the payphone to call his dad. Duarte's parents met him at that location and called the fire department who treated him at the scene and suggested the parents take him to the hospital. Duarte's parents drove him to Northwest Hospital where he was treated and directed to go to Harborview Medical Center for a rape examination. Duarte's parents drove him there.

Detectives Stevenson and Stampfl responded to the various crime scenes. They located an empty pack of "Marlboro red" cigarettes in the 11100 block Aurora Avenue North. They located a broken silver and black travel clock in the stairwell leading to the Albertson's store near North 130th Street and Aurora Avenue North. They located an enclosed area with cinder block walls and a gate that would normally house garbage dumpsters with items victim Duarte described along with the barbecue inside. Officer Clark gave Detective Stampfl (3) videotapes, which he recovered, from the Albertson's store and US Bank employees.

Detective Stampfl obtained a printout of transactions on the ATM machine at 13000 Aurora Avenue North, which showed several transactions between 0658 hrs and 0702 hrs. Detective Stevenson reviewed the videotapes, which showed an individual matching MOLZHON's description making transactions at the ATM machine at 0659 hrs until shortly after 0700 hrs. The videotapes also showed an individual matching the description of LAFORGE at the ATM machine with victim Duarte at 0654 hrs. Detective Stevenson had still pictures made of this video from several images.



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 02-571681
UNIT FILE NUMBER

Detective Stevenson ran a check of the name "Julian" in the Seattle Police Department JEMS system and was able to find a picture of MOLZHON, which looked similar to the ATM picture. Detective Stevenson ran a check of MOLZHON's name through the Seattle Police Department RMS system and found MOLZHON was involved as a suspect in SPD case #02-504329 along with LAFORGE. Detective Stevenson noted that LAFORGE's height and weight was similar to that which Duarte described of the suspect. Detective Stevenson ordered a Washington State Department of Licensing photograph of LAFORGE. Detectives Stevenson and Stampfl created photomontages of LAFORGE and MOLZHON. The victim Duarte positively identified LAFORGE as the person who robbed, kidnapped and raped him from the photomontage.

On 01-02-2003 Detectives Stevenson, Fields and Grossman responded to 2201 Southwest Holden Street #P-103, Seattle, Washington and contacted LAFORGE's sister Mitchelline Bear. Bear stated it was her apartment and invited Detectives inside. Bear was asked if LAFORGE was there and she said he was. Bear called LAFORGE who came from the back of the apartment and was arrested. LAFORGE was transported to the Seattle Police Department Special Assault Unit.

LAFORGE was advised of his rights and stated he understood. LAFORGE gave a taped confession of the Robbery stating that he shoved the victim (Duarte), showed him a knife and yelled for him to give up his money. LAFORGE said that they obtained the victims ATM card and his PIN number and made him go with them to the Albertson's store while MOLZHON withdrew cash. LAFORGE said that he went with the victim to a friend's (of the victim's) apartment to get more money. LAFORGE said that he was drunk and could not remember the whole incident but that he didn't think that he had oral sex with the victim. LAFORGE admitted to making the victim walk several blocks with him from the initial contact, to the store and then to the friend's apartment. LAFORGE said he made the victim get on the bus with him and MOLZHON so that he wouldn't report the incident to police. LAFORGE said that the victim acted scared the entire time. LAFORGE admitted to collecting \$120.00 to \$130.00 cash from MOLZHON after MOLZHON withdrew the money from the victim's account.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 2nd day of January, 2003, at Seattle, Washington.

 #5442

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)	
)	
Plaintiff,	)	No. 03-C-03741-5 SEA
	)	03-C-03742-3 SEA
v.)	
JULIAN D. MOLZHON, and)	
ARMONDO T. LAFORGE	)	SECOND AMENDED INFORMATION AS TO
and each of them,	)	DEFENDANT ARMONDO T. LAFORGE ONLY
)	
Defendants.)	

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse ARMONDO T. LAFORGE of the crime of Robbery in the Second Degree, committed as follows:

That the defendant ARMONDO T. LAFORGE in King County, Washington on or about December 22, 2002, did unlawfully and with intent to commit theft take personal property of another, to-wit: U.S. currency and ATM card, from the person and in the presence of Chris Duarte, against his will, by the use or threatened use of immediate force, violence and fear of injury to such person or his property and the person or property of another;

Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace and dignity of the State of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse ARMONDO T. LAFORGE of the crime of Rape in the Second Degree, a crime of the same or similar character and based on the same conduct as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were so closely

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

1 connected in respect to time, place and occasion that it would be
2 difficult to separate proof of one charge from proof of the other,
committed as follows:

3 That the defendant ARMONDO T. LAFORGE in King County,
4 Washington on or about December 22, 2002, by forcible compulsion
did engage in sexual intercourse with another person, named Chris
5 Duarte;

6 Contrary to RCW 9A.44.050(1)(a), and against the peace and
dignity of the State of Washington.

7
8 NORM MALENG
Prosecuting Attorney

9
10 By: _____
Julie A. Kays, WSBA #30385
11 Deputy Prosecuting Attorney
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9000

GENERAL SCORING FORM

Violent Sex Offenses

Use this form only for the following offenses: Child Molestation 1; Indecent Liberties (with forcible compulsion); Rape of a Child 1 and 2; Rape 2.

OFFENDER'S NAME <i>Armando Lafarge</i>	OFFENDER'S DOB <i>8.20.86</i>	STATE ID#
JUDGE	CAUSE# <i>03.C.03742.3SEA</i>	FBI ID#

In the case of multiple prior convictions for offenses committed before July 1, 1986, for purposes of computing the offender score, count all adult convictions served concurrently as one offense and all juvenile convictions entered on the same date as one offense (RCW 9.94A.525).

ADULT HISTORY:

Enter number of sex offense convictions x 3 = _____

Enter number of other serious violent and violent felony convictions x 2 = _____

Enter number of other felony convictions x 1 = _____

JUVENILE HISTORY:

Enter number of sex offense dispositions x 3 = _____

Enter number of other serious violent and violent felony dispositions x 2 = _____

Enter number of other felony dispositions x 1/2 = _____

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct)

Enter number of other sex offense convictions x 3 = _____

Enter number of other serious violent and violent felony convictions *ROB20* x 2 = *2*

Enter number of other felony convictions x 1 = _____

STATUS AT TIME OF CURRENT OFFENSES:

If on community placement at time of current offense, add 1 point + 1 = _____

Total the last column to get the Offender Score (Round down to the nearest whole number) *2*

STANDARD RANGE CALCULATION*					
<i>Rape 20</i>	<i>XI</i>	<i>2</i>	<i>95</i>	<i>125</i>	<i>life</i>
CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	LOW TO HIGH MINIMUM SENTENCE RANGE**		MAXIMUM TERM***

- If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-13 or III-14 to calculate the enhanced sentence.
- If no prior sex offense conviction and sentence is less than eleven years, the Special Sex Offender Sentencing Alternative is an option.
- * Multiply the range by 75% if the current offense is an attempt.
- ** The minimum term for this offense (must have been committed on or after September 1, 2001), and the offender is not a persistent offender, is the standard sentence range, and the maximum term is the statutory maximum for the offense. See RCW 9.94A.712.
- *** Maximum Term is the Statutory Maximum for the offense.

FELONY PLEA AGREEMENT

Date of Crime: 12-22-02 Date: 12-12-03

Defendant: Armando LaFrance Cause No: 03-C-03742-3 (SEA/KNT)

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is, as follows:

On Plea To: As charged in Count(s) I & II of the original 2nd amended information.

With Special Finding(s): deadly weapon - firearm, RCW 9.94A.510(3); deadly weapon other than firearm, RCW 9.94A.510(4); sexual motivation, RCW 9.94A.835; protected zone, RCW 69.50.435; domestic violence, RCW 10.99.020; other _____; for count(s): _____

DISMISS: Upon disposition of Count(s) _____, the State moves to dismiss Count(s): _____

REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.530, the parties have stipulated that the following are real and material facts for purposes of this sentencing:

- The facts set forth in the certification(s) for determination of probable cause and prosecutor's summary.
- The facts set forth in Appendix C; _____

RESTITUTION: Pursuant to RCW 9.94A.753, the defendant shall pay restitution in full to the victim(s) on charged counts and

- agrees to pay restitution in the specific amount of \$ _____.
- agrees to pay restitution as set forth in Appendix C; _____

OTHER: NO CONTACT W/ VICTIM & VICTIM'S FAMILY; NO CONTACT W/ JULIA MOLZKON; SEXUAL DEVICENT EVAL & FOLLOW ALL TRTMT RECS; SUBSTANCE ABUSE EVAL & FOLLOW

ALL TRTMT RECS; COMPLY W/ ALL DOC. CONDITIONS; SEX OFFENDER REGIST; LIFETIME COMMUNITY CUSTODY

CRIMINAL HISTORY AND OFFENDER SCORE:

a. The defendant agrees to the foregoing Plea Agreement and that the attached sentencing guidelines scoring form(s) (Appendix A) and the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). The State makes the sentencing recommendation set forth in the State's sentence recommendation.

b. The defendant disputes the Prosecutor's Statement of the Defendant's Criminal History, as follows:

- (1) Conviction: _____ Basis: _____
- (2) Conviction: _____ Basis: _____

c. The State's recommendation may change if the score used by the court at sentencing differs from that set out in Appendix A.

Maximum on Count(s) I is not more than 10 years each and \$ 20,000 fine each.

Maximum on Count(s) II is not more than life years each and \$ 50,000 fine each.

Mandatory Minimum Term(s) pursuant to RCW 9.94A.540 only: _____

Mandatory weapon sentence enhancement for Count(s) _____ is _____ months each; for Count(s) _____ is _____ months each. This/these additional term(s) must be served consecutively to each other and to any other term and without any earned early release.

The State's recommendation will increase in severity if additional criminal convictions are found or if the defendant commits any new charged or uncharged crimes, fails to appear for sentencing or violates the conditions of release.

[Signature]
Defendant

[Signature]
Attorney for Defendant # 24041

[Signature]
Deputy Prosecuting Attorney

[Signature]
Judge, King County Superior Court

Proferm.

**APPENDIX B TO PLEA AGREEMENT
PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY
(SENTENCING REFORM ACT)**

Defendant: ARMONDO T LAFORGE

FBI No.:

State ID No.:

DOC No.:

This criminal history compiled on: January 08, 2003

- | | |
|--------------------------|--|
| <input type="checkbox"/> | None known. Recommendations and standard range assumes no prior felony convictions. |
| <input type="checkbox"/> | Criminal history not known and not received at this time. WASIS/NCIC last received on 01/08/2003 |

Adult Felonies - None Known

Adult Misdemeanors - None Known

Juvenile Felonies - None Known

Juvenile Misdemeanors - None Known

Comments

Prepared by:

Virginia Christmas, CCA
Department of Corrections

STATE'S SENTENCE RECOMMENDATION
(SEX OFFENSE - SENTENCE OVER ONE YEAR ONLY)

Date of Crime: 12-22-02
Defendant: Armando LaFarge

Date: DECEMBER 12, 2003
Cause No: 03-C-05742-3 SEA/KNT

State recommends that the defendant be sentenced to a term of TOTAL CONFINEMENT in the Department of Corrections as follows:

Count I 13 months. Count III _____ months. Count V _____ months.
Count II 110 months. Count IV _____ months. Count VI _____ months.

with credit for time served as provided under RCW 9.94A.120(17). Terms on each count to run concurrently consecutively with each other. Terms to be served concurrently/consecutively with: _____

- WEAPONS ENHANCEMENT - RCW 9.94A.310: The above recommended term(s) of confinement include the following weapons enhancement time: _____ months for Ct. _____, _____ months for Ct. _____, _____ months for Ct. _____; which is/are mandatory, served without good time and served consecutive to any other term of confinement. The total of all recommended terms of confinement in this cause is _____ months.
- EXCEPTIONAL SENTENCE: This is an exceptional sentence and the substantial and compelling reasons for departing from the presumptive sentence range are set forth on the attached form.
- State will consider recommending the Special Sex Offender Sentencing Alternative RCW 9.94A.120(7)(a) after reviewing evaluation of the defendant.

NO CONTACT: For the maximum term, defendant have no contact with crime victim(s); others: Victim's family, Julian Molzha

MONETARY PAYMENTS: Defendant makes the following monetary payments under the supervision of the Department of Corrections for up to ten years pursuant to RCW 9.94A.120(12) and RCW 9.94A.145.

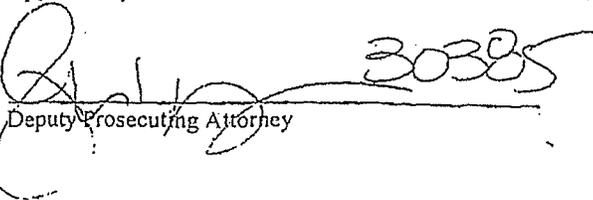
- Restitution as set forth in the "Plea Agreement" page and Appendix C.
- Court costs; mandatory \$500 Victim Penalty Assessment, recoupment of cost for appointed counsel.
- Fine of \$ _____.
- Costs of incarceration in King County Jail at \$50 per day. RCW 9.94A.145(2).
- Emergency response costs, \$ _____, RCW 38.52.430.
- Extradition Costs of \$ _____.

COMMUNITY PLACEMENT: Pursuant to RCW 9.94A.120(9) mandatory for any defendant sentenced to the Department of Corrections for a sex offense committed after 7/1/88 but before 7/1/90 for a period of one year and for sex offense committed on or after 7/1/90 and before 6/6/96 for a period of two years. Community placement incorporates community custody, in lieu of earned early release, and post-release supervision subject to statutory mandatory conditions found in RCW 9.94A.120(9)(b) and other discretionary conditions that may be set by the court found in RCW 9.94A.120(9)(c). The State recommends the following discretionary conditions: _____

→ COMMUNITY CUSTODY: Pursuant to RCW 9.94A.120(10) mandatory for any defendant sentenced to the Department of Corrections for a sex offense committed on or after 6/6/96 but before 7/1/00 for three years, and for sex offense committed on or after 7/1/00 for 36 to 48 months, or up to the period of earned early release, whichever is greater, and commences upon the defendant's release from confinement. While in community custody the defendant is required to comply with standard Department of Corrections conditions as required in RCW 9.94A.120(15) and set forth in RCW 9.94A.120(9)(b), and any discretionary conditions set by the court and set forth in RCW 9.94A.120(9). If this offense was committed on or after 7/1/00, the defendant also may be required to comply with discretionary conditions set by the court pursuant to RCW 9.94A.120(11)(b) and set forth in RCW 9.94A.120(9)(b)(i) - (vi), and RCW 9.94A.120(9)(c)(i) - (vi). The defendant also may be required to comply with other affirmative conditions imposed by the court pursuant to RCW 9.94A.120(11)(b). The State recommends the following discretionary conditions: life tnc -> SEE plea agreement for terms

* BLOOD TESTING: HIV blood testing is mandatory under RCW 70.24.340. DNA testing is mandatory under RCW 43.43.754. Driver's license revocation is mandatory if car used in commission of the crime. RCW 46.20.285.

* REGISTRATION: ALL persons convicted of sex offenses are required to register pursuant to RCW 9A.44.130.

Approved by:

Deputy Prosecuting Attorney

APPENDIX F

FILED

The Honorable Judge Michael Hayden

2004 MAR 16 PM 5:06 Sentencing Hearing on March 19, 2003 @ 2:30 p.m. in W-941

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE KING COUNTY SUPERIOR COURT,
STATE OF WASHINGTON

STATE OF WASHINGTON,)
)
Plaintiff,)
)
vs.)
)
ARMANDO LAFORGE,)
)
Defendant.)

NO. 03-C-03742-3 SEA
DEFENDANT'S
PRE-SENTENCE REPORT

TO: Clerk of the Court, and
TO: Prosecuting Attorney.

BACKGROUND

Mr. LaForge is a 17-year-old boy who pled guilty to one count of robbery in the second degree and one count of rape in the second degree. At the time of the plea, Mr. LaForge entered an Alford plea to the rape charge. However, since the time of the plea, Mr. LaForge has taken full responsibility for both crimes. He has completed every educational course offered by the Juvenile Detention Facility. He has also completed a sexual deviancy evaluation, and is planning on following the treatment

ORIGINAL

The Hale Law Firm
506 Second Ave., Suite 1010
Seattle, WA 98104
206-622-9972

147

1 recommendations. Mr. LaForge has no criminal history. Mr. LaForge was 16 at the
2 time of the offense. The seriousness level of robbery in the second degree is IV, and
3 the seriousness level of rape in the second degree is XI. Mr. LaForge's offender score
4 on the rape charge is a two because of the concurrent robbery charge. Therefore, his
5 standard sentencing range is 95 to 125 months.
6

7 STATE RECOMMENDATION

8 The State has recommended that the court impose the following sentence: 1)
9 serve 110 months in prison; 2) pay \$500 victim penalty assessment; and 3) pay
10 restitution to the victims; 4) have no contact with the victim or the victim's family; 5)
11 have no contact with Julian Molzhon; 6) obtain a sexual deviancy evaluation and
12 follow recommendations; 7) obtain a substance abuse evaluation and follow all
13 treatment recommendations; 8) register as a sex offender; 9) submit to lifetime
14 community custody.
15

16 DEFENSE RECOMMENDATION

17 The Defense agrees with most of the state's recommendation. However, with
18 regard to the time to be served in prison, the Defense respectfully recommends that the
19 court impose an exceptional sentence of 78 months in prison.
20

21 According to RCW 9.94A.535, the court may impose a sentence outside the
22 standard range for an offense if it finds that there are substantial and compelling
23 reasons justifying an exceptional sentence. RCW 9.94A.535 goes on to provide an
24 illustrative list of factors that the court may consider in deciding whether to impose an
25 exceptional sentence. According to the statute, these mitigating circumstances are
26
27

1 provided as examples and are not intended to be exclusive reasons for departure from
2 the guidelines. The Defense bases its request on one of the illustrative factors, but we
3 are also asking the court to consider the age of Mr. LaForge and the fact that he has
4 completed a sexual deviancy evaluation in determining whether he should be given an
5 exceptional sentence. As the court is well aware, many sex offenders are eligible for a
6 SSOSA which allows them to avoid serving prison time altogether. Because of the
7 ages of the parties involved in this case, Mr. LaForge being 16 and the victim being
8 23, SSOSA is not an option. However, we are asking for a sentence that is fair and not
9 excessive in light of all of the circumstances.
10

11
12 First of all, the substantial and compelling reason that the Defense requests an
13 exceptional sentence below the standard range is that the operation of the multiple
14 offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly
15 excessive in light of the Sentencing Reform Act, as expressed in RCW 9.94A.010. As
16 a first-time offender, Mr. LaForge would have a low end of 78 months to be served on
17 the rape charge, were it not for the two points added as a result of the robbery charge.
18 The state is requesting a sentence of 110 months, which is clearly excessive.
19

20 There are several cases in Washington that support an exceptional sentence in
21 this type of case. First, in State v. Hortman, 76 Wn. App. 454, 888 P.2d 234 (1994),
22 the Washington State Court of Appeals stated that a presumptive sentence calculated
23 in accord with the multiple offense policy is clearly excessive if the difference between
24 the effects of the first criminal act and the cumulative effects of the subsequent
25 criminal acts is nonexistent, trivial, or trifling. In the case at bar, the rape should
26
27
28

1 obviously be considered the main course of conduct, and the fact that property was
2 taken from the person of the victim is trivial and trifling. The co-defendant in this case
3 took the bank card and went to the ATM to get money. Mr. LaForge took the victim
4 behind the building and raped him. According to the Court in Hortman, the purposes
5 of the SRA including ensuring punishments that are proportionate to the seriousness of
6 the offense and the offender's criminal history, promoting respect for the law by
7 providing punishment which is just, encouraging commensurate punishments for
8 offenders who commit similar offenses, protecting the public, offering the offender an
9 opportunity for self-improvement, and making frugal use of the State's resources. Id.
10 The Defense argues that the policies of the Sentencing Reform Act would be fulfilled
11 in this case with a sentence below the standard range.
12

13
14 The Defense argues that the rape and robbery charges should be treated as the
15 same criminal conduct for the purposes of sentencing, as opposed to multiple offenses.
16 According to RCW 9.94A.589, for the purposes of sentencing, "same criminal
17 conduct" means two or more crimes that require the same criminal intent, are
18 committed at the same time and place, and involve the same victim. In State v. Taylor,
19 90 Wn. App. 312, 950 P.2d 526 (1998), the Washington State Court of Appeals held
20 that assault and kidnapping charges should be treated as the same criminal conduct for
21 the purposes of sentencing. In that case, the assault was used to persuade the victim to
22 submit to the kidnapping. In the case at bar, Mr. LaForge used the threat of force to
23 persuade the victim to submit to the rape. In State v. Dunaway, 109 Wn.2d 207, 743
24 P.2d 1237 (1987), the Washington State Supreme Court held that robbery and
25
26
27
28

1 kidnapping should be treated as the same criminal conduct for the purposes of
2 sentencing. The court held that, in deciding if crimes encompass the same conduct,
3 the test is the extent to which the criminal intent, as objectively viewed, changed from
4 one crime to the next, taking into account issues of whether one crime furthered the
5 other and if the time and place of the two crimes remained the same. Id. In the case at
6 bar, the intent of the co-defendant Mr. Molzhon was to rob the victim. However, Mr.
7 LaForge's intent was to rape the victim. Again, he used the show of force to get the
8 victim to submit to the rape.
9

10
11 In State v. Stearns, 61 Wn. App. 224, 810 P.2d 41 (1991), robbery and rape
12 were not treated as the same criminal conduct because they both had different intents.
13 However, that case can be distinguished from the case at bar. In that case, there was
14 only one defendant. That defendant raped the victim, then took her property after the
15 rape was completed. In Mr. LaForge's case, the co-defendant took the victim's bank
16 card and went to an ATM to obtain money. His intent was to rob the victim.
17 However, Mr. LaForge did not get any of the victim's property. Instead, his intent was
18 to rape the victim. Therefore, his intent did not change during the course of conduct,
19 and the rape and the robbery should be considered the same course of conduct for the
20 purposes of sentencing.
21

22
23 Taking all of these factors into account, including the excessive sentence
24 required by the multiple offense policy, the age of the Defendant, and the sexual
25 deviancy evaluation, the Defense is asking the court to impose a sentence of 78
26 months in prison, which would be the low-end of the range without the two points
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

added by the robbery charge. We are also asking the court to order that Mr. LaForge
serve this time at the Green Hill prison facility so that he can be housed with other
juvenile offenders and take advantage of the classes offered at Green Hill.

DATED: MARCH 16, 2004.

THE HALE LAW FIRM, LLC



MATTHEW T. HALE
WSBA #28041
Counsel for Defendant

APPENDIX G

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

FILED
KING COUNTY, WASHINGTON

MAR 19 2004

SUPERIOR COURT CLERK
BYSHANNA KNIGHT
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
	)	Plaintiff,
	)	No. 03-C-03742-3 SEA
)	
vs.)	
	)	STATE'S RESPONSE TO DEFENSE
ARMONDO LAFORGE,	)	REQUEST FOR AN EXCEPTIONAL
	)	SENTENCE BELOW THE
	)	STANDARD RANGE
)	
)	
)	

The defendant entered a plea of guilty to one count of Robbery in the Second Degree and one count of Rape in the Second Degree. The defendant's standard sentencing range is 95-125 months in custody. Pursuant to the State's plea offer, the State will recommend that the defendant serve 110 months in custody.

The defendant, Armondo LaForge, through his attorney has requested that this court impose an exceptional sentence below the standard range. The State has filed this memorandum in response, and opposes the defense request.

I. STATEMENT OF FACTS

Please see attached certification for determination of probable cause.

151

1 **II. THERE IS NO STATUTORY BASIS FROM WHICH THE COURT MAY**
 2 **GRANT AN EXCEPTIONAL SENTENCE BELOW THE STANDARD RANGE.**

3 The defense is requesting that the court impose an exceptional sentence of 78 months.

4 The State opposes this request.

5 The statute sets for the basis upon which the court may grant an exceptional sentence.

6 None of the statutory basis are present based upon the facts currently before this court.

7 RCW 9.94A.535 reads, in pertinent part:
 8

9 Mitigating Circumstances

10 (a) To a significant degree, the victim was an initiator, willing participant, aggressor, or
 11 provoker of the incident.

12 (b) Before detection, the defendant compensated, or made a good faith effort to
 13 compensate, the victim of the criminal conduct for any damage or injury sustained.

14 (c) The defendant committed the crime under duress, coercion, threat, or compulsion
 15 insufficient to constitute a complete defense but which significantly affected his or her
 16 conduct.

17 (d) The defendant, with no apparent predisposition to do so, was induced by others to
 18 participate in the crime.

19 (e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to
 20 conform his or her conduct to the requirements of the law, was significantly impaired.
 21 Voluntary use of drugs or alcohol is excluded.

22 (f) The offense was principally accomplished by another person and the defendant
 23 manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a
 presumptive sentence that is clearly excessive in light of the purpose of this chapter, as
 expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or
 sexual abuse by the victim of the offense and the offense is a response to that abuse.

None of the aforementioned statutory mitigating factors are present in the facts before this court.

The defense argues, in part, that the court should consider the age of the defendant in
 determining whether to grant the exceptional sentence. The defense ignores the fact that the
 legislature has expressly provided that when a juvenile offender commits a specific crime that
 the juvenile offender is automatically subject to adult court jurisdiction. RCW 13.04.030. In

1 light of the statutory provision on automatic adult jurisdiction, the defendant's age should not be
2 considered by this court as a mitigating factor.

3
4 **III. ROBBERY IN THE SECOND DEGREE AND RAPE IN THE SECOND DEGREE
DO NOT CONSTITUTE THE SAME COURSE OF CRIMINAL CONDUCT.**

5
6 The defense also cites to RCW 9.94A.589, the multiple offense policy, as a basis for
7 arguing that the standard range in this case is excessive in light of the SRA.

8 When sentencing a defendant for two or more current offenses, if the court finds that
9 some or all of the current offenses constitute the same criminal conduct, those offenses are
10 counted as one crime for purposes of calculating the offender score. RCW 9.94A.589(1)(a).
11 "Same criminal conduct" means that multiple crimes require the same criminal intent, are
12 committed at the same time and place, and involve the same victim. RCW 9.94A.589(1)(a); See
13 also, State v. Lessley, 118 Wn.2d 773, 777-78, 827 P.2d 996 (1992); Accord, State v. Nitsch, 100
14 Wn.App. 512, 997 P.2d 1000 (2000). A same criminal conduct finding is precluded if any of
15 these elements are absent; the court construes the statute narrowly to disallow most such claims.
16 State v. Porter, 133 Wn.2d 177, 181, 942 P.2d 974 (1997).

17 Intent for the purposes of same criminal conduct "is not the particular *mens rea* element
18 of the particular crime, but rather is the offender's objective criminal purpose in committing the
19 crime." In re Holmes, 69 Wn.App. 282, 290, 848 P.2d 754 (1993), quoting State v. Adame, 56
20 Wn.App. 803, 811, 785 P.2d 1144, *review denied*, 114 Wn.2d 1030, 793 P.2d 976 (1990).
21 Therefore, the test for evaluating intent for purposes of same criminal conduct is whether the
22 intent, objectively viewed, changed from one crime to the next. State v. Lessley, 118 Wn.2d
23 773, 777, 827 P.2d 996 (1992). "Under that test, if one crime furthered another, and if the time

1 and place of the crimes remained the same, then the defendant's criminal purpose or intent did
2 not change and the offenses encompass the same criminal conduct." Id.

3
4 In the facts before this court, the defense cannot satisfy the same time and place
5 requirement. The robbery took place as the defendant, together with his co-defendant, held the
6 victim up at knife point on Aurora Avenue. The defendant wielded a knife and pointed it at the
7 victim as he demanded the victim's PIN number for his ATM card. The defendant and co-
8 defendant then forced the victim to walk a distance to the Albertson's store, where the co-
9 defendant went inside to clean out the victim's bank account.

10 Once the co-defendant went inside the grocery store, the defendant again wielded the
11 knife and forced the victim to a secluded location behind the Albertson's store. For anywhere
12 from 45 minutes to an hour, the defendant forced the victim to perform oral sex on the defendant,
13 and he also attempted to anally rape the victim.

14 The robbery occurred at a different location (Aurora and inside the grocery store), than
15 the location of the rape (in a secluded area behind the grocery store.). The robbery and rape were
16 separated by a significant amount of time. As the co-defendant completed the robbery inside the
17 store, the defendant proceeded to sexually assault the victim for 45 minutes to an hour. Based
18 upon these facts, the defense cannot satisfy the "same time and place" requirement.

19 Given that the defense argument fails on this point, the court must find that the defense
20 argument of same course of conduct also fails.

21 In addition, the defense cannot show that robbery and rape charges carry the same
22 objective intent. In State v. Stearns, 61 Wn.App. 224, 810 P.2d 41 (1991), the defense argued
23 that robbery and attempted rape, committed at the same time and place constituted the same
course of criminal conduct for the purposes of sentencing. When looking at the intent the court

1 makes an "objective, theoretical inquiry [which] avoids fact-specific speculation about what the
2 defendant in a given case actually intended in his or her actions." Id. At 234. The court held that:

3
4 The objective intent behind robbery is to acquire property, State v. Dunaway, 109 Wn.2d
5 207, 216; RCW 9A.56.190, while the objective intent of rape in the second degree is to
6 engage in sexual intercourse. RCW 9A.44.050.

7 Id. At 234.

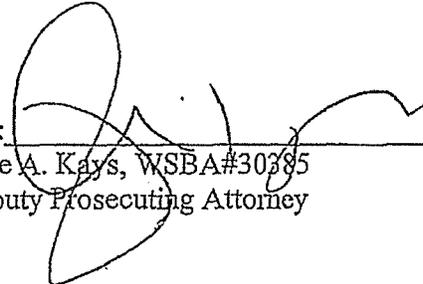
8 In the facts before this court, the defendant unsuccessfully attempts to distinguish
9 Stearns. The defense states that it was the co-defendant who completed the robbery, and that the
10 defendant "did not get any of the victim's property." This statement is clearly contradicted by
11 the fact that the co-defendant gave the defendant approximately one-half of the money he
12 withdrew from the victim's bank account. See attached certification. In addition, this assertion by
13 the defense seeks to minimize the role that the defendant played in the robbery – after all it was
14 the defendant who brandished the knife in order to obtain the ATM and PIN number from the
15 victim. Based upon the facts presented, the defendant's objective intent was to take property
16 from the victim, and when given the opportunity it was also to engage in sexual intercourse with
17 the victim.

18 This court should find, based upon the holding of Stearns and the facts presented
19 that the crimes of robbery and rape do not constitute the same course of criminal conduct.
20 Furthermore, the State respectfully requests that the court deny the defendant's request for an
21 exceptional sentence below the standard range.

22 Submitted this 18 day of March, 2004.

23 NORM MALENG
King County Prosecuting Attorney

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

BY: 
Julie A. Kays, WSBA#30385
Deputy Prosecuting Attorney

STATE'S RESPONSE TO DEFENSE REQUEST FOR
AN EXCEPTIONAL SENTENCE BELOW THE
STANDARD RANGE - 6

Norm Maleng, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000
FAX (206) 296-0955

CAUSE NO. _____



Seattle
Police
Department

**CERTIFICATE FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 02-571681
UNIT FILE NUMBER

That Anthony Stevenson is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case Number 02-571681;

There is probable cause to believe that Armondo Theodore LAFORGE, DOB: 08-20-1986 committed the crime (s) of Rape, Kidnapping and Robbery.

This belief is predicated on the following facts and circumstances:

That on December 22nd, 2002, between the hours of approximately 0630 and 0900, within the City of Seattle, County of King and State of Washington, the suspects LAFORGE and MOLZHON robbed the victim Christopher Duarte of money and cigarettes in the 11100 block of Aurora Avenue North. LAFORGE then led the victim to behind a building at 13200 Aurora Avenue North where he raped the victim at knifepoint.

The victim Duarte, a resident of North Seattle, was walking to work at approximately 0630 hrs, December 22nd, 2002. Duarte was approached by the suspects LAFORGE and MOLZHON in the 11000 block of Aurora Avenue North. LAFORGE asked Duarte for a cigarette, which Duarte gave him. Duarte continued to walk northbound with LAFORGE and MOLZHON walking behind him. Duarte heard jogging behind him and turned to see LAFORGE looking up and down Aurora Avenue. After the vehicles passed by, LAFORGE shoved Duarte against a fence and said, "What's up punk? Give me your money." When Duarte told LAFORGE he had no money, LAFORGE said, "You're lying." LAFORGE pulled a knife from his pants pocket and said, "Tell me you don't have any money." LAFORGE shoved Duarte against the fence again and possibly cut Duarte's left hand with the knife. LAFORGE then told Duarte, "Show me your wallet." Duarte pulled out his wallet and said, "See, I don't have anything." LAFORGE took Duarte's pack of Marlboro cigarettes and his small black Bic lighter. LAFORGE took Duarte's wallet and handed it to MOLZHON. LAFORGE told MOLZHON to look through the wallet. MOLZHON did so and pulled out Duarte's ATM card. LAFORGE asked Duarte for the PIN number and how much money was in the account. Duarte gave LAFORGE the PIN number and told him there was \$200.00 in the account. LAFORGE ordered Duarte saying, "Walk with us." Both suspects and Duarte walked toward the Albertson's store at 13000 Aurora Avenue North. LAFORGE threw Duarte's pack of cigarettes on the ground as they walked. When they arrived at the Albertson's store, MOLZHON went inside with Duarte's ATM card. LAFORGE told Duarte to walk with him between the K-Mart store and the Staples Store at 13200 Aurora Avenue North. LAFORGE put the knife away and started acting as if he were Duarte's "friend." LAFORGE said he was going to try to teach Duarte, "not to be a punk." LAFORGE pretended like he was going to hit Duarte and said, "What would you do if I did that?" LAFORGE asked Duarte how old he was, then said something to the effect of he was 16 and his friend was 17, and Duarte shouldn't let a 16 and 17-year-old "play" him like that. LAFORGE then asked, "What if I were to tell you to strip naked?" Duarte told him he wouldn't do it. Then LAFORGE said, "What if I had a knife?" and pulled the knife out again. Duarte said, "Well, I don't have a choice." They went into the "Dumpster area" between K-Mart and Staples, and Duarte took all of his clothes off. LAFORGE asked Duarte how many times he had had sex, and whether he had ever had sex "with a guy." LAFORGE then said, "Would you suck my dick?" Duarte again said no. LAFORGE said, "In this situation, with a knife?" Duarte gave LAFORGE oral sex (LAFORGE had unzipped his pants, and his erect penis was sticking out through the fly) while sitting on a barbecue; then LAFORGE touched Duarte's genital area. LAFORGE made Duarte switch places and said he "wanted to get [Duarte] hard," but Duarte didn't have an erection. Duarte told LAFORGE he was cold, and he was allowed to put his clothes back on (his pants were pulled down, however). LAFORGE told Duarte to "turn around and bend over," and asked, "Have you ever been fucked?"



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 02-571681
UNIT FILE NUMBER

LAFORGE penetrated Duarte's anus. Duarte said, "I tried to ignore it and just let it happen. I hoped it would be over soon and he would leave me alone." Duarte believed LAFORGE would hurt or kill him if he didn't do what he said. LAFORGE said, "OK, that's enough; come on, let's take a walk." On the way back to Albertson's, LAFORGE told Duarte to tell his friend that they had gone to Duarte's friend's house to try to get more money, but that he wasn't home. When they got to Albertson's, they didn't see MOLZHON. They went to the bus stop at 130th and Aurora, and they saw MOLZHON walking towards them. MOLZHON wanted to know where they had been. LAFORGE told Duarte, "Stand right here. If you run, I'll chase you and I'll stab you. If you run into a store, I'll chase you and stab you. I don't care if people see me." LAFORGE and MOLZHON then walked about ten feet away from Duarte and talked so Duarte couldn't hear what they were saying. They walked back to where Duarte was standing, LAFORGE said, "My friend was only able to get \$20." MOLZHON was holding a piece of paper, and LAFORGE ripped it from his hands and threw it on the ground. LAFORGE made Duarte accompany him into the Albertson's to try to get more money out of his account. However, the machine said there were "insufficient funds." LAFORGE got mad and said, "I should kill you." LAFORGE repeated that if Duarte "tried anything funny," he would "chase him down and stab him." LAFORGE kept pretending like he was going to punch Duarte. As soon as they left the store, LAFORGE again threatened to stab Duarte. Duarte said that throughout this entire incident, LAFORGE repeatedly called him names like punk, bitch, pussy, and stupid, and threatened to stab him, beat him, and slit his throat. They returned to the bus stop at 130th and Aurora, where they rejoined MOLZHON. LAFORGE kept acting like he was going to hit Duarte. MOLZHON got angry at LAFORGE, and told him to stop bothering Duarte, that he had done enough. MOLZHON was also angry that LAFORGE kept referring to him as "Julian," because he said he had a warrant for his arrest and didn't want to be picked up. MOLZHON took a small electronic item from his pocket and threw it on the ground, shattering it. He picked it up a second time and threw it down on the steps behind the bus stop. Duarte described the device as a clock or radio, made of gray or silver plastic with some black on it. At one point, MOLZHON mentioned that he lives in Shoreline. LAFORGE gave Duarte his ATM card back, but took his Washington ID card and social security card. LAFORGE said, "If you call the cops, I know where you live and where you work." MOLZHON asked, "Why do you need his social security card?" and LAFORGE replied, "Because I want him to know I have his personal information." The #358 bus arrived, and LAFORGE made Duarte get on with him and MOLZHON. Duarte believes it was around 8:30 or 9 am. He said there were about ten people on the bus, and described the driver. They rode the bus to approximately 155th and Aurora, where all three got off. LAFORGE gave Duarte fifty cents and told him to cross the street and take the bus back to Seattle. Duarte used the payphone to call his dad. Duarte's parents met him at that location and called the fire department who treated him at the scene and suggested the parents take him to the hospital. Duarte's parents drove him to Northwest Hospital where he was treated and directed to go to Harborview Medical Center for a rape examination. Duarte's parents drove him there.

Detectives Stevenson and Stampfl responded to the various crime scenes. They located an empty pack of "Marlboro red" cigarettes in the 11100 block Aurora Avenue North. They located a broken silver and black travel clock in the stairwell leading to the Albertson's store near North 130th Street and Aurora Avenue North. They located an enclosed area with cinder block walls and a gate that would normally house garbage dumpsters with items victim Duarte described along with the barbecue inside. Officer Clark gave Detective Stampfl (3) videotapes, which he recovered, from the Albertson's store and US Bank employees.

Detective Stampfl obtained a printout of transactions on the ATM machine at 13000 Aurora Avenue North, which showed several transactions between 0658 hrs and 0702 hrs. Detective Stevenson reviewed the videotapes, which showed an individual matching MOLZHON's description making transactions at the ATM machine at 0659 hrs until shortly after 0700 hrs. The videotapes also showed an individual matching the description of LAFORGE at the ATM machine with victim Duarte at 0654 hrs. Detective Stevenson had still pictures made of this video from several images.



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 02-571681
UNIT FILE NUMBER

Detective Stevenson ran a check of the name "Julian" in the Seattle Police Department JEMS system and was able to find a picture of MOLZHON, which looked similar to the ATM picture. Detective Stevenson ran a check of MOLZHON's name through the Seattle Police Department RMS system and found MOLZHON was involved as a suspect in SPD case #02-504329 along with LAFORGE. Detective Stevenson noted that LAFORGE's height and weight was similar to that which Duarte described of the suspect. Detective Stevenson ordered a Washington State Department of Licensing photograph of LAFORGE. Detectives Stevenson and Stampfl created photomontages of LAFORGE and MOLZHON. The victim Duarte positively identified LAFORGE as the person who robbed, kidnapped and raped him from the photomontage.

On 01-02-2003 Detectives Stevenson, Fields and Grossman responded to 2201 Southwest Holden Street #P-103, Seattle, Washington and contacted LAFORGE's sister Mitchelline Bear. Bear stated it was her apartment and invited Detectives inside. Bear was asked if LAFORGE was there and she said he was. Bear called LAFORGE who came from the back of the apartment and was arrested. LAFORGE was transported to the Seattle Police Department Special Assault Unit.

LAFORGE was advised of his rights and stated he understood. LAFORGE gave a taped confession of the Robbery stating that he shoved the victim (Duarte), showed him a knife and yelled for him to give up his money. LAFORGE said that they obtained the victims ATM card and his PIN number and made him go with them to the Albertson's store while MOLZHON withdrew cash. LAFORGE said that he went with the victim to a friend's (of the victim's) apartment to get more money. LAFORGE said that he was drunk and could not remember the whole incident but that he didn't think that he had oral sex with the victim. LAFORGE admitted to making the victim walk several blocks with him from the initial contact, to the store and then to the friend's apartment. LAFORGE said he made the victim get on the bus with him and MOLZHON so that he wouldn't report the incident to police. LAFORGE said that the victim acted scared the entire time. LAFORGE admitted to collecting \$120.00 to \$130.00 cash from MOLZHON after MOLZHON withdrew the money from the victim's account.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 2nd day of January, 2003, at Seattle, Washington.

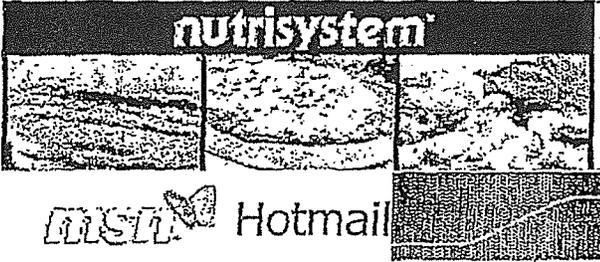
 #5442

APPENDIX H

MSN Home | My MSN | Hotmail | Shopping | Money | People & Chat

Sign Out

Web Search: Go



Check It Out!

- Convenience
- Selection
- Free Food (with purchase)
- Real Results

Today | Mail | Calendar | Contacts

sharolynbass@hotmail.com

Reply | Reply All | Forward | Delete | Junk | Put in Folder | Print View | Save Address

From : <Peteshunt@aol.com>
 Sent : Friday, October 13, 2006 4:01 PM
 To : sharolynbass@hotmail.com
 Subject : State v. Armondo LaForge

Inbox

If you have any questions, please call me at 206 296-9356.

thanks,

pete s. hunt

Realtime Transcript

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
 2
 3 IN AND FOR THE COUNTY OF KING
 4
 5
 6
 7
 8 STATE OF WASHINGTON,)
 9)
 10 Plaintiff,)
 11)
 12 vs.) NO. 03-1-03742-3 SEA
 13) COA NO.
 14 ARMONDO LAFORGE,)
 15)

Weight Watchers Turn Around

Discover weight freedom

Flexible plan or No Count

Start

528598 # 2/20/07

16 Defendant.)

17

18

19

20

BEFORE THE HONORABLE MICHAEL HAYDEN

21

22

23

24

March 19, 2004

25

King County Courthouse

Realtime Transcript

2

1

Seattle, Washington

2

3

4

5

6

7

8

APPEARANCES:

9

10

For the Plaintiff:

Julie Kays

11

ATTORNEY AT LAW

12

13

14

For the Defendant:

Matthew Hale

15

ATTORNEY AT LAW

16

17
18
19
20
21
22
23
24
25

Realtime Transcript

3

1 MS. KAYS: Judge, this is the case of
2 the State of Washington vs. Armando LaForge,
3 03-1-03742-3 SEA.

4 Julie Kays for the State. Matthew
5 Hale is appearing on behalf of the defendant who is
6 present in custody.

7 Your Honor, I will just note for the
8 record, seated in the front row is Chris Sworta and
9 the parents Pat and Craig Sworta. We're here for
10 sentencing today. Defendant entered a plea of guilty
11 on December 15 of 2003, in Count 1 to the crime of
12 Robbery II and the crime of Rape II. The date of
13 both offenses is December 22 of 2002. As relates to
14 Count 1, the defendant has an offender score of two,
15 Seriousness Level 4 crime. Standard range, twelve
16 months plus one day to 14 months in custody with a
17 maximum term of ten years and a \$10,000 fine.

18 On Count 2, the defendant has an
19 offender score of two, Seriousness Level of 11 on
20 this crime. His standard range is 95 to 125 months
21 in custody with a maximum term of life and a \$50,000
22 fine.

23 Your Honor, the State's recommendation
24 for sentencing is as relates to Count 1, the robbery
25 offense; that the defendant serve a term of 13 months

Realtime Transcript

4

1 in custody. As relates to Count 2, the Rape II
2 offense, the defendant to serve a term of 110 months
3 in custody. Count 1 would run concurrent with
4 Count 2 for a total of 110 months; that the defendant
5 have no contact for the maximum term, which would be
6 life with Chris Sworta or with the family; that the
7 defendant have no contact with the co-defendant in
8 this matter, Julia Bowson; that the defendant is to
9 pay restitution in that amount, as yet to be
10 determined. So, the State will be asking that a
11 restitution hearing at an appropriate time.

12 THE COURT: Does counsel waive his
13 client's presence on a restitution hearing? Is he
14 asking to be brought back?

15 MR. HALE: He waives his presence on
16 that.

17 MS. KAYS: Other conditions the State
18 also is requesting: That the defendant obtain a

19 sexually deviant evaluation; follow all treatment
20 recommendations; that he obtain a substance abuse
21 evaluation; follow all treatment recommendations;
22 that he comply with all terms and conditions that is
23 recommended by the Department of Corrections; that he
24 register as a sex offender. Given that this is a
25 post September 1 of 2001 sex offense, the defendant

Realtime Transcript

5

1 is subject to a lifetime term of community custody.
2 Maximum on the Rape II count would be life. State
3 would ask for the Victim Penalty Assessment to be
4 paid; that the defendant submit to DNA and HIV
5 testing.

6 Your Honor, I do want to check to see
7 if Chris or his family members would like to
8 speak.

9 (Pause)

10 They indicated they do not wish to
11 speak.

12 THE COURT: Counsel.

13 MR. HALE: Your Honor, for the record,
14 Matthew Hale.

15 We're asking that the sentencing be at the
16 low end of the sentence range in this case, on the
17 basis of the argument in the presentence report. I
18 hope you had a chance to read it.

19 This is a case where Mr. LaForge, at

20 the time we entered the plea, was an Alford plea on
21 the rape charge. He had actually taken
22 responsibility at that point. Since then he had a
23 sexually deviancy evaluation done. He is starting to
24 deal with some of the issues. He has taken
25 responsibility for the rape as part of this.

Realtime Transcript

6

1 THE COURT: You are asking for an
2 exceptional sentence below the standard range?

3 MR. HALE: Yes.

4 THE COURT: What is the precise basis
5 for that request?

6 MR. HALE: The precise basis is laid
7 out in our PSR. Basically, that the multiple offense
8 points of the sentence guidelines created a situation
9 where this is going to be Rape II from the points of
10 a robbery. On lots of cases we cite with regard to
11 asking that those two points not be counted on the
12 robbery case, on to the Rape II case. Based on the
13 fact that the Rape II was the main course of conduct.
14 The robbery was the same course of conduct.

15 I have received - -

16 THE COURT: Counsel, those are two
17 different issues. One issue is whether the same
18 course of conduct and the other issue is multiple
19 offense policy.

20 MR. HALE: Yes, Your Honor. We're.

21 asking that you not, that you count these as the same
22 course of conduct, based on the case that we cite.

23 There are some cases that are not
24 particularly on point in this case. There are cases
25 where assault/kidnapping have been considered the

Realtime Transcript

7

1 same offense when the assault was used to force a
2 person into a kidnapping. There are cases where
3 robbery/kidnapping were considered as the same
4 offense when it happened at the same time. The
5 robbery was used to push kidnapping in this
6 situation. We're charging that the robbery is used
7 to push the Rape II situation.

8 This is one case that is pretty close
9 to being on point. State versus Sterns. It dealt
10 with the issue of robbery and rape where a person was
11 charged with both. In that situation the court did
12 not find that those were the same course of conduct.
13 But they can be distinguished, because in this case
14 there was one defendant; in this case there were two.
15 There was a co-defendant, Mr. Mosone was a
16 co-defendant. He committed the robbery. At one
17 point they separated; Mr. Mosone who went to the ATM
18 with the bank card and took the money. Mr. LaForge
19 went to the side of the building.

20 THE COURT: Counsel, at the time that
21 was presented to the victim, the victim turned over

22 the ATM card to the defendant. The robbery occurred,
23 right?
24 MR. HALE: That is correct, Your
25 Honor.

Realtime Transcript

8

1 THE COURT: The fact that they took it
2 at the ATM machine, and then committed the robbery.
3 I submit to you that the robbery had already, for all
4 practical purposes, occurred even if they hadn't gone
5 to the ATM machine. They were still probably
6 considering it a first degree robbery. They
7 apparently negotiated it down to a second degree
8 robbery proposal. I didn't see the paperwork. It
9 likely started as a Robbery I, Rape I.
10 MS. KAYS: That is correct.
11 THE COURT: We didn't see all that
12 paperwork. We only see the results of the
13 negotiation. But I might suggest that when he
14 presented a knife to the victim, and property is
15 turned over, it's Robbery I.
16 MR. HALE: That is correct, Your
17 Honor.
18 THE COURT: I would be very surprised
19 if the Court of Appeals would say where one offense
20 had been concluded, then you go off, go on to a
21 course of conduct which constitutes a totally
22 separate offense, that that would ever constitute the

23 same course of conduct.

24 MR. HALE: Your Honor, there were - -

25 THE COURT: I recognize there was some

Realtime Transcript

9

1 descretion in the trial judges finding on this..

2 Under these facts, I would submit to you, probably

3 there was no discretion. I would think as a matter

4 of law, these are two separate acts.

5 MR. HALE: Your Honor, under the law

6 if you did find intent did not change during both

7 crimes, it could be two different crimes; if robbery

8 was intended to be used.

9 THE COURT: I find from reading the

10 cert, it would be a stretch to say even if he

11 stopped, that man originally raped him. But it

12 appears to me that rape was an afterthought, it came

13 up after the robbery was already over, or virtually

14 over, legally over. I do not think that there is any

15 stretch on this constitutes the same course of

16 conduct.

17 MR. HALE: If I could continue.

18 THE COURT: Yes.

19 MR. HALE: Mr. LaForge has come a long

20 ways. He's entered a plea. He has taken

21 responsibility. I think in the sexually deviant

22 evaluation where he did admit to the rape in this

23 case.

24 He has completed his GED since he has
25 been in custody. He has been in custody for about 15

Realtime Transcript

10

1 months. Now, whenever I go to the juvenile detention
2 facility, they always say Armando is their favorite,
3 and is doing very well. He was 16 at the time this
4 happened. He is now 17. He is genuinely sorry for
5 what happened in this case. He is going to apologize
6 today to the victims. So, we're asking you to take
7 those all into consideration to just be as lenient as
8 you possibly can.

9 THE COURT: I still have not heard any
10 legal basis for sentencing down.

11 MR. HALE: It was the same the course
12 of conduct, was the legal basis.

13 THE COURT: Same course of conduct.
14 That's a separate issue than a exceptional sentence.

15 MR. HALE: We would ask you, because
16 it's clear from case law, it is difficult to use just
17 age. So, that is not going to be the basis.

18 THE COURT: Frankly, it is the only
19 basis, I would think.

20 MR. HALE: There are no illustrative
21 examples. Each of those aren't exclusive. None of
22 those listed would in appealing this case, taking
23 that into consideration. I mean, legislature set up
24 a system where we have people who are doing SOSA

25 programs. It's an adult raping a child. They don't

Realtime Transcript

11

1 do any jail time at all in this case situation.

2 THE COURT: Probably. Even if I
3 disagree with the SOSA program, most persons
4 committing those types of acts, do jail time.

5 MR. HALE: Yes. They can do up to six
6 months.

7 THE COURT: From my experience, they
8 do generally six months. With legislation, it
9 doesn't mean they will probably be lenient. The
10 intent of the legislation process, it perhaps is
11 changing that; maybe not now, but later. But SOSA
12 says they have a total list of reasons behind them.
13 As everybody knows, this is not a SOSA case.

14 MR. HALE: I understand. So, we're
15 asking for the low end of the range in this case.

16 THE COURT: All right.

17 MR. HALE: Mr. LaForge would like to
18 say something. Mr. LaForge, sir, what do you have to
19 say?

20 THE DEFENDANT: I would like to read
21 something.

22 THE COURT: You may do so.

23 THE DEFENDANT: Between boy and a man
24 are lessons they learn. I feel I learned a lesson as
25 a boy, young man, as a young adult for this mistake.

Realtime Transcript

12

1 I'm truly sorry for the grief I caused for him and
 2 his family. I am sorry I can't turn back the hands
 3 of time for the emotional and physical hurt that I
 4 caused. But I do pray you will forgive me. I was 16
 5 at the time of the incident, under the influence of
 6 drugs and alcohol. I would like to say if it weren't
 7 for those substances, I would not be standing here
 8 today. There really is no doubt about it, for Mr.
 9 Sworta, the grief I put him through. That person
 10 wasn't me on December 22. Physically, yes,
 11 emotionally, no. I have been clean for a year and a
 12 half. There is not a day that goes by that I think
 13 about what I have done. I do understand I have to
 14 pay for what I have done. They want justice. But I
 15 would like to sympathize, give you my sympathy, that
 16 I am very truly sorry.

17 MR. HALE: There are two folks who
 18 would like speak on behalf of Mr. LaForge.

19 THE COURT: Come over to this side.

20 THE WITNESS: Peter Demetrus.

21 THE COURT: What would you like to
 22 say?

23 THE WITNESS: I'm a pastor for the
 24 family and for Armando. I would just like to
 25 say that what is being charged is not the boy

2107 578598 #

Realtime Transcript

13

1 that I know. He is a good kid. I feel he was
2 bad that night. I am just asking that the court
3 extend some mercy to him to a lighter sentence;
4 that he could be restored to his family. He is
5 paying an incredible price. And that in all of
6 years he have known him, he never has been prone
7 to any display of character such this. His is a
8 good kid. But he had a bad night; very bad
9 night. We are here to speak on he behalf to
10 hopefully help a little bit to get him restored
11 back to his family and society, so he can get
12 back to his life.

13 I feel as pastor, I feel I know he did
14 a terrible act that night. I know he is paying
15 an incredible price. I feel that further excess
16 punishment, he will turn to the wrong side of
17 life rather than help him to get the help he
18 needs. We recommend he get some treatment as
19 soon as possible to turn to a lighter side of
20 sentencing.

21 THE WITNESS: Mary Dedomen. I'm
22 Armando's teacher in the high school.

23 THE COURT: What year did he complete?

24 THE WITNESS: He finished his junior
25 year.

Realtime Transcript

14

1 THE COURT: As I understand, he got a
2 GED.

3 THE DEFENDANT: Yes. I haven't taken
4 the math examine.

5 THE WITNESS: In the 31 years I have
6 been teaching, this is the third time I have ever
7 consented to come give a statement. That is how
8 strongly I feel about this young man, Your Honor.

9 It's not that he is just a good
10 student, he has always been respectful. He helped
11 others. I think it is so hard for me to fathom. I
12 have seen other young people choose some paths of
13 drugs. But I would like to say that he is one of the
14 most tender hearted students I had.. He helped other
15 students in their path. It was unique that he was
16 able to actually earn a school trophy. I watched how
17 he pulled together, even though he was a star of the
18 team, he played in a team.

19 I had the privilege of taking him to
20 Montana for a northwestern junior conference. We saw
21 how cultured, how respectful, how deeply, profoundly
22 he was about everything that went on. I tell you
23 there so many redeeming qualities in some persons.
24 And I know, he just admitted to me, he really made a
25 bad choice. He made a bad choice of a friendship. A

Realtime Transcript

15

1 young man who already had gone down that path with
2 two priors, of whom robbery was something that was
3 done callously without thought. A young man had been
4 caught in the owner's drawer going through their bus
5 tokens. Who knows what friends are the right choice
6 for a friend. I'm not saying that that's the only
7 thing he shouldn't have done. I'm here to tell you
8 the character of the person. I know the hours I
9 spent with him. I think I have a fairly unique view
10 of them, view of him. So, I would respectfully ask
11 to, if there is anyway to go to the lighter side of
12 the sentencing, at least that you would give that
13 consideration. Thank you for your time.

14 THE COURT: Thank you.

15 MR. HALE: One more thing. Mr.
16 LaForge isn't very proud of this. He is on the honor
17 level detention. He has been on that 260 hours. It
18 is the highest level he can have. He is proud of
19 that. I want to bring that up to you. That's all we
20 have.

21 THE COURT: Mr. LaForge, I and the members
22 of the victim's family think the conduct that you
23 exhibited that night would clearly suggest to me that
24 the high end of the sentence range is probably
25 insufficient. The fact of your age, however, lends

Realtime Transcript

16

1 me to go in the other direction. If you were 25 or
 2 30 years old, I would have no trouble whatsoever
 3 imposing 125 months; because your conduct deserves
 4 it. ~~But you are still 17 years old. But because of~~
 5 ~~(the nature of the offense, you were not given a)~~
 6 ~~(chance to go into the juvenile justice system. You)~~
 7 ~~(will go into the adult system, which is going to be~~
 8 ~~tough for a 17 year old. Absolutely no doubt, it is~~
 9 ~~going to be tough. Legislation is put into effect,~~
 10 ~~(declined this. You can't take care of a serious)~~
 11 ~~(juvenile offenders in the juvenile system when they~~
 12 ~~(commit an offense like that) That's progressive of~~
 13 ~~(legislation by setting a low end sentence of 95~~
 14 ~~(months) that is still a very long sentence. The)~~
 15 ~~(only reason I'm mitigating the sentence is your age)~~
 16 Because reading the certification like this, thinking
 17 what a young victim would go through, is really
 18 chilling. I can't imagine, having been a young man,
 19 to have been in victim's shoes on that evening. But
 20 I think to stretch, I can't put myself in that
 21 situation. It would be so horrifying.

22 If you are having sexual
 23 identification issues, I don't know, there are
 24 suggestions, reports that that may be occurring.
 25 Then, I will tell you to deal with it. I do not

Judge knew *
 legislation was
 in effect, but did
 not remand to
 Juvenile on amended
 info.

Realtime Transcript

17

1 consider sexual orientation to be sexually deviant.
2 I'm not sentencing you to sexually deviant treatment
3 to deal with that. What I am sending you to sexually
4 deviant treatment for is acting out against an
5 innocent victim. You will have a sexually deviant
6 evaluation. You will have treatment. You will get,
7 I'm making it 14 months on the Robbery II. That
8 really is irrelevant. It will be 95 months on rape
9 to run concurrent. You will register as a sexual
10 offender. You may have HIV, DNA testing. You will
11 have a substance abuse evaluation as well. Follow
12 any recommended treatment. There was a request in
13 the presentence materials.

14 Although I will mention at trial, that detention
15 be served in juvenile facility, that was denied, the
16 length of time you will be serving. You are well
17 past the age of those juveniles. I don't think it
18 would be appropriate to put you in until you are 25
19 years old or something.

20 MR. HALE: Your Honor, if I could, the
21 time he has already been in custody for 15 months, 59
22 months. So, it could be 22, be right to there,
23 around 21 when he is getting out.

24 THE COURT: Your request is denied.

25 MS. KAYS: Is the court also ordering

1 the defendant have no contact with the victim's
2 family?

3 THE COURT: I am.

4 MS. KAYS: Okay.

5 THE COURT: As a result of the
6 legislation change last year.

7 MS. KAYS: September 1 of 2001, the
8 crime coming to past at that time.

9 THE COURT: Time and place. You are
10 permanently prohibited from bearing a firearm in the
11 State of Washington. Do you understand that?

12 THE DEFENDANT: Right.

13 THE COURT: That provision is not
14 restored once you get out of custody, even after you
15 comply with the other provisions of the sexually
16 deviancy requirements. All that says is that you
17 can't have a gun in Washington for the rest of your
18 life unless you come back in to the sentencing court
19 asking for it to be restored. if you were in
20 possession of a firearm, what we call constructive
21 possession, you will face a felony charge. You can't
22 even do any target practicing, something like that.
23 If any of your friends do, you stay away from them.
24 Make sure that any house you live in doesn't
25 have any guns in it, or your car.

Realtime Transcript

19

1 That concludes this matter.

2 MS. KAYS: Thank you.

3 MR. HALE: Thank you, Your Honor.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Realtime Transcript

20

1 COURT REPORTER'S CERTIFICATE

2

3 STATE OF WASHINGTON)
 4) ss.
 5 COUNTY OF KING)
 6

7 I, PETE S. HUNT,
 8 hereby certify that I am a Certified Shorthand
 9 Reporter licensed by the State of Washington, acting
 10 in the capacity of an Official Court Reporter, in and
 11 for the County of King;

12 that I took down stenographically the
 13 proceedings in the aforementioned cause before a
 14 Judge presiding over the trial;

15 and that I thereafter caused the same to be
 16 transcribed;

17 that the foregoing constituted a verbatim report
 18 of proceedings in this matter.

19 IN WITNESS WHEREOF, I have subscribed my name
 20 this _____ day of _____ 19____.

21
 22
 23
 24
 25

 PETE S. HUNT, CSR
 Official Court Reporter
 License Number HUNT*PSS7800P End

1
 2
 3

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25



Get the latest updates from MSN

[MSN Home](#) | [My MSN](#) | [Hotmail](#) | [Search](#) | [Shopping](#) | [Money](#) | [People & Chat](#)

© 2006 Microsoft [TERMS OF USE](#) [Advertise](#) [TRUSTe Approved](#) [Privacy Statement](#) [GetNetWise](#) [Anti-Spam Policy](#)

26102167 528598 #

APPENDIX I

FILED

2004 MAR 23 PM 3:11

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

HIV

DOC
COMMITMENT ISSUED
MAR 23 2004

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
	)	Plaintiff,
	)	No. 03-C-03742-3 SEA
)	
Vs.	)	JUDGMENT AND SENTENCE
	)	FELONY
ARMONDO T. LAFORGE)	
)	
)	
	)	Defendant,

I. HEARING

I.1 The defendant, the defendant's lawyer, MATTHEW HALE, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: CHRIS DUARTE, Pat & Craig Duarte

II. FINDINGS

There being no reason why judgment should not be pronounced, the court finds:
2.1 CURRENT OFFENSE(S): The defendant was found guilty on 12/15/2003 by plea of:

Count No.: <u>I</u>	Crime: <u>ROBBERY IN THE SECOND DEGREE</u>
RCW <u>9A.56.210;9A.56.190</u>	Crime Code: <u>02924</u>
Date of Crime: <u>12/22/2002</u>	Incident No. _____
Count No.: <u>II</u>	Crime: <u>RAPE IN THE SECOND DEGREE</u>
RCW <u>9A.44.050 (1) (A)</u>	Crime Code: <u>00744</u>
Date of Crime: <u>12/22/2002</u>	Incident No. _____
Count No.: _____	Crime: _____
RCW _____	Crime Code: _____
Date of Crime: _____	Incident No. _____
Count No.: _____	Crime: _____
RCW _____	Crime Code: _____
Date of Crime: _____	Incident No. _____

[] Additional current offenses are attached in Appendix A

PRESENTENCING STATEMENT & INFORMATION ATTACHED

153

SPECIAL VERDICT or FINDING(S):

- (a) While armed with a firearm in count(s) _____ RCW 9.94A.510(3).
- (b) While armed with a deadly weapon other than a firearm in count(s) _____ RCW 9.94A.510(4).
- (c) With a sexual motivation in count(s) _____ RCW 9.94A.835.
- (d) A V.U.C.S.A offense committed in a protected zone in count(s) _____ RCW 69.50.435.
- (e) Vehicular homicide Violent traffic offense DUI Reckless Disregard.
- (f) Vehicular homicide by DUI with _____ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.510(7).
- (g) Non-parental kidnapping or unlawful imprisonment with a minor victim. RCW 9A.44.130.
- (h) Domestic violence offense as defined in RCW 10.99.020 for count(s) _____.
- (i) Current offenses encompassing the same criminal conduct in this cause are count(s) _____ RCW 9.94A.589(1)(a).

2.2 **OTHER CURRENT CONVICTION(S):** Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

- Criminal history is attached in Appendix B.
- One point added for offense(s) committed while under community placement for count(s) _____

2.4 SENTENCING DATA:

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count I	2	IV	12+ TO 14 MONTHS		12+ TO 14 MONTHS	10 YRS AND/OR \$20,000
Count II	2	XI	95 TO 125 MONTHS		95 TO 125 MONTHS	LIFE AND/OR \$50,000
Count						
Count						

Additional current offense sentencing data is attached in Appendix C.

2.5 EXCEPTIONAL SENTENCE (RCW 9.94A.535):

Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) _____. Findings of Fact and Conclusions of Law are attached in Appendix D. The State did did not recommend a similar sentence.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

The Court DISMISSES Count(s) _____

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
 - Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(2), sets forth those circumstances in attached Appendix E.
 - Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
 - Date to be set.
 - Defendant waives presence at future restitution hearing(s).
 - Restitution is not ordered.
- Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500.

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a) \$ _____, Court costs; Court costs are waived; (RCW 9.94A.030, 10.01.160)
- (b) \$100 DNA collection fee; DNA fee waived (RCW 43.43.754)(crimes committed after 7/1/02);
- (c) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs; Recoupment is waived (RCW 9.94A.030);
- (d) \$ _____, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA; VUCSA fine waived (RCW 69.50.430);
- (e) \$ _____, King County Interlocal Drug Fund; Drug Fund payment is waived; (RCW 9.94A.030)
- (f) \$ _____, State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);
- (g) \$ _____, Incarceration costs; Incarceration costs waived (RCW 9.94A.760(2));
- (h) \$ _____, Other costs for: _____

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 500.00 + Restitution. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month; On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied. Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

- Court Clerk's trust fees are waived.
- Interest is waived except with respect to restitution.

4.4 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: immediately; (Date): _____ by _____ .m.

14 ~~180~~ months/days on count I; _____ months/days on count _____; _____ months/day on count _____
95 months/days on count II with a maximum term of LIFE; _____ months/day on count _____

The above terms for counts I & II are consecutive// concurrent.

The above terms shall run CONSECUTIVE CONCURRENT to cause No.(s) _____

The above terms shall run CONSECUTIVE CONCURRENT to any previously imposed sentence not referred to in this order.

In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special WEAPON finding(s) in section 2.1: _____

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (Use this section only for crimes committed after 6-10-98)

The enhancement term(s) for any special WEAPON findings in section 2.1 is/are included within the term(s) imposed above. (Use this section when appropriate, but for crimes before 6-11-98 only, per In Re Charles)

The TOTAL of all terms imposed in this cause is 95 months.

Credit is given for _____ days served days as determined by the King County Jail, solely for confinement under this cause number pursuant to RCW 9.94A505(6).

4.5 NO CONTACT: For the maximum term of LIFE years, defendant shall have no contact with CHRIS DWORTE, CRAIG & PAT DWORTE; Julian Molchan

4.6 DNA TESTING. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing, as ordered in APPENDIX G.
 HIV TESTING: For sex offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in APPENDIX G.

4.7 (a) COMMUNITY PLACEMENT pursuant to RCW 9.94A.700, for qualifying crimes committed before 7-1-2000, is ordered for _____ months or for the period of earned early release awarded pursuant to RCW 9.94A.728, whichever is longer. [24 months for any serious violent offense, vehicular homicide, vehicular assault, or sex offense prior to 6-6-96; 12 months for any assault 2°, assault of a child 2°, felony violation of RCW 69.50/52, any crime against person defined in RCW 9.94A.411 not otherwise described above.] APPENDIX H for Community Placement conditions is attached and incorporated herein.

(b) COMMUNITY CUSTODY pursuant to RCW 9.94.710 for any SEX OFFENSE committed after 6-5-96 but before 7-1-2000, is ordered for a period of 36 months or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. APPENDIX H for Community Custody Conditions and APPENDIX J for sex offender registration is attached and incorporated herein.

(c) **COMMUNITY CUSTODY** - pursuant to RCW 9.94A.715 for qualifying crimes committed after 6-30-2000 is ordered for the following established range:

- Sex Offense, RCW 9.94A.030(38) - ~~36 to 48 months~~ when not sentenced under RCW 9.94A.712
- Serious Violent Offense, RCW 9.94A.030(37) - 24 to 48 months
- Violent Offense, RCW 9.94A.030(45) - 18 to 36 months
- Crime Against Person, RCW 9.94A.411 - 9 to 18 months
- Felony Violation of RCW 69.50/52 - 9 to 12 months

lifetime term of community custody

or for the entire period of earned early release awarded under RCW 9.94A.728, whichever is longer. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.737.

APPENDIX H for Community Custody conditions is attached and incorporated herein.

APPENDIX J for sex offender registration is attached and incorporated herein.

4.8 **WORK ETHIC CAMP:** The court finds that the defendant is eligible for work ethic camp, is likely to qualify under RCW 9.94A.690 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the defendant shall be released to community custody for any remaining time of total confinement. The defendant shall comply with all mandatory statutory requirements of community custody set forth in RCW 9.94A.700. Appendix H for Community Custody Conditions is attached and incorporated herein.

4.9 **ARMED CRIME COMPLIANCE, RCW 9.94A.475, 480.** The State's plea/sentencing agreement is attached as follows:

The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

Date: 3/19/04

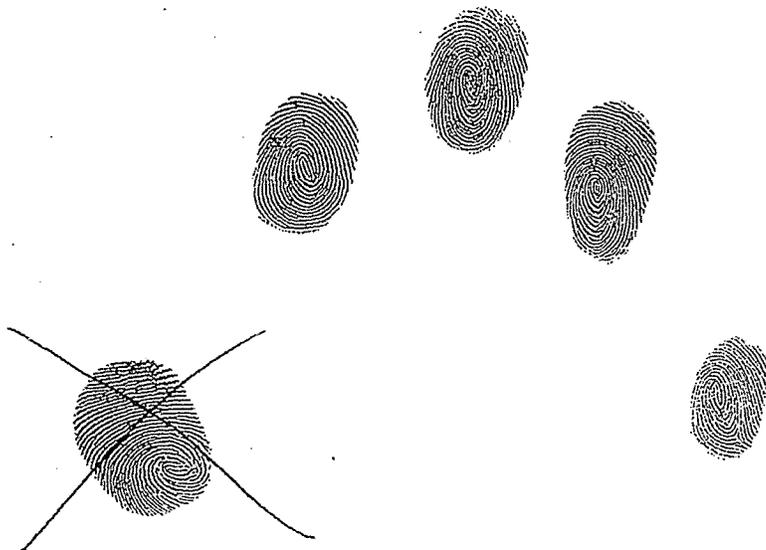
Michael Hays
JUDGE
Print Name: _____

Presented by: [Signature]
Deputy Prosecuting Attorney, WSBA# 30385
Print Name: Julie A. KAYS

Approved as to form: [Signature]
Attorney for Defendant, WSBA # 22041
Print Name: Matthew T. Hale

FINGERPRINTS

BEST AVAILABLE IMAGE POSSIBLE



RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE: *Armando T. LaForge*
DEFENDANT'S ADDRESS: _____

ARMONDO T LAFORGE

DATED: MAR 19 2004

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK

Michael C. Hayden
JUDGE, KING COUNTY SUPERIOR COURT

BY: *Shanna Knight*
DEPUTY CLERK

MICHAEL C. HAYDEN

SHANNA KNIGHT

CERTIFICATE

OFFENDER IDENTIFICATION

I, _____,
CLERK OF THIS COURT, CERTIFY THAT
THE ABOVE IS A TRUE COPY OF THE
JUDGEMENT AND SENTENCE IN THIS
ACTION ON RECORD IN MY OFFICE.
DATED: _____

S.I.D. NO.
DOB: AUGUST 20, 1986
SEX: M
RACE: I

CLERK

BY: _____
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
	)	No. 03-C-03742-3 SEA
Plaintiff,)	
)	
vs.	)	APPENDIX G
	)	ORDER FOR BIOLOGICAL TESTING
ARMONDO T. LAFORGE	)	AND COUNSELING
)	
Defendant,)	
)	

MAR 23 2004
FAX COPY TO JAIL

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

(2) HIV TESTING AND COUNSELING (RCW 70.24.340):

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 205-7837 to make arrangements for the test to be conducted within 30 days.

If (2) is checked, two independent biological samples shall be taken.

Date: 3/19/04

Michael Hayes

JUDGE, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
	)	No. 03-C-03742-3 SEA
Plaintiff,)	
)	
vs.	)	JUDGMENT AND SENTENCE
	)	APPENDIX H
ARMONDO T. LAFORGE	)	COMMUNITY PLACEMENT OR
	)	COMMUNITY CUSTODY
Defendant,)	

The Defendant shall comply with the following conditions of community placement or community custody pursuant to RCW 9.94A.700(4), (5):

- 1) Report to and be available for contact with the assigned community corrections officer as directed;
- 2) Work at Department of Corrections-approved education, employment, and/or community service;
- 3) Not possess or consume controlled substances except pursuant to lawfully issued prescriptions;
- 4) Pay supervision fees as determined by the Department of Corrections;
- 5) Receive prior approval for living arrangements and residence location;
- 6) Not own, use, or possess a firearm or ammunition. (RCW 9.94A.720(2));
- 7) Notify community corrections officer of any change in address or employment; and
- 8) Remain within geographic boundary, as set forth in writing by the Department of Corrections Officer or as set forth with SODA order.

OTHER SPECIAL CONDITIONS:

- The defendant shall not consume any alcohol.
- Defendant shall have no contact with: Craig Duarte, Pat Duarte, Christa Duarte, Julian Molzhan
- Defendant shall remain within outside of a specified geographical boundary, to wit: _____
- The defendant shall participate in the following crime-related treatment or counseling services: _____
- SEXUAL OFFENSE EVAL & follow all trtmt recs -
- SUBSTANCE ABUSE EVAL & follow all trtmt recs.
- The defendant shall comply with the following crime-related prohibitions: _____

- _____

Other conditions may be imposed by the court or Department during community custody.

Community Placement or Community Custody shall begin upon completion of the term(s) of confinement imposed herein or when the defendant is transferred to Community Custody in lieu of earned early release. The defendant shall remain under the supervision of the Department of Corrections and follow explicitly the instructions and conditions established by that agency. The Department may require the defendant to perform affirmative acts deemed appropriate to monitor compliance with the conditions [RCW 9.94A.720] and may issue warrants and/or detain defendants who violate a condition [RCW 9.94A.740].

Date: 3/19/04

[Signature]
JUDGE

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)
Plaintiff,)
vs.)
Armando Lafage)
Defendant,)

No. 03.C.03742.3SEA
APPENDIX J
JUDGMENT AND SENTENCE
SEX OFFENDER NOTICE OF
REGISTRATION REQUIREMENTS

SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense or kidnapping offense (e.g., kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW where the victim is a minor and you are not the minor's parent), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within 30 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with the sheriff within 24 hours of moving and you must give written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move, work, carry on a vocation, or attend school out of Washington State, you must send written notice within 10 days of establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state, to the county sheriff with whom you last registered in Washington State.

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 48 hours, excluding weekends and holidays, after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report in person to the sheriff of the county where you registered on a weekly basis. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

Copy Received:
Armando Lafage
Defendant
Date 3/19/09

Michael Hays
JUDGE

APPENDIX J
Rev. 11/03 Distribution:
Original/White - Clerk
Yellow - Defendant
Pink - King County Jail

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

In re Personal Restraint Petition of)	
Armondo Laforge:)	
)	
STATE OF WASHINGTON)	
)	
Respondent,)	
)	
v.	)	COA NO. 73178-5-1
)	
ARMONDO LAFORGE,)	
)	
Petitioner.)	

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 24TH DAY OF DECEMBER 2015, I CAUSED A TRUE AND CORRECT COPY OF THE **PETITIONER'S OPENING BRIEF** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] ARMONDO LAFORGE
3421 S. 263RD STREET
KENT, WA 98032

SIGNED IN SEATTLE WASHINGTON, THIS 24TH DAY OF DECEMBER 2015.

x *Patrick Mayovsky*