

NO. 73357-5-I

COURT OF APPEALS
Division I
OF THE STATE OF WASHINGTON

JOHN E. BETTYS,
Appellant,

v.

DEPARTMENT OF CORRECTIONS, et. al.,
Respondent,

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON, FOR SKAGIT COUNTY

The Honorable David R. Needy, Judge

OPENING BRIEF OF APPELLANT

By: John E. Bettys, pro se
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2015 OCT -8 AM 11:06
COURT OF APPEALS DIV I
STATE OF WASHINGTON
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A. IDENTITY OF THE APPELLANT

I, John E. Bettys, Appellant, pro se, hereby request Court provide the relief designated in Part-B below.

B. RELIEF BEING SOUGHT

Mr. Bettys requests this Court dismiss the criminal actions with prejudice for the governmental mismanagement presented, or in the alternate order that Mr. Bettys be provided community type treatment immediately at the expense of the Court, per judgment's original wording.

C. STATEMENT OF THE FACTS

On May 11, 2011, Bettys was convicted by a jury of child's molestation first degree, which required Bettys sentenced to the life without parole.

On March 3, 2013, Bettys conviction was reversed by panel of the Court of Appeals, division one for improper inclusion of the propensity evidence under RCW 10.58.090.

On September 26, 2013, Bettys entered an agreed "Alford Plea" with the understanding that he would be provided community based sex offender treatment.

On November 26, 2013, Bettys was sentenced within exceptional guidelines under RCW 9.94A.507(3)(c)(i) to release for community treatment under RCW 9.94A.535 standards of exceptional sentences.

On December 10, 2013, Bettys filed "direct appeal" under the judgment after discovery of WAC 388-15-009, which makes the touch over clothing by Bettys lawful as a parent approved caretaker.

On December 11, 2013, Attorney General "Ms. Larson" advised Prosecutor by E-mail she was setting a hearing December 17, 2013 in the trial court to address DOC's concerns with the sentence.

On December 17, 2013, Hon. David R. Needy heard arguments of the Attorney General, DOC's witness, and counsel on modifications of the criminal sentence, without either party filing a motion to be heard by the trial court in the criminal action. This violated Court's rules and the "Due Process of the Law Clause" of both the United States' and Washington's Constitution. APPENDIX-A.

Hon. David R. Needy, acting without authority in the law did modify the criminal sentence imposed November 26, 2013 to require Bettys attend sex offender treatment in-custody, violating terms the "Alford Plea" was accepted under, and violating the "Double Jeopardy Clause" of both the United States' and Washington's own constitutional provisions, not to mention standing caselaw.

The trial court violated RAP 7.2 holding a hearing while a direct criminal appeal was pending without requesting permission from the appeals court, and Ms. Larson violated RAP 5.2 by her failure to file a "cross-appeal" addressing DOC's concerns with the criminal sentence pending appeal.

On December 30, 2013, Bettys filed COA# 71418-0-I addressing the December 17, 2013 hearing issues, and combined 71417-1-I into 71418-0-I in the interest of judicial economy.

On February 5, 2014, Hon. David R. Needy held a second Court hearing to determine if treatment was in progress as required by the order amending sentence from December 17, 2013 modifications, and was informed Bettys is "in treatment," which is a lie by record.

Ms. Larson, Attorney General appeared to the trial court on February 5, 2014 to inform the Court that Bettys is currently in the required sex offender treatment in the Department of Corrections(DOC). The records of treatment prove this statement of a material fact to be perjury before the trial court by the state's attorney general, as treatment began February 14, 2014. APPENDIX-

On April 27, 2014, the DOC stopped in-custody treatment for Bettys refusal to admit guilt while on direct appeal of guilt in the current action, in violation of the sentence as modified on December 17, 2013.

The treatment was assured Bettys in acceptance of the "Alford Plea" to the child molestation charges, thereby DOC could not make a determination to stop the treatment program lawfully.

On July 10, 2014, Bettys filed in the trial court for an order placing Bettys in the treatment program against DOC wishes, which is denied by the trial court, finding it lacked authority.

On Septemeber 24, 2014, Bettys filed in the trial court for an order directing Bettys release to the originally agreed communities treatment program, in compliance with the alford plea terms, which is denied by the trial court, with a claim the court lacks both the jurisdiction and authority for such order.

On December 19, 2014, Bettys had heard this "writ of mandamus" petition, which gave the trial court both authority and jurisdiction to order the criminal sentence complied with by DOC, which was also denied by the trial court.

The trial court refused to direct compliance with the terms of the criminal sentnece, and order treatment provided Bettys, and as a

direct result of trial court's conduct at the "writ of mandamus" hearing, Bettys is subjected to a current "civil petition" under RCW 71.09 standards, as without treatment before release Bettys' is "more likely to commit a new sex crime," subjecting him to the standards of a recent overt act petition.

Therefore, the records establish that Bettys should be here released to community treatment, without proceedings under 71.09 to continue confinement.

D. ISSUES PRESENTED FOR REVIEW

1. Does the record establish the trial court's ruling is based on evidence not in the record before the court at the December 19, 2014 hearing?
2. Does the record establish sufficient governmental and judicial misconduct/mismanagement to require the case dismissed with prejudice?
3. Does the record establish the fact that except for the trial court's conduct December 19, 2014 the currently filed "civil petition" under RCW 71.09 would not be a issue faced by Mr. Bettys?

E. GROUND AND ARGUMENTS FOR RELIEF

1. DOES THE RECORD ESTABLISH THE TRIAL COURT'S RULING IS BASED ON EVIDENCE NOT IN THE RECORD BEFORE THE COURT AT THE DECEMBER 19, 2014 HEARING?

Mr. Bettys was placed in the DOC's treatment on December 14, 2014, in violation of the amended sentence terms imposed by order on December 17, 2013 judgment and sentence. CP 14-135 at B; APP-B;

The director of DOC treatment program advised trial court that it would be "unethical" to place Bettys in their programs in DOC's facilities while Bettys appealed guilt. APPENDIX-A.

The trial court ignored the information, placing an order that Bettys shall begin DOC's treatment by February 1, 2014 or be immediately released to community treatment through state's community custody system. APPENDIX-B; CP 14-135 at A; CP 143-208 at Ex-3.

The Hon. David R. Needy, Judge stated on record as a hearing December 19, 2014 that "[m]y information is that you were removed from treatment maybe partially because of your refusal to admit having done anything wrong, but also because of your conduct in treatment that made you not amenable to treatment." 1RP at 5.

The record is silent on such evidence of removal from DOC's treatment program, and the only interfering behaviors is directly related to the refusal to admit guilt while under appeal of that guilt issue in the current action. APPENDIX-A; CP 14-135 at B.

Bettys treatment lasted less than two months, which is not surprising when DOC's director of treatment told the trial court December 17, 2013 that Bettys was not ethically eligible to have the DOC's treatment while under appeal of the guilt issues from the entry of the alford plea. APPENDIX-A; CP 14-135 at F and at B,

Bettys did not challenge the treatment therapist authority beyond their seeking Bettys' admission of guilt while under the criminal appeal, advising her that Bettys' constitutional rights would be violated during treatment, which caused group's issues with Bettys in the treatment. However, the records trial court had December 19, 2014 were silent on these facts. CP 14-135 at C.

The record before the trial court does not establish Bettys was un-amenable to sex offender treatment in the DOC's programs, as stated by Hon. David R. Needy as a basis for denying a "Writ of Mandamus" petition on December 19, 2014. 1RP at 5;

Contrary, the records established that Mr. Bettys had always denied the guilt for the current offense, entering an "Alford's Plea" to maintain his innocence, and refusing to admit any guilt during the presentence evaluations and DOC's initial evaluations for treatment purposes. APPENDIX-C; CP 14-135 at B & at C & at F;

Therefore, the DOC is barred at the December 19, 2014 hearing by either the doctrine of "Collateral Estoppel" or "Res Juricata" from re-litigation of Mr. Bettys being amenable to treatment, and DOC's refusal to follow the criminal judgment & sentence imposed based on their finding Mr. Bettys un-amenable to treatment, where the State's attorneys accepted the evaluation conducted before the sentence was imposed, in conjunction with the "Alford Plea," that determined Mr. Bettys amenable to community based treatment, and State's attorney had the evaluation placed in court's records as part of the sentencing process. APPENDIX-E; CP 14-135 at E;

This evaluation not only finds Mr. Bettys amenable to this sex offender treatment in the community, but specifically finds that Mr. Bettys is not a sexually violent predator type person, and the State of Washington should have litigated amenable to a sex offender treatment issue at the prior hearing, if State was not directly in agreement with the findings in the record, which it did not litigate the issue, even requesting the evaluation be made part of the official record at sentencing. CP 14-135 at C;

"A trial court abuses discretion when an order is manifestly unreasonable or based on untenable grounds." State V. Thompson, 173 Wn.2d 856, 271 P.3d 204 (2012)(citing State V. Rafay, 167 Wn.2d 644, 655, 222 P.3d 86 (2009)).

"A discretionary decision is based on untenable grounds or made for untenable reasons, if it rests on facts unsupported in a record, or was made by applying the wrong legal standards." See State V. Thompson, 173 Wn.2d 856, 271 P.3d 204 (2012)(quoting State V. Rohrich, 149 Wn.2d 647, 71 P.3d 638 (2003)).

Since the trial court's ruling on December 19, 2014 is based on evidence or facts that are not in the record before the court at the hearing, there exists an abuse of discretion. The records do not contain any evidence in the form of a treatment evaluation finding Mr. Bettys un-amenable to DOC's treatment program, which is the basis for the trial court's denial of the "writ," thereby, the ruling refusing to enforce the terms of the criminal sentence order based on such a finding is an abuse of discretion, showing a personal bias for Mr. Bettys in this instance. CP 14-135 at B;

The ruling must be reversed in this instance, and Bettys here ordered to the community based treatment required. CP 14-135 at A;

2. DOES THE RECORD ESTABLISH SUFFICIENT GOVERNMENTAL MISCONDUCT OR JUDICIAL MISCONDUCT TO REQUIRE THIS ACTION DSMLSSD WITH PREJUDICE?

The Hon. David R. Needy, Judge personally did create these interesting situations faced by Mr. Bettys. 1 RP at 5 Ln.

The judge admitted he never intended that Bettys' protected right be enforced during the terms of the sentence, in fact this record stated clearly he did not approve of such in DOC treatment,

while faced with the unethical treatment during direct appeal in the criminal action, after the December 17, 2013 modification of the original sentence, violating the terms of the "Alford Plea" entered in this action by Mr. Bettys. 1RP at 5; APPENDIX-B & C;

The modified Sentence of December 17, 2013 required that DOC ensure Bettys is in treatment to hold Bettys in custody after the February 1, 2014 release date established. APPENDIX-C; CP 14-135 at A;

The DOC stopping treatment after obtaining the February 5, 2014 ruling that the sentence was being complied with violated the modified terms of the sentence, depriving Bettys treatment while still holding him in the Department of Corrections. See APPENDIX-B; CP 14-135 at C; at A; at E;

The Department of Correction is a governmental agency within the meaning of the law, therefore the matter is subject to herein be dismissed based on the misconduct with application of sentence terms listed on the criminal judgment. APPENDIX- B; CP 14-135 at A;

The additional proof in the record of this action that the Attorney General "Ms. Larson" committed perjury February 5, 2014 to continue holding Bettys in-custody of DOC is the evil in the governmental mismanagement that automatically requires dismissal with prejudice in any action. CP 14-135 at B (Start Date Treatment);

Bettys, was not "in treatment" on February 1, 2014 as this criminal sentence required for the DOC to hold Bettys past that established criminal sentence release date in record. CP 14-135 at B;

Additionally, Mr. Bettys can establish through records the trial court's personal bias in ordering treatment, where there are statements by Hon. David R. Needy, judge constituting this

judicial bias on the sentence imposed, and modification of that sentence after entry, without motion of either party. CP 14-135 at C; CP 14-135 at E; APPENDIX-A; CP 14-135 at A;

These records establish the Hon. David R. Needy, judge was acting without judicial authority at the time of the December 17, 2013 sentence modification, and in direct violation of a "double jeopardy clause" protection guaranteed Mr. Bettys by both of the United States and Washington State Constitutions. APPENDIX-A;

Wherefore, it can be proven that the judge was acting with deliberate disregard for the constitutional provisions and rights of the accused, there is established the judicial bias required for dismissal with prejudice.

"Arbitrary actions and/or governmental misconduct need not be of an evil or dishonest nature, simple mismanagement is sufficient!" See State V. Blackwell, 120 Wn.2d 822, 845 P.2d 1017 (1993); State V. Michielli, 132 Wn.2d 229, 71 A.L.R. 705, 937 P.2d 587 (1997).

Under Washington State constitution art. 1 § 22 the founding father established Mr. Bettys right to appeal the criminal action's sentence, which Mr. Bettys exercised.

Under both the United States constitution Fifth amendment and Washington State constitution art. 1 § 9, the founding fathers did establish protections from being twice sentenced for the same case or criminal acts, as occurred with Mr. Bettys. APPENDIX-A;

Under the United States and Washington State constitutional clauses, Mr. Bettys had the right "to remain silent" while these criminal matters are pending appeal, which will likely result in a new criminal trial, which he exercised while in the DOC's very

sex offender treatment program. This is further evidenced by the director Mr. Landon's statements on December 17, 2013 to a trial court that it would be "unethical to place someone appealing the guilt in treatment." See APPENDIX- A;

The facts and actual evidence establish that Hon. David R. Needy, judge of Skagit County Superior Court did act without a motion filed December 17, 2013, did modify a criminal sentence in violation of "double jeopardy clause" protection, and thereby did violate his official oath of office requiring constitutions provision upheld by the trial court, establishing mismanagement sufficient to dismiss with prejudice the action. APPENDIX-D; CP 14-135 at A; APPENDIX-A;

The facts further establish that the DOC staff did hold the Appellant Bettys without providing required treatment between the period of April 27, 2014 through February 19, 2015, which is the evidence sufficient to require dismissal with prejudice under the governmental mismanagement provision. CP 14-135 at B-Pg. 1;

The facts in evidence establish that the DOC staff held the Mr. Bettys past February 1, 2014 release date establish in this criminal sentence without providing sex offender treatment under the sentence as required by February 1, 2014, violating the "Due Process of the Law" establish in the sentence, which is evidence sufficient to require dismissal with prejudice under governmental mismanagement provision. CP 14-135 at B-Pg. 1;

The facts establish the Attorney General "Ms. Larson" acted intentionally to commit perjury on February 5, 2014 before trial court to have Mr. Bettys held in DOC's custody, where she told a

deliberate and willful lie to the trial court, claiming that the Appellant was actively in DOC's treatment on February 5, 2014 as required by the modified criminal sentence, whereby the records of DOC's treatment established the Appellant started treatments on February 14, 2014, nine days after the lie to the court, and fourteen days after the criminal sentence required release to a community based treatment program. CP 14-135 at B-Pg. 1;

This act of deliberate illegal confinement based on a lie to the trial court warrants the attorney's here being disbarred from the practice of law in the State of Washington, and dismissal of the criminal action with prejudice. The misconduct of State's own attorney "Ms. Larson" has directly resulted in the currently now pending civil petition under RCW 71.09 standards, where had Bettys been released as required to the community treatment, the petition would not be currently filed causing addition confinement.

The constitutional due process clause prohibits this kind of prosecutorial vindictiveness, where the State's attorney lied to obtain a favorable ruling from the court, to further their desired outcome, and such results in a complete miscarriage of justice in the action, which should result in complete dismissal of a matter when proven in the records. United States V. Goodwin, 457 U.S. 368, 372-385, 102 S.Ct. 2485 (1982).

The failure to grant the "writ of mandamus" petition by this Hon. David R. Needy, judge established judicial bias, where judge stated that appeal of his ruling likely would not be appealed in time remaining, then comments that had he knowing of the pending civil petition under RCW 71.09 it would have made ruling different,

is sufficient to establish that judicial bias effected the ruling, which here results in a finding of the abuse of discretion, based on governmental acts of misconduct or mismanagement to support this dismissal with prejudice to the State's attorney. 1RP at 6;

The trial court abused discretion by not ordering the statutes terms of RCW 9.94A.535 complied with by DOC for the exceptiona type sentence trial court imposed in this action, then abused discretion not ordering the written judgment and sentence order terms complied with by the DOC under the "writ of mandamus," prejudicing Bettys by the continued illegal confinement without treatment provided. CP 14-135.

Where the trial court refuses to order the terms of sentence followed by the parties, the sentence becomes void on the face as a matter of procedural due process of the law, and the record now must reflect that the imposed criminal sentence is void, based on trial court's refusal to order such complied with in the "writ of mandamus" on December 19, 2014.

Furthermore, in this instance the sentence imposed is agreed under negotiations of the "Alford Plea" contract, thereby failure of the trial court to issue an order enforcing the sentence under the "writ of mandamus" necessarily viods the conviction under the "Alford Plea" contract, changing the knowledge elements after the contract was ratified and entered between the parties, requiring a dismissal of the action with prejudice to the State, where Bettys has been illegally detained, and cannot recover the lost time the trial court took.

Relief should be granted in the interest of justice, and the order remanding for dismissal should be issued in this court.

3. DOES THE RECORD ESTABLISH THE FACT THAT EXCEPT FOR THE TRIAL COURT'S CONDUCT DECEMBER 19, 2014 BETTYS CURRENTLY PENDING "CIVIL PETITION" WOULD NOT BE AN ISSUE CONFINING BETTYS AT PRESENT?

Mr. Bettys was discharged from the criminal term in-custody on February 19, 2015, and the State's attorney filed under statute 71.09 seeking to civilly detain Mr. Bettys in State's custody.

The primary basis of the civil petition is that Bettys will more likely than not commit a new sex crime if released to Bettys' community un-treated. RCW 71.09 Statute.

Mr. Bettys would not be currently un-treated at the time of his release had the "writ of mandamus" been properly granted in this action on December 19, 2014, as the judgment required that Bettys be released to the community for treatment. CP 14-135 at A;

The trial court modified the sentence on December 17, 2013 to allow Bettys treated in DOC by February 1, 2014, and the record of the DOC's treatment establish the DOC did not start treatment until February 14, 2014. This necessarily establishes that Bettys was in fact illegally confined from February 1, 2014 to February 14, 2014, solely based on a lie told the trial court on February 5, 2014 by Washington State's Attorney General "Ms. Larson" WSBA# 31833, and such a lie to the tribunal is a direct violation of the Rules of Professional Conduct RPC 8.4 and RPC 3.3 standards. CP 14-135 at A;

Once the date established in the criminal sentence past with treatment not being provided Bettys on February 1, 2014, restraint under the Department of Corrections became illegal, and continued to be illegal throughout the remainder of confinement. Therefore, the "writ of mandamus" petition filed by Bettys required that the

trial court release Mr. Bettys to the community portion of this sentence to obtain the agreed treatment, which trial court fails to do on December 19, 2014. CP 14-135 at A; APPENDIX-B:

Mr. Bettys is herein entitled to seek damages for illegally being confined without sex offender treatment from February 1, 2014 through February 19, 2015, and damages for illegally being detained under the current "civil petition" under 71.09, based on the illegal conduct of the Washington State Attorney General telling the trial court the lie on February 5, 2014 to hold the Appellant in DOC's custody past the established release date of the criminal sentence imposed, without complying with the terms requiring Bettys be in sex offender treatment on or before the February 1, 2014 date in the sentence. CP 14-135 at A; CP 143-208 at Ex-3.

Based on the facts of this action, Bettys would request the reviewing court remand the action for dismissal of the action on the basis of the established misconduct of the Washington State's Attorney General, and order the dismissal of the "civil petition" currently pending before the trial court, filed by the Washington State Attorney General's Office based on this lie told. Bettys is showing this reviewing court that except for the favorable ruling obtained from the trial court on February 5, 2014 based directly on the lie of the State's attorney, Bettys would have been provided release to the community based treatment program at that time, and would have been able to complete treatment. The lie was told for a favorable ruling to be entered detaining Bettys to provide State's attorneys the time and opportunity to file the "civil petition" to hold Bettys in State's custody, and therefore the petition must be

dismissed, and Bettys immediately released from the State's sole custody to obtain the community based sex offender treatment the original sentence required provided by February 1, 2014.

The conduct of the trial court refusing to uphold sentence the trial court imposed, and allowing the lie told by the State's attorney has resulted in a complete miscarriage of justice in the action before this reviewing court, and prejudiced Bettys' protected constitutional "due process of the law" right, when DOC failed to release Bettys as the sentence required February 1, 2014 to obtain the community based sex offender treatment. CP 14-135 at B & A;

Mr. Bettys was not actively in the DOC's treatment program on February 5, 2014, when the trial court was told Bettys was in that program as the sentence required, therefore Bettys was illegally detained from February 1, 2014 to present, and all matter stemming from the original act of illegal confinement become "fruit of the tainted tree" once Bettys constitutional rights were violated, as the current "civil petition" under 71.09 stems from confinement in this action, Bettys is entitled to remand for release from all the confinement of the State of Washington against Bettys currently, as a matter of course. CP 14-135 at D; at E; at A; APPENDIX-B & D;

The lie told by the State's attorney to hold Bettys violated the very basis of the Juris Prudence principles, and such conduct should never be awarded, which without dismissal of the currently pending civil petition faced by Bettys from that attorney's office, the conduct would go unpunished, and continue to invade our courts by the attorneys involved. This should be corrected, and attorneys involved should all face disciplinary actions by the bar and courts.

Since the records establish that Bettys has never left custody of the State of Washington, merely moved from one agency to another agency for continued confinement based on the constitutional rights violations listed in this action, and the records establish what is required under the criminal sentence before February 1, 2014 in fact never happened, then in light of the evidence before this court, the current confinement is fruit of the rights violations and vindictive prosecution conduct, and must be dismissed.

Bettys was not lawfully confined after February 1, 2014, and it stands that the RCW 71.09 Statute required lawful confinement at the time the petition was filed on February 17, 2015. Thereby, Bettys' release must be ordered as part remedy in this action.

F. CONCLUSIONS

For the reasons herein stated, the relief sought must be given in this action, with removal of the current illegal confinement the State of Washington continued through the secondary petition.

DATED This ^{2nd}~~2~~^{5th} day of September, 2015.

Respectfully Submitted,

John E Bettys
John Bettys, pro se

APPENDIX A

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DECEMBER 17, 2013

10:00 A.M.

* * *

(Mr. Bettys, Rhonda Larsen, Deputy Attorney General, and Jeff Landon with the Department of Corrections all present telephonically)

THE COURT: Hello. Who is there?

THE DEFENDANT: It's Mr. Bettys.

THE COURT: Mr. Bettys.

MS. LARSEN: AG, Rhonda Larsen.

THE COURT: Alright. Good morning.

MR. LANDON: Jeff Landon with the Sex Offender Treatment Program.

THE COURT: I'm sorry. Who was the last one?

MS. LARSEN: Jeff Landon from the Sex Offender Treatment Program from the Department of Corrections.

THE COURT: Thank you. Are you all three in the same location or in different locations?

MS. LARSEN: We're all in different locations.

THE COURT: Okay. At any time that you can't hear something let us know.

Ms. Kaholokula, if you could call the case for the record.

MS. KAHOLOKULA: Your Honor, this is State versus

1 Bettys, 10-1-159-9.

2 THE COURT: This telephone conference picks up up here on
3 the bench or the bar --

4 MS. McDONALD: Would you prefer if we move?

5 THE COURT: Well, I don't know if they will have any
6 trouble hearing.

7 MR. SWIFT: Why don't we approach.

8 THE COURT: The matter is on for, I guess, status this
9 morning. I don't know who wants to begin. You folks had some
10 conversations I wasn't a part of. So if you want to hear from
11 the Department of Corrections on their motion to have the Court
12 amend its Judgment & Sentence.

13 MS. KAHOLOKULA: That would be fine if the Department
14 wants to go first.

15 THE COURT: Ms. Larsen, did you want to lead us off
16 please.

17 MS. LARSEN: Yes, Your Honor. First of all, I wanted to
18 just go through some description of the process in the statute
19 just for the record. I understand the Court is aware of this. The
20 DOC's function is to determine when to release an offender from
21 prison. In determining when to release an offender sentenced
22 under 9.94A.507, which is the statute that Mr. Bettys was
23 sentenced under is as follows: First under that statute the
24 Court fixes the minimum term. Then under RCW 9.95.420 the end of
25 sentence review committee reviews the offender before the

1 expiration of the term. After the Indeterminate Sentence Review
2 the Board receives the results of the end of sentence review
3 process, the board conducts a hearing to determine whether it is
4 more likely than not that the offender will commit another sex
5 offense if released with conditions. Then if the board does not
6 order the offender to be released the board must establish a new
7 minimum term under RCW 9.95.011. And separate from the related
8 part of this process is early release. Although the Court fixes
9 a minimum term the offender is eligible for early release before
10 that minimum term expires. But the board can release a prison
11 inmate from prison prior to the expiration of the minimum term
12 only for reasons listed in the early release statute, which is
13 RCW 9.94A.728. That statute applies to an offender sentence
14 under the 9.94A.507 because 995.070 states as such.

15 So as far as case law, the early release statute has been
16 held to leave no room for the inherent authority of superior
17 court to release an offender. As the Washington Supreme Court
18 stated in 2009 in In Re Mattson, that's M-A-T-T-S-O-N, 166 Wn.2d.
19 730, quote: "The decision regarding an inmate's releasability is
20 left to the discretion of the agency. The SRA prescribes the
21 authority to sentence in felony cases. The SRA limits the trial
22 court sentencing authority to that expressly found in the
23 statute." And if this were not true the judiciary would be able
24 to intrude on to the realm of the legislative power, violation of
25 separation of power.

1 So in this case the timeline is at issue for Mr. Bettys to
2 be admitted into the Sex Offender Treatment Program. So I would
3 like to go through the steps that need to occur before that can
4 happen so give the Court perspective.

5 I have on the line, as you know, Mr. Jeff Landon, who is
6 the director of the Sex Offender Treatment Program at the
7 Department of Corrections. He will be able to give you
8 perspective from the DOC treatment staff on the process. But
9 before he does I want to inform the Court of where they stand in
10 regard to the board's process. First, the board has asked for a
11 rushed review by an Indeterminate Sentence Review Committee. And
12 that committee is working on that at this time and is hoping to
13 finish that at the end of the week. The offender is located at
14 the institution Clallam Bay. And that institution, luckily, is
15 the only one in the state that allows video parole hearings.
16 Because of that he would be able to receive a hearing sooner than
17 if he were located in another institution. So it is important
18 that he remain at Clallam Bay at this time in order for him to
19 receive a quick parole hearing from the board.

20 The board's the next available time the board can have a
21 parole hearing for him would be no sooner than January 15th. And
22 once that happens the board's decision at best would come out no
23 earlier than January 22nd. So if that were to establish -- if the
24 board were to decide that Mr. Bettys was not releasable at that
25 time, and it established a new minimum term that would actually

1 be his maximum expiration date, which is February 2015. If that
2 happens then the Department Sex Offender Treatment Program would
3 possibly be able to have Mr. Bettys finish the entire program
4 because it would give the full year for Mr. Bettys to participate
5 in that program. If that were to happen then he would be eligible
6 for being admitted into the program. So there are all of these
7 little working parts that have to happen before he is able to get
8 into the treatment program in the institution. It is still
9 possible that he can. And DOC is working very hard to go as
10 quickly as they can. But it is not possible to do that, you
11 know, by January 1st. So I wanted to give Mr. Landon a chance, as
12 well, to explain some of the steps that have to occur for an
13 offender to be admitted and in this case, whether Mr. Bettys is
14 eligible due to factors that Mr. Landon investigated.

15 So, Mr. Landon, do you want to speak?

16 MR. LANDON: Yeah, I can speak to I did have an
17 opportunity to screen Mr. Bettys last week at the request of Ms.
18 Larsen. And I assessed him on a couple of criteria that was
19 basically to determine the amenability to the Sex Offender
20 Treatment Program. The result of that training was that he met
21 the amenability criteria. [He acknowledged having committed a
22 past offense.] [He's willing to come to treatment.] [He's willing
23 to follow the rules and engage in the process.] At this point, as
24 Ms. Larsen mentioned, his ERD, as listed in our system, is June
25 20th of 2013.

1 Our procedure for the Sex Offender Treatment Program, like
2 many other programs in the Department, require a minimum length
3 of time depending on the program in order to participate. We
4 prioritize treatment participants based on sort of a matrix of
5 criteria, one being their risk level. And in this case for Mr.
6 Bettys we did a Static 99R risk assessment on in Bettys. And he
7 scored a 7, which is a high risk category for sexual re-offense.
8 (So he would be placed on the highest priority for treatment
9 entrance.)

10 We also look at other criteria like the sentence structure.
11 And then a big one is the time to the release. We are not able to
12 accept people who are past their ERD, or we don't have enough
13 time to complete two ERDs. In this case, we only discovered Mr.
14 Bettys' situation within the last, I believe, ten days due to his
15 change of sentence from life without parole, which would have
16 previously made him ineligible for treatment per policy. But
17 with his new Judgment & Sentence, again, we left time to admit
18 him to treatment based on his ERD. So did I answer the questions,
19 Ms. Larsen, that you were looking for?

20 MS. LARSEN: Yes, I wanted to also know if you were able
21 to determine if in the best case scenario the board were able to
22 issue a decision by January 22nd that did push his minimum term
23 to his maximum term resulting in an ERD of his maximum term and,
24 therefore, allowing him to be eligible to enroll, how soon would
25 he be able to start the Sex Offender Treatment Program, assuming

1 he would have to be transferred from Clallam Bay to another
2 institution that had such a program?

3 MR. LANDON: Yes. So I think it's important to sort of
4 state clearly that my amenability screenings are certainly a
5 significant step in the progress towards entrance to treatment.
6 He's currently identified as close custody so I can't exactly
7 state when that would happen. He would need to be reviewed by the
8 classification committee, and I can't speak for them.

9 What I can say really is that if his custody level --
10 because there are custody level criteria for entrance to the
11 program. A person who is able to approach the program, the sex
12 offender treatment program needs to score a medium or MI3, which
13 is a long-term minimum custody level. So at this very moment I'm
14 not sure where that process is with him in his custody. I think a
15 classification person would be the best person to testify as to,
16 you know, whether or not his classification or his custody level
17 might change and decrease.

18 So I realize I'm not really answering the question
19 specifically because I really can't. If his custody level were
20 to make him otherwise eligible he could essentially be entered
21 into the program as soon as transportation is able to get him
22 relocated.

23 MS. LARSEN: Okay. Thank you.

24 MR. SWIFT: I have a couple questions.

25 THE COURT: When you are done, Ms. Larsen, I'm going to

1 make some comments and then turn it over to the attorneys here.
2 So go ahead and finish any comments you wish to make.

3 MS. LARSEN: Thank you, Your Honor. So I am requesting
4 that the Court strike the clause in the Judgment & Sentence that
5 states that the Department has to release Mr. Bettys by
6 January 1st, 2014. If it is not able to by then to have him
7 enrolled in the treatment program I would reiterate that the
8 statute -- the sentence reformat does not authorize such a clause
9 in the Judgment & Sentence. So the clause is essentially forcing
10 the hand of the institution. And the institution's function is
11 when to release. So that's why we are asking for the Court to
12 strike that.

13 THE COURT: One question before I make my comments. Mr.
14 Landon, does the evaluation that was provided here in Skagit
15 County, and part of our filing, have any weight at all in your
16 system?

17 MR. LANDON: Your Honor, I haven't had the opportunity to
18 review that evaluation. I spoke briefly with Mr. Bettys, and he
19 provided minimal information regarding that evaluation. So I
20 wouldn't really be able to, you know, answer that question. But,
21 again, he's scoring for the highest priority for our treatment
22 program based on his actual risk assessment. So really at this
23 point in regards to the question about when he would be entered
24 into treatment it's a matter of us working with classifications
25 to determine, you know, where if he would be eligible for reduced

1 custody level. I just can't make that determination
2 independently.

3 THE COURT: Alright. I know at least Ms. Larsen is
4 probably aware of the history here. I'm going to make a short
5 record relating that history just so everyone understands. This
6 is a very unique situation, and I don't want you to think that me
7 personally or Skagit County is unaware of statutory construction
8 and how sentences are designed to be carried out. Mr. Bettys
9 instead of being sentenced at the start of the process has been
10 sentenced at the end of the process in this case. And we are all
11 aware that there are probably only 12 to 13 months left in his
12 maximum statutory sentence. We're also very aware that Mr.
13 Bettys was in your custody for a significant period of time back
14 in the late '90's or mid '90's and early 2000. And by no fault
15 of the Department of Corrections, once again, faced a
16 resentencing process, which eliminated him from the treatment
17 program that he would have completed prior to being released from
18 the Department of Corrections under normal circumstances. Once
19 again, we find that under not normal circumstances. And I
20 realize that the Department of Corrections is not designed for
21 swift and nimble reactions to unusual circumstances. But you
22 have all of your board hearings. You have all of your
23 committees. And you have all of your proper structure under both
24 statute and regulations. (But what we have is a community that is
25 expecting and hoping for the best possible outcome for community

1 safety here in Skagit County. And we have a system that is not
2 designed to meet that need. And that need specifically is
3 treatment for Mr. Bettys.

4 And we recognize that because of the tight time constraints
5 at the time of sentencing that Mr. Bettys in all likelihood by
6 the time he got through the Department of Corrections screening
7 and process without some unusual language in the Judgment &
8 Sentence he would probably just sit, and then be evaluated at the
9 time or he would no longer be eligible for treatment because
10 there wouldn't be enough time left on his statutory maximum
11 sentence. So we placed in the language if you could not be swift
12 and nimble basically we were ordering his release so the
13 treatment program that had been established here in the community
14 could be carried out while he was still on community custody
15 supervision thereby attempting to assure the best possible
16 outcome for community safety.

17 The evaluation done prior to sentencing here indicated that
18 Mr. Bettys not only was eligible for treatment but would be
19 accepted into a treatment program. And in all likelihood there
20 would be family funding available to make sure that that
21 treatment were completed. Obviously if Mr. Bettys didn't
22 participate in the community based treatment he would be sent
23 back to DOC for the maximum sentence. But we all agreed that Mr.
24 Bettys simply sitting in a cell in our jail or your Department of
25 Corrections and not receiving treatment and then being released

1 into the community with no supervision and no treatment was the
2 worse possible outcome. So despite the Court and the attorneys'
3 knowledge of the statutory construction in place we crafted an
→ 4 exceptional sentence; in my opinion more to get your attention
5 then to actually believe we actually had the authority to carry
6 it out. So at the very least this conversation would occur and
7 everyone could put in their best efforts, despite restrictions,
8 perhaps, under your regulations and requirements to try to assure
9 the best possible opportunity for Mr. Bettys to get treatment.

10 So as I indicated, I believe Ms. Larsen is already aware of
11 that. We've expended funds here for the evaluation prior to
12 sentencing. We've done everything we possibly could at this end.
13 And it sounds like you are making great efforts, but we have no
14 actual guaranteed outcome that Mr. Bettys will receive treatment
15 in the Department of Corrections.

16 Having said that, I'll hear either from Ms. Kaholokula
17 first, if you wish, or Mr. Swift.

18 MS. KAHOLOKULA: I'll be very brief. I think I expressed
19 my thoughts on the sentencing at the sentencing hearing. And the
20 State is, of course, in agreement that treatment needs to occur.
21 I'll tell the Court at this point my current concern is that if
22 the Attorney General decides to appeal the judgment that a stay
23 will be entered on the provision releasing him, and that he will
24 definitely not receive treatment either in custody or out of
25 custody. And I think that would be the worst of all worlds.

1 That's all I have.

2 THE COURT: I would fully expect Ms. Larsen or her office
3 to appeal a sentence that under their mind is not a legal and
4 proper sentence. But I would agree with the State's concerns.

5 So Mr. Swift.

6 MR. SWIFT: I have a couple questions first for, I
7 believe, the head of treatment.

8 THE COURT: Mr. Landon?

9 MR. SWIFT: Mr. Landon.

10 MR. LANDON: Yes, sir.

11 MR. SWIFT: Presuming that Mr. Bettys will quickly, all
12 these things happen, how long does he have to have remaining on
13 his sentence to complete treatment?

14 MR. LANDON: We generally like to allow 12 months for
15 treatment. It's not a firm number of months per se. It's really
16 based on the individual needs. But given his high risk we like
17 between 10 and 12 months to provide that treatment.

18 MR. SWIFT: The other question was to confirm that the
19 screening board will complete this week; is that correct?

20 THE COURT: Parole?

21 MR. SWIFT: The parole. Not for you.

22 MR. LANDON: Correct.

23 MS. LARSEN: Are you asking me?

24 MR. SWIFT: Yes.

25 MS. LARSEN: The completion of the interview committee,

1 yes that's something that will be done by next week. And the
2 parole hearing, the 420 hearing, would occur January 15th if
3 everything works as hoped.

4 MR. SWIFT: Your Honor, based on that I have a suggestion
5 on part. And I don't necessarily believe that your sentence is
6 illegal. In fact, I think under the argument you made that you
7 have the exceptional powers. I do think one thing, however, was
8 in error when we argued, and that was an understanding of timing.
9 And I hit that based on our belief when setting up the
10 January 1st that there was a minimum period of a year. That was
11 our belief when that was set up. I'm hearing Mr. Landon say it
12 could be as little as ten months, and that he would be flexible
13 in that period.

14 Based on that what I would suggest, because I think it
15 keeps the system moving without necessarily -- and I share the
16 State's opinion -- (I think I would win on appeal, but I would
17 lose. I think I could uphold your sentence. I would think I
18 would win. But if I understand the State's position that if
19 everything freezes, and you're sentence is found to be legal, we
20 didn't win anything, and Mr. Bettys didn't win anything. So my
21 suggestion is that I would suggest that we move this, our hearing
22 date, for 1 January to a period of 15 February. This complies
23 with what we thought, you know, more puts into the part that
24 there can be treatment during this period of time, if the State
25 then chooses and we find our place. Because at that point the

1 State can then chose, if they are not going to provide by 15
2 February, based on the timeframes that they have they are simply
3 not going to provide, and they have run out of time. And it's
4 worth appealing and fighting for to try to get some treatment. If
5 they are not going to do that, or if they have provided treatment
6 then the issue is moot and we are done. And I think it keeps it
7 in a position where the case stays with the priority, but does
8 not require immediate action by the State at this point which
9 would freeze everything.

10 THE COURT: If I understood Ms. Larsen's best case
11 scenario there would be a parole board ruling by January 22nd; is
12 that correct?

13 MS. LARSEN: That's correct, Your Honor.

14 THE COURT: How soon after that would there be a likely
15 hearing, or does anyone know when a likely hearing would be made
16 as far as the exception into treatment. Mr. Landon, maybe you
17 are in the best position.

18 MR. LANDON: Typically, how this would work, Your Honor,
19 obviously in the interest of time? Would request that the Board
20 make an ERD available in regard to their determination. And if
21 they were to add additional time or expense I would be made
22 immediately aware of that. I would also need to work with my
23 counterpart and classifications regarding those other issues that
24 I mentioned. So, you know, best case scenario if he were custody
25 eligible, you know, transfers can happen pretty quickly. Again,

1 I don't want to speak for anybody else, but it can happen within;
2 well, acceptance of -- formal acceptance can happen rather
3 quickly. Transportation may take a few weeks depending on their
4 circumstances. But it can generally happen fairly quickly. It's
5 just we need to have a classification agreement, and we also need
6 to have that time allowance in order to accept him.

7 MS. LARSEN: And classification may be made prior to
8 January 22nd, do you believe?

9 MR. LANDON: It is possible. But without knowing the
10 circumstances and not being an expert in that area I'm not saying
11 that it would.

12 THE COURT: My preference would be --

13 THE DEFENDANT: Your Honor --

14 THE COURT: Hold on, Mr. Bettys..

15 My preference would be that we set a February 1st date
16 rather than February 15th. And if we're still assuming that a
17 decision is made that Mr. Bettys is held to the maximum we still
18 have a year and two months, and then that would allow additional
19 time for transportation and all of those issues. I would like to
20 keep track of this. So, again, we're just talking about
21 suggestions at this point without rulings. I'll hear from Mr.
22 Bettys, and then we'll come back to the attorneys.

23 THE DEFENDANT: Your Honor, one of the problems I'm
24 running into is they've got me held at the Washington Corrections
25 Center instead of Clallam Bay still to this day. I have not left

1 the transportation center because of so much confusion that has
2 been caused in this whole mess. We are not sure where I'm going.
3 There's no classification being done here on me currently. I
4 don't even have a true classification counselor until I've either
5 returned to Clallam Bay or returned to Monroe. I'm in transit.

6 THE COURT: Are you in Shelton?

7 THE DEFENDANT: Yes, I'm in Shelton and have been held
8 here for the last two and a half weeks.

9 MS. LARSEN: That was so we could have him here for this
10 hearing.

11 THE COURT: So he's leaving right after this?

12 MS. LARSEN: Yes, that's correct. That was where he was
13 headed. He would have been sent there but for this hearing.

14 THE DEFENDANT: Okay. Your Honor, the second part of
15 this is they decided to take all of my earned time away. I plan
16 to appeal that, which is going tie everything up. Because most
17 of that earned time was accredited by an agency the board does
18 not have jurisdiction over, the Skagit County Jail. They credited
19 all my earned time from being in jail, which is the majority of
20 my earned time. So either way we are going to end up, if they
21 take my sentence away, we're going to end up without treatment in
22 the end.

23 Second, postponing this in my opinion is ridiculous because
24 the program that I'm planning to enter into is over 18 months
25 long. I'm already under that program. I'm going to have to have

1 to pay privately and continue past being on community custody as
2 we stand today. So it seems ridiculous to continue holding me.

3 THE COURT: Well, Mr. Landon just said there's a 10- to
4 12-month program. Are you saying you wouldn't voluntarily
5 participate in that program?

6 THE DEFENDANT: Well, Your Honor, I would voluntarily
7 absolutely go into that program because that is what is required
8 of me. But I don't believe they will accept my participation
9 when I filed a case against the board for taking earned time that
10 they have no jurisdiction over. The earned time is issued by the
11 jail. The board has jurisdiction over DOC earned time. And I
12 believe with the board being so new and just re-enacted that it
13 needs to be challenged if they do take the county jail earned
14 time because each agency has the right to credit earned time.

15 THE COURT: Does a maximum sentence of February 2015 in
16 your opinion take away from you earned time to get to that point?

17 THE DEFENDANT: No. What the board will do is take all
18 of my earned time. I'm already over my ERD by five months. I've
19 earned time accredited to me June of last year.

20 THE COURT: June 20th, 2013, this year. I understand
21 that, Mr. Bettys. My question is: Do you believe that your
22 maximum does not extend until February of 2015?

23 THE DEFENDANT: No, Your Honor. I believe it does
24 extend until that. I believe that is my maximum. But I believe
25 if the board removes earned time that they had no jurisdiction

1 over I will have to appeal, which will likely block me from
2 taking treatment inside of DOC. I'm not sure, but I believe DOC
3 cannot treat somebody who is under appeal.

4 THE COURT: I'm trying to establish, Mr. Bettys, if you
5 think they will take your earned time what will be your new
6 maximum sentence?

7 THE DEFENDANT: Well, if they take my earned time it
8 would be February of 2015. If they don't take my earned time I
9 should be released right now because I'm over my early release.
10 I earned the time. I behaved and stayed out of trouble. I
11 didn't cause a problem. I deserve to actually earn that credit.

12 THE COURT: So that's my first question to you, Mr.
13 Bettys, is do you not believe your maximum sentence is February
14 of 2015? I thought when we had you here in court that you wanted
15 treatment. You didn't particularly -- obviously you prefer to be
16 in the community, but you were happy to participate in treatment
17 in the Department of Corrections also, and we were all of the
18 mind that we wanted to get treatment to you before you were
19 simply set out in the community with no supervision.

20 THE DEFENDANT: Absolutely, Your Honor. I agree
21 100 percent with that, and I still want the treatment.

22 THE COURT: But now you're saying --

23 THE DEFENDANT: I would also like to obtain my earned
24 time if at all possible. I know what these people are telling me
25 here today is there's no way we can do both unless we use the

1 exceptional sentence portion.

2 THE COURT: Well, the exceptional sentence simply
3 requires them to get you into treatment or to release you. But
4 if you were going to be in treatment in custody my understanding
5 was they would have you until February of 2015 for an appropriate
6 length in the treatment program to try to assure that that was
7 successful. Now I hear you saying after all the efforts from
8 your attorney the State and the Court to try to craft this
9 sentence in a way to get you treatment that you're going to put
10 up the road block. If the treatment is in custody.

11 THE DEFENDANT: No, Your Honor. I would not deliberately
12 put up a road block, but I believe I would have to appeal if they
13 take the county jail earned time. I have no problem with the
14 taking of the treatment, and I dang well want the treatment. And
15 I'm trying everything I can at my end to do all the paperwork I
16 can do down here to get to that treatment program. One of the
17 concerns I have is I've been kicked out of the treatment facility
18 prior, never to return. And I'm kind of concerned that I may not
19 get to return. But I'm going to sit here until the treatment on
20 the streets becomes unavailable. And that's what I'm concerned
21 about.

22 THE COURT: Alright. Anyone else want to comment?

23 Mr. Landon, I think you were cut off.

24 MR. LANDON: What I was saying is that Mr. Bettys'
25 assertion that he's not eligible to participate in the treatment

1 under appeal is not entirely accurate. The policy is up to the
2 director's discretion. And generally the reason we had language
3 regarding the appeal is more specific to folks who are denying
4 their offense or who are appealing their conviction or their
5 guilt. So we generally won't put those folks in treatment
6 because they have to talk about their offense while in treatment.
7 That's not a good situation, nor is it ethical to put them into a
8 treatment program if they are asserting they are innocent. And
9 so his assertion is applicable in this case. We do have people
10 who on occasion appeal their sentences or certain conditions
11 within the sentence who are participating in treatment.

12 MS. LARSEN: May I speak, Your Honor?

13 THE COURT: Yes.

→ 14 MS. LARSEN: This is Rhonda Larsen again. I would be the
15 Assistant Attorney General who would be responsible for
16 responding to a personal restraint petition if Mr. Bettys did
17 file one that challenges the taking of his early release credits
18 that he earned in jail. When I receive those I don't contact
19 anyone at the Sex Offender Treatment program and say please stop
20 processing he's filed a personal restraint petition on this. Mr.
21 Landon was correct, it's a completely separate type of appeal
22 that Mr. Bettys is speaking of here. And that appeal does not
23 impact the treatment. It does not impact what the DOC's
24 programming is for an offender.

25 THE COURT: And in all likelihood would that process take

1 longer than February 2015 under normal circumstances?

2 MS. LARSEN: Under normal circumstance it would, Your
3 Honor.

4 THE COURT: Ms. Kaholokula, would you like to comment on
5 any of those issues or on Mr. Swift's recommendation that we
6 amend the Judgement & Sentence to a February date?

7 MS. KAHOLOKULA: I have a question for Ms. Larsen. If
8 the portion of the J&S that we're talking about, if you have it
9 in front of you, it's at 4.1. Do you have that in front of you?

10 MS. LARSEN: Yeah, let me get to the right page.

11 MS. KAHOLOKULA: Page 4.

12 MR. LANDON: Okay.

13 MS. KAHOLOKULA: The second paragraph from the bottom, if
14 the Department fails to commence Sex Offender Treatment. If the
15 only thing that is changed in this J & S is that date from
16 January 1st to February either 1st or 15th is that sufficient for
17 you to move ahead, or is that something that you would appeal in
18 the J & S nonetheless?

19 MS. LARSEN: My timeline for filing a post-sentence
20 petition is sufficient for us to go through this and to see what
21 happens. So what I'm saying is there's enough -- if the Court
22 were to do what you're proposing it would give some breathing
23 room, and I would hold off on appeal at this point to see what
24 happens. If something were to happen on February 1st that was not
25 acceptable then I would be able to continue, or I would be able

1 to file the petition after that point.

2 MS. KAHOLOKULA: Thank you. I don't have any or
3 questions or comments.

4 MR. SWIFT: No questions or comments. The acts, I
5 believe, are self explicatory.

6 THE COURT: I just want to thank Ms. Larsen here on the
7 record for her cooperation knowing that we are all fudging a
8 little bit here with both the laws and timeframe. I very much
9 appreciate your extra effort in trying to assist what we have
10 been trying do all along. And I am inclined to place February 1st
11 in the amended Judgment & Sentence subject to review on or before
12 that date with the possibility of further amendment if we're
13 close. But I just want to keep track, and I want to try to give
14 Mr. Bettys every opportunity to have a full year in that
15 treatment program, if that's where this ultimately ends up. And
16 Mr. Bettys I appreciate your need and/or desire to appeal if you
17 earn lose your earned early release time. But I'm confident that
18 that process also is not swift and nimble and would probably not
19 be completed by the time you were completing treatment and being
20 released in any event.

21 So I will, unless there's an objection, amend the Judgment
22 & Sentence in that paragraph, that's referenced under 4.1 by Ms.
23 Kaholokula, change January to February. And that at this point
24 in time will be the only amendment subject to further review.
25 Anyone have any comments regarding that ruling?

1 MR. SWIFT: No, Your Honor.

2 MS. McDONALD: Your Honor, I'm assuming that you'll be
3 striking the January 3rd Court date scheduled?

4 THE COURT: Yes, and I will strike the January 3rd court
5 date also.

6 Alright. Thank you very much for all of you being
7 available.

8 Mr. Landon, if there's anyone or an entity that we need to
9 send the evaluation that was completed here in Skagit County and
10 is on file too I would be happy to facilitate this forwarding or
11 sending of that record if it would carry any weight or in any way
12 speed up the process.

13 MR. LANDON: Thank you, Your Honor. In fact, it would be
14 very helpful if we were to receive that documentation. It helps
15 us when folks actually do enter treatment and expedite the
16 initial process to get that treatment moving with the current
17 evaluation.

18 THE COURT: So who should it go to?

19 MR. LANDON: It could come directly to me.

20 THE COURT: Does one of the parties or anyone have your
21 address? Could you give us that mailing address?

22 MS. KAHOLOKULA: I could scan it and email it.

23 THE COURT: How about an email address?

24 MR. LANDON: Yeah, J, M as in Michael, Landon,
25 L-A-N-D-O-N, at DOC, the number one, dot WA, dot GOV.

1 THE COURT: Thank you very much. With that we have
2 another court calendar that's scheduled to start at 9:30. I'm
3 going to recess this hearing unless there's any further comment.

4 MS. KAHOLOKULA: I'm going to be filling out an order at
5 this point. I'll ask Mr. Swift to sign off on it.

6 THE COURT: Mr. Bettys, we are entering an order amending
7 your Judgment & Sentence. I assume you give approval for your
8 attorneys to sign off on that? With you being on the phone just
9 indicate telephonically the process?

10 THE DEFENDANT: Yes, Your Honor, I'll have the attorneys
11 sign it.

12 THE COURT: Thank you very much. We're ending the phone
13 call.

14 Counsel, I'll be available at the Court Administrator's
15 office when you're ready, and I'll sign it there.

16

17 (PROCEEDINGS ENDING FOR THE DAY IN THIS MATTER)

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STATE OF WASHINGTON)
) ss: C E R T I F I C A T E
COUNTY OF SKAGIT)

I, JENNIFER CHRISTINE SCHROEDER, Official Court Reporter in and for the County of Skagit do hereby certify;

That the foregoing is a true and correct transcript of the proceedings held on September 13, November 26 and December 17, 2013.

Witness my hand on this 2nd day of June, 2014.


JENNIFER CHRISTINE SCHROEDER,

WA CCR #2221, CA CCR #10176, RPR,

Official Court Reporter

APPENDIX B

SUPERIOR COURT OF WASHINGTON
COUNTY OF SKAGIT

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

STATE OF WASHINGTON,
Plaintiff,
vs.

2013 DEC 17 AM 10:17

CAUSE NO. 10-1-00159-9

John E. Bettys
Defendant

ORDER RE:

- HEARING DATES (Clerk's Action Required)
- QUASHING WARRANT (Sheriff's Action Required)
- BAIL (Sheriff's Action Required)
- CLERK'S ACTION REQUIRED
- OTHER: amend JTS; strike 1-3-14

The Court, being fully advised and good cause having been shown, Now, Therefore, ORDERS:

HEARING DATES: This matter is continued to the dates below. [] by agreement of the parties (signed by defendant) [] by motion of defendant/state. The defendant's presence is required for:

OMNIBUS: _____ 9:00 a.m. STATUS: _____ 9:00 a.m.
 3.5/3.6 HEARING: _____ 9:30 a.m. REVIEW: _____ 9:00 a.m.
 TRIAL CONFIRMATION: _____ 1:30 p.m. OTHER: _____ 9:00 a.m.
 TRIAL: _____ 9:00 a.m. (See Waiver Below If Applicable)
 TIME FOR TRIAL: _____ (30 days after trial pursuant to continuance under CrR 3.3)
 SENTENCING: _____ 9:00 a.m. (See Waiver Below If Applicable)

[] Presentence Investigation required. [] Defendant is in custody [] Defendant's Address:

[] WARRANTS: Outstanding warrants in this cause are quashed. The next hearing date is as noted above.

BAIL: ~~Bail is set at \$~~ The hearing of 1-3-14 is stricken.

OTHER: The judgment of Nov. 26, 2013, at IP 4.1, at the paragraph commencing with "If the Department..." is amended as follows:

"If the Department fails to commence sex offender treatment by Feb 1, 2014, then the defendant shall..."

Dated: Dec 17, 2013

Doree Moody
Judge of the above-titled Court

WAIVERS BY DEFENDANT

[] SPEEDY TRIAL: The undersigned, having been advised by my Attorney of Record that I have the right to be brought to trial within 60/90 days of the commencement date, hereby requests that trial in this matter be reset. I am aware of and wish to waive my right to speedy trial by resetting a commencement date of: _____ resulting in a new time for trial date as provided in CrR 3.3 of: _____ (60/90 days after commencement date).

[] SENTENCING: The undersigned, having been advised of my right to be sentenced within 40 court days from the date of the guilty plea or conviction, and being aware of, hereby waive the right to speedy sentencing pursuant to RCW 9.94A.500. I acknowledge this waiver is my personal request and I am not prejudiced by this continuance.

Defendant
Chad
Attorney for Defendant

Erik Medjism 20015
Prosecuting Attorney
Erik Medjism
Goldenrod Copy - Prosecuting Attorney

Original: Clerk's Office PA-8 Canary Copy - Defendant Pink Copy - Attorney for Defendant Goldenrod Copy - Prosecuting Attorney

APPENDIX C

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

2013 SEP 26 PM 2:23

**Superior Court of Washington
For Skagit County**

State of Washington

Plaintiff

vs.

JOHN E. BETTYS,

Defendant

No. 10-1-00159-9

**Statement of Defendant on Plea of
Guilty to Sex Offense
(Felony)
(STTDFG)**

- 10
1. My true name is John Edward Bettys.
 2. My age is 39.
 3. The last level of education I completed was 2 years College
 4. **I Have Been Informed and Fully Understand That:**
 - (a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me.
 - (b) I am charged with:

COUNT 1: CHILD MOLESTATION IN THE THIRD DEGREE.

The elements are: RCW 9A.44.089

Count 1: Between December 1, 2008 and July 12, 2009, in Skagit County Washington, the defendant had sexual contact with another who is at least fourteen years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight months older than the victim.

5. **I Understand I Have the Following Important Rights, and I Give Them Up by Pleading Guilty:**
 - (a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly 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;
- (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) The right to be presumed innocent unless the State proves the charge 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*	COMMUNITY CUSTODY	MAXIMUM TERM AND FINE
1	9+	60 months		36 months (subject to RCW 9.94A.	5 years &/or \$10,000

*The sentencing enhancement codes are: (RPh) Robbery of a pharmacy, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude. The following enhancements will run consecutively to all other parts of my entire sentence, including other enhancements and other counts: (F) Firearm, (D) Other deadly weapon, (SM) Sexual Motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9), (P16) Passenger(s) under age 16.

- (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.

The parties agree to the following criminal history and calculation of offender score:

<u>Indecent Liberties</u>	<u>3/20/89</u>	<u>Sent 6/20/89</u>	<u>Skagit, WA Juv. 3 pts</u>
<u>Burglary 2nd</u>	<u>3/20/90</u>	<u>Sent 6/20/90</u>	<u>Skagit, WA, Juv. 1/2 pt</u>
<u>Burglary 2nd</u>	<u>4/20/89</u>	<u>Sent 6/20/89</u>	<u>Skagit, WA Juv. 1/2 pt</u>
<u>Rape of a Child 1st</u>	<u>1/1/90-2/18/93</u>	<u>Sent 9/23/93, 12/19/02</u>	<u>Skagit, WA Adult 3 pts</u>
<u>Rape of a Child 1st</u>	<u>1/1/90-2/18/93</u>	<u>Sent 9/23/93, 12/19/02</u>	<u>Skagit, WA Adult 3 pts</u>

The two counts of Rape of a Child 1st involve different victims.

- (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 and any mandatory fines, fees, assessments, or penalties that apply to my case. 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 custody 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 36 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: (i) Sentencing under RCW 9.94A.507: If this offense is 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, which may include electronic monitoring, 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
Assault of a child in the second 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
Assault of a child in the second degree	Burglary in the first degree

(ii) If this offense is 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, or if my crime is failure to register as a sex offender, and this is my second or subsequent conviction of that crime, the judge will sentence me to community custody for 36 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, which may include electronic monitoring.

For sex offenses committed on or after March 20, 2006: For the following offenses and special allegations, the minimum term shall be either the maximum of the standard sentence range for the offense or 25 years, whichever is greater:

- 1) If the offense is rape of a child in the first degree, rape of a child in the second degree or child molestation in the first degree and the offense includes a special allegation that the offense was predatory.
- 2) If the offense is rape in the first degree, rape in the second degree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation and the offense includes special allegation that the victim of the offense was under 15 years of age at the time of the offense.
- 3) If the offense is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation and this offense includes a special allegation that the victim of the offense was, at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or vulnerable adult.

Community Custody Violation: If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 30 days confinement per violation and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

- (g) The prosecuting attorney will make the following recommendation to the judge:
Count 1: 60 months under RCW 9.94A.507(3) and community custody under RCW 9.94A.507(5) "for any period of time the person is released from total confinement before the expiration of the maximum sentence."
Community custody conditions as recommended by the Department of Corrections in the PSI, no contact with victim, sex offender treatment while in prison and compliance with treatment upon release while on community custody, community custody to include a condition of no contact with minor children (subject to determination of treatment provider with respect to contact with his minor son), court costs, assessments and restitution.

[] The prosecutor will recommend as stated in the plea agreement, which is incorporated by reference.

- (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 (except as provided in paragraph 6(f)). I understand the following regarding exceptional sentences:
- (i) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence.
 - (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.
 - (iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act.
 - (iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

If the court imposes a standard range sentence, then no one may appeal the sentence. If the court imposes an exceptional sentence after a hearing, either the State or I 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 may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.

- (k) I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079, 29A.08.520.
- (l) Government assistance may be suspended during any period of confinement.
- (m) I will be required to register where I reside, study or work. The specific registration requirements are described in the "Offender Registration" Attachment.
- (n) I will be required to have a biological sample collected for purposes of DNA identification analysis, unless it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense. I will be required to pay a \$100.00 DNA collection fee.
- (o) I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.

Notification Relating to Specific Crimes: If any of the following paragraphs DO NOT APPLY, counsel and the defendant shall strike them out. The defendant and the judge shall Initial all paragraphs that DO APPLY.

~~_____ (p) 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 (i) 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 (ii) 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, assault of a child in the second degree, or burglary in the first degree, with a finding of sexual motivation, or (iii) 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.~~

_____ (q) **Special sex offender sentencing alternative:** In addition to other eligibility requirements under RCW 9.94A.670, *to be eligible for the special sex offender sentencing alternative, I understand that I must voluntarily and affirmatively admit that I committed all of the elements of the crime(s) to which I am pleading guilty. I make my voluntary and affirmative admission in my statement in paragraph 11.*

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 the 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 if I committed the crime prior to July 1, 2005, or up to 12 months with no early release if I committed the crime on or after July 1, 2005; I will be ordered to participate in sex offender treatment; I will have restrictions and requirements placed upon me, which may include electronic monitoring; 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.

~~_____ (r) If this is a crime of domestic violence, the court may order me to pay a domestic violence assessment of up to \$100.00. 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.~~

_____ (s) If I am subject to community custody and 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) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.~~

~~_____ (u) If I am pleading guilty to felony driving under the influence of intoxicating liquor, or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor, or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked, or denied. Following the period of suspension, revocation, or denial, I must comply with the Department of Licensing ignition interlock device requirements. In addition to any other costs of the ignition interlock device, I will be required to pay an additional fee of \$20 per month.~~

~~_____ (v) For the crimes of vehicular homicide committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)), or felony physical control under the influence (RCW 46.61.504(6)), the court shall add 12 months to the standard sentence range for each child passenger under the age of 16 who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall~~

~~be served in total confinement, and shall run consecutively to all other sentencing provisions.~~

- ~~(w) For the crimes of felony driving under the influence of intoxicating liquor, or any drug, for vehicular homicide while under the influence of intoxicating liquor, or any drug, or vehicular assault while under the influence of intoxicating liquor, or any drug, the court may order me to reimburse reasonable emergency response costs up to \$2,500 per incident.~~
- ~~(x) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. 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[p].~~
- ~~(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.~~
- ~~(z) I may be required to register as a felony firearm offender under RCW 9A.41. _____. The specific registration requirements are in the "Felony Firearm Offender Registration" Attachment.~~
- ~~(aa) The offense(s) I am pleading guilty to include a deadly weapon, firearm or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation 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, firearm, or sexual motivation enhancements.~~
- ~~(bb) For crimes committed on or after July 22, 2007: If I am pleading guilty to rape of a child in the first, second, or third degree or child molestation in the first, second or third degree, and I engaged, agreed or offered to engage the victim in sexual intercourse or sexual contact for a fee, or if I attempted, solicited another, or conspired to engage, agree or offer to engage the victim in sexual intercourse or sexual contact for a fee, then a one-year enhancement shall be added to the standard sentence range. If I am pleading guilty to more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement.~~
- ~~(cc) If I am pleading guilty to patronizing a prostitute or commercial sexual abuse of a minor, a condition of my sentence will be that I not be subsequently arrested for patronizing a prostitute or commercial sexual abuse of a minor. The court will impose crime related geographical restrictions on me, unless the court finds they are not feasible. If this is my first offense, the court will order me to attend a program designed to educate me about the negative costs of prostitution.~~

7. I plead guilty to:

COUNT 1: CHILD MOLESTATION IN THE THIRD DEGREE.

in the Third 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:

This guilty plea is made pursuant to North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970), State v. Newton, 87 Wn.2d 363, 552 P.2d 682 (1976), State v. Zhao, 157 Wn. 2d 188, 193, 137 P.3d 835, 837 (2006) and In Re Pers. Restraint of Barr, 102 Wn.2d 265, 684 P.2d 712 (1984). Pursuant to this case law, I agree there is a factual basis for the plea to a more serious charge based upon the reading of the declaration for determination of probable cause filed with the court February 19, 2010. I know and understand the evidence that could be used to attempt to convict me on the originally charged offenses (having reviewed the discovery and heard testimony in a prior trial), the elements of the originally charged offense, the elements of the amended charge, that the evidence did not support the amended charge and, that the sanctions or consequences of the amended charges were less onerous to him than the sanctions or consequences of the original charge. With all of this in mind, I make an informed, knowing and intelligent choice to freely and voluntarily enter a plea of guilty to the amended charge.

[XX] 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 and for the factual basis for the greater offenses.

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.



John E. Bettys, Defendant

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



Erik Pedersen, Prosecuting Attorney
WSBA# 20015



Catherine McDonald, Defendant's Lawyer
WSBA# 24002

The defendant signed the foregoing statement 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.

Interpreter's Declaration: I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret, in the _____ language, which the defendant understands. I have interpreted this document for the defendant from English into that language. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____, on (date) _____.

Interpreter

Print Name

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: 9-26-13

Dave Needy
Judge

APPENDIX D

1 MOUNT VERNON, WASHINGTON

2 APRIL 8, 2015

3 11:00 a.m.

4 * * *

5
6 THE COURT: Alright. We'll begin with the Bettys'
7 matters. Mr. Pederson is here. Mr. Bettys, other than the
8 court staff and one attorney observing there is no one else
9 in the courtroom.

10 MS. LARSEN: I'm present, Your Honor. I'm sorry. Rhonda
11 Larsen with the Attorney General's Office on behalf of the
12 Department of Corrections. And my understanding is Mr.
13 Bettys may have two things going on in this hearing. But my
14 involvement is in respect to his motion for a written
15 finding and the order denying motion for reconsideration, or
16 the order denying a motion for a writ of mandamus.

17 THE COURT: Thank you, Ms. Larsen. I apologize. I
18 wasn't aware you were joining us.

19 MR. PEDERSEN: Your Honor, it looks like Mr. Bettys does
20 have the one, as far as I can tell, in the case number 10-1-159-9
21 cause number the motion to type briefing. I'm not sure whether
22 Mr. Bettys believes there are any other matters noted for today's
23 date.

24 MR. BETTYS: I wasn't aware of any for today's date
25 (indistinguishable).

1 MR. PEDERSEN: So it's Mr. Bettys's motion.

2 THE COURT: Alright. Mr. Bettys?

3 MR. BETTYS: Yes, Your Honor. I'm housed at the Special
4 Commitment Center at this time. And the Special Commitment
5 Center has a computer lab here. And they have a standard
6 practice of not allowing legal pleadings and such typed in the
7 computer lab. But I've spoken with Mr. Scott in the computer
8 lab. He says with a Court's order he would have no problem
9 having legal matters typed and printed in his computer lab. So
10 I'm motioning the Court for such an order that is generally
11 providing access to the computer lab to print legal pro se
12 pleadings and my pending Supreme Court appeal for this matter.

13 MR. PEDERSEN: The concern that the State has with
14 respect to basically ordering an individual or group, in this
15 case the Special Commitment Center, to provide him access without
16 making them a party to this particular action is not appropriate.
17 It's not within this Court's jurisdiction. I, frankly, don't have
18 a problem with having him type materials. I know Mr. Bettys has
19 actually, according to his document filed by counsel, Mr.
20 Thompson, associated with the counsel who has typed some matters;
21 actually it's one motion and affidavit. I don't have a problem
22 with him typing briefing. But I don't think this Court can order
23 the Special Commitment Center to provide that type of material
24 when they are not a party to this particular proceedings.

25 THE COURT: Ms. Larsen, you are not here on this issue or

1 are you?

2 MS. LARSEN: I am not on this issue, Your Honor.

3 THE COURT: Without any background or knowledge of
4 knowing whether other inmates are getting the same privilege
5 ordered by other courts and what the convenience or inconvenience
6 is and what the potential security risks it does or doesn't
7 create, Mr. Bettys, I'm not in a position to order the Department
8 to do anything. And I do believe they are a necessary party to
9 this request. So at this point your motion will be denied. But I
10 would not prevent you from re-noting it at some point if, in
11 fact, you can get a representation from DOC to participate in the
12 process.

13 MR. BETTYS: Just to make the Court aware the Special
14 Commitment Center is not a part of DOC. It's actually part of
15 DSHS.

16 THE COURT: Alright. Then a representative from DSHS
17 will be at least informed and let us know that they didn't care
18 or are not participating or wish to be heard on the issue.

19 MR. BETTYS: Not a problem Your Honor. Thank you.

20 THE COURT: Did Mr. Young just come on the phone? Did
21 someone just get added to the court call?

22 MS. LARSEN: I heard that as well. I'm not sure.

23 MR. PEDERSEN: Your Honor, I have an order in the Bettys'
24 case that indicates the defense motion to provide access to typed
25 briefing is denied.

1 THE COURT: And may be re-filed, just so that is
2 preserved.

3 MR. PEDERSEN: And if he provides indication to DSHS of
4 what his intent is they may provide him some access.

5 THE COURT: Do you know, Mr. Bettys, if other inmates
6 have already been granted that access?

7 MR. BETTYS: Yes, Your Honor, inmate Scott here has been
8 granted that access through the courts. That's why the computer
9 lab recommend I come to the court to get a statement order.

10 THE COURT: Well, if they are happy to comply and simply
11 need a court order perhaps they can send something to Mr.
12 Pedersen, and I would be happy to sign an order. Because I don't
13 have any personal stake one way or the other it doesn't offend me
14 that you have the opportunity to type the documents. I just
15 don't want to be stepping on DSHS's toes with knowing their
16 position. So we can perhaps even bypass the need for a formal
17 motion in a court hearing, if they'll put in a letter that they
18 are willing to allow the Court to approve it.

19 MR. PEDERSEN: I would be glad to present an order if Mr.
20 Bettys can, you know, put me in contact with someone at DSHS who
21 would give that kind of authorization. Because it would be to my
22 benefit because I can read things; although Mr. Bettys'
23 handwriting is really pretty good, it's easier to read something
24 that's typed.

25 THE COURT: So if you can put someone in touch with Mr.

1 Pedersen, Mr. Bettys, you might be able to short circuit that
2 process.

3 MR. BETTYS: No problem.

4 THE COURT: I've signed the order denying the motion, but
5 allowing it to be refiled if necessary.

6 MR. BETTYS: Thank you, Your Honor.

7 THE COURT: Next matter?

8 MS. LARSEN: And, Your Honor, I may be mistaken as to
9 what the reason is for my having received a court call service
10 offer, and that is why I believed I was involved in this hearing.

11 So, Mr. Bettys, did you have something that you were asking
12 for in another matter regarding the Department of Corrections?

13 MR. BETTYS: Yes, it was the matter on the writ of
14 mandamus that was denied and the reconsideration that was denied.
15 I was asking to receive written finding of fact and conclusion as
16 to why the Court denied that and decided not to uphold the United
17 States Constitution.

18 MS. LARSEN: And for clarification that is Cause Number
19 14-2-01883-8.

20 MR. PEDERSEN: That's correct. I have actually the
21 Court's letter decision of March 19th, 2005 that denies the
22 reconsideration. That's already, I believe, part of that cause
23 number.

24 THE COURT: Mr. Bettys, we never issue full findings on a
25 reconsideration. Or is your question why there weren't findings

1 in the first place upon the original ruling?

2 MR. BETTYS: Okay. I wasn't aware of this, Your Honor.

3 THE COURT: Well, a reconsideration motion is normally
4 handled in Chambers, and it can be as brief as this letter, or it
5 can give perhaps an explanation. But there's certainly no legal
6 requirements of the court rules for findings of fact, conclusions
7 of law on reconsideration. And this is probably, at least half
8 of the time, done with a single sentence just denying the motion.
9 And other times there are perhaps issues that need further
10 explanation. But my hope would be that the initial ruling
11 contained the necessary explanation and the necessary record for
12 you to take any further action regarding appeal.

13 MR. BETTYS: Okay. I appreciate your time, Your Honor.
14 We do have one outstanding motion in the (indistinguishable)
15 cause number, which has not been docketed at this time. I've
16 tried to docket it twice, and so far I haven't been heard. And
17 it was simply a motion for a copy of the 78 motion filed that was
18 heard on December 17, 2013.

19 THE COURT: A copy of the motion itself?

20 MR. BETTYS: Yeah, I was never served any documentation
21 before the hearing. And I have been unable to locate any
22 documentation in the court file showing that there's been action
23 filed before the Court. The ruling is based upon that the Court
24 of Appeals is relying on the 78 motion being filed, and I can't
25 come up with the 78 motion.

1 THE COURT: Filed by whom?

2 MR. BETTYS: I'm assuming Rhonda Larsen would have filed
3 it since she modified the judgment, and the Court went forward
4 modifying the judgment. And the only possible ability to do so
5 would be under a 78 motion.

6 MS. LARSEN: Your Honor, the Department of Corrections is
7 not a party to the criminal cause State v. Bettys and did not,
8 in fact, file any documents in that case.

9 THE COURT: I think I'm remembering. This is the process
10 of trying to extend some dates to allow Mr. Bettys to get into
11 treatment when we were working on a very short timeframe. There
12 was some hearings regarding that. I don't remember how that
13 initially came to the Court's attention, whether that was just
14 Mr. Bettys' original counsel from the trial or whether -- I don't
15 think the State initiated that on its own.

16 MR. PEDERSEN: I don't have a recollection. Ms.
17 Kaholokula and I were both doing things on the case at that time.
18 And, frankly, I was not aware we were going to be addressing this
19 particular issue today.

20 THE COURT: I think Mr. Bettys has made it clear he
21 didn't expect it to be on today. But he's bringing it up just to
22 let us know since we are all on the same phone call.

23 Perhaps Mr. Bettys we can go back to the file and try to
24 see if there's any documentation as to how that came before the
25 Court as it did. But I do know my recollection was we were

1 dealing with issues of deadlines from DOC and timeframes and
2 working very diligently to try to get you an opportunity and
3 treatment at DOC. And clearly the records reflect the fact that
4 your Judgment and Sentence was altered, and I don't think it's
5 denying that. But you should be entitled to have any motion, if
6 one was filed, or whether it was simply brought to the Court's
7 attention or we arranged a conference call and everyone started
8 talking about how to best solve the problem. So I honestly don't
9 remember if a specific motion was filed. Have you already asked
10 for access to the court file and copies of the court file, Mr.
11 Bettys?

12 MR. BETTYS: I did and we can't locate it anywhere in the
13 docket sheet.

14 THE COURT: Well, I don't know if we have to go back to
15 the trial counsel to see if they have any recollection about that
16 or not. But, again, it's been pointed out --

17 MS. LARSEN: I --

18 THE COURT: Go ahead, Ms. Larsen.

19 MS. LARSEN: I was just looking at my computer file here,
20 and this was a case that arose -- or the hearing that the Court
21 is referring to arose in December of 2014 -- excuse me --
22 December of 2013. And there is a letter here from the Court that
23 was received December 24th that no action will be taken -- let's
24 see here. It was a special set hearing and order for transport.
25 So I'm receiving things from superior court that was asking, it

1 looks like, for the DOC to be involved. So that may be how it
2 arose.

3 THE COURT: Right. And that would have come at a request
4 from counsel, I believe. I certainly wouldn't have initiated
5 that.

6 MS. LARSEN: Yes, I believe you are right. I believe you
7 are right.

8 THE COURT: I don't know if it came in the form of a
9 motion, Mr. Bettys. But you are certainly entitled to have that
10 record procedurally and otherwise in case that needs to be
11 reviewed.

12 MR. PEDERSEN: The order modifying was entered
13 December 17th, 2013, it looks like. And I think my recollection
14 is the Judgment and Sentence was actually entered November 26th,
15 2013. And that Judgment and Sentence itself had a kind of review
16 set in it, and that was part of the review process I think.

17 THE COURT: Is Mr. Bettys' question what got us to court
18 on December 13th or?

19 MR. PEDERSEN: I don't see any document filed prior to
20 that being a motion to modify under the statute.

21 THE COURT: Is that your question, Mr. Bettys, what does
22 the Court originally do to start doing the process of amending
23 the Judgment and Sentence?

24 MR. BETTYS: What I'm looking for is under what
25 jurisdiction the Court took to modify the Judgment and Sentence

1 (indistinguishable) violates double jeopardy claims, and that's
2 what I brought the appeal under. And the Court of Appeals'
3 ruling just kind of laid out to me that there's some type of 78
4 motion that had to have been filed for the Court to even have
5 jurisdiction to have entered the modified order. And without
6 accepting any motions this double jeopardy has been violated.

7 MR. PEDERSEN: I'm going to quibble with Mr. Bettys' use
8 of the term jurisdiction. I think the Court had authority on its
9 own to modify the Judgment and Sentences after they have been
10 entered. And this was a function of the fact that there was a
11 review process that was set up to have Mr. Bettys qualify for the
12 treatment through the Department of Corrections. And so I think
13 it was a part of that process that this was occurring. And that
14 was noted as a result of the fact that we were trying to get him
15 qualified.

16 THE COURT: I would be comfortable in representing, Mr.
17 Bettys, in any pleadings that you represent that there was no
18 such motion brought before the Court. No one can prove that there
19 was apparently. There's no record of it. So I think that would
20 be an accurate representation by you if they are putting the
21 burden on you to prove how it got to the Court. I don't think
22 that's fair. But you are welcome to represent that no such
23 motion was filed, but that the parties, because of the
24 circumstances, gathered and agreed to discuss the possible
25 amendments that would still give you the opportunity for

1 treatment despite DOC's deadline.

2 MR. BETTYS: I appreciate that, Your Honor.

3 THE COURT: And I don't mean to justify that you were
4 necessarily in agreement with it, but certainly your trial
5 counsel was. The prosecutor and I were in agreement with me to
6 discuss it. I'm not even finding you saying that you were a party
7 to that. But you were certainly included in the discussions as
8 was DOC at that point in time. I think it's fair to represent
9 that there was no formal motion filed.

10 MR. PEDERSEN: Written motion filed. There may have been
11 something orally addressed on the December 17th date.

12 THE COURT: There certainly could have been.

13 MR. BETTYS: Thank you, Your Honor. Is it possible to get
14 a copy of the transcript of today's hearing?

15 THE COURT: Yes, you may. The court reporter is here.
16 We'll enter an order allowing you the transcript at public
17 expense for today's hearing.

18 MR. BETTYS: Thank you, Your Honor.

19 THE COURT: Anything else on the Bettys' matter?

20 MR. BETTYS: No, Your Honor.

21 MR. PEDERSEN: Not from the State.

22 THE COURT: Is anyone else on the phone call at this
23 point?

24 MS. LARSEN: I am, Your Honor. I will hang up now.

25 THE COURT: Okay. Thank you, Ms. Larsen.

1 MR. PEDERSEN: Thank you.

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3 (PROCEEDINGS ENDING IN THIS MATTER FOR THE DAY)
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STATE OF WASHINGTON)

) ss: C E R T I F I C A T E

COUNTY OF SKAGIT)

I, JENNIFER CHRISTINE POLLINO, Official Court Reporter
in and for the County of Skagit do hereby certify;

That the foregoing is a true and correct transcript of
the proceedings held on April 8, 2015.

Witness my hand on this 23rd day of April, 2015.



JENNIFER CHRISTINE POLLINO,

WA CCR #2221, CA CCR #10176, RPR,

Official Court Reporter

APPENDIX E

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Licensed Mental Health Counselor - A
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 (360) 672 8464 Fax (360) 658 5104
 danielrboyce@gmail.com

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**SEXUAL BEHAVIOR EVALUATION
 (SSOSA)**

NAME: John Betys
 DATE OF BIRTH: 09/12/1974
 AGE: 39 years, 01 month
 ATTORNEY: Catherine McDonald
 CASE CAUSE NUMBER: 10-1-00159-9
 DATES EVALUATED: 10/04/2013 through 10/18/2013
 EVALUATOR: Daniel R. Boyce, M.A., LMHC-A, SOTP-A
 REPORT DATE: 10/30/2013

This evaluation should not be shown to the client or client's family without the prior consent of the evaluator. In addition, redisclosure of the evaluation to any party other than for whom it was written requires a valid release of information from the client and the permission of this evaluator. This evaluation may contain personal and sensitive information that could be harmful if used improperly.

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SEALED**REASON FOR REFERRAL**

Mr. Bettys was referred by his Public Defender, Catherine McDonald, to participate in a Sexual Behavior Evaluation. Ms. McDonald's phone number is (206) 441-3377. Mr. Bettys has recently pleaded guilty to one count of Child Molestation in the Third degree. Mr. Bettys allegedly engaged in sexual contact with his nephew's stepson Micah, referred to in the documentation as MIL (DOB 3/24/2004). It is expected that this evaluation may be used in negotiating Mr. Bettys' sentencing and help determine appropriate supervision and treatment interventions. This evaluation was funded by the Skagit County Public Defenders Office.

In addition to exploring these reported behaviors, the purpose of this evaluation is to assess Mr. Bettys' emotional and social functioning, explore factors contributing to his sexual behavior, determine his risk of further sexual misconduct, and to make appropriate treatment and supervision recommendations. It should be noted that this evaluation conforms to requirements for SOSSA assessments as established by the Community Protection Act of 1990.

PROCEDURES ADMINISTERED

Mr. Bettys was interviewed on site at the Skagit County Jail on 10/04/2013 (2 hours), 10/08/2013 (2.5 hours), 10/11/13 (2 hours), and on 10/18/13 (1 hour). Mr. Bettys' attorneys, Catherine McDonald and Cheryl Van Ackeren, were consulted with throughout this evaluation and provided requested legal discovery and other background material.

TESTS / QUESTIONNAIRES ADMINISTERED

Abel & Becker Cognitions Scale
Bumby Cognitive Distortions - Molest and Rape Scales
Millon Clinical Multi-Axial Inventory III (MCMI-III)
Personal Problems Checklist for Adults
Kaufman Brief Intelligence Test, Second Edition (K-BIT 2)
Personal History Questionnaire
Polygraph Assessment

In addition, the following documents were reviewed during the evaluation process:

- Psychological/Alleged Sexual Offender Evaluation, completed by Tower Psychological Counseling Services dated 07/19/89 (11 pages)
- Juvenile Sentencing Report, Cause #: 89-8-00066-5, dated 09/12/89 (4 pages)
- Pre-sentence Investigation Identification Information, date 09/17/93 (10 pages)
- Pre-sentence Investigation Criminal History Summary, dated 07/15/93
- Personal written statement of guilt by John Bettys, case # 93-3031, dated 04/29/93 (2 pages)
- Pre-sentence Investigation, cause #: 10-1-00159-9, dated 07/11/11 (8 pages)
- Judgment and Sentence, cause #: 10-1-00159-9 (7 pages)
- Pre-sentence Investigation, cause #: 10-1-00159-9, dated 09/20/13 (4 pages)

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- Third Amended Information. No. 10-1-00159-9, 09/26/13
- Court Order. No. 10-1-00159-9, 09/26/2013

This evaluator is unaware of any other medical, substance abuse, psychological, or sexual deviancy assessments completed previously on this client or his immediate family, other than those documented in this evaluation. Information from such reports, if they exist, was not available for consideration by this evaluator.

CURRENT LIVING ENVIRONMENT

Mr. Bettys is currently incarcerated at the Skagit County Jail. Prior to his incarceration, he resided in Anacortes, WA with his wife Marissa S. Bettys. Their address is 9434A Padilla Heights Road, Anacortes, WA 98221. His contact phone number when not incarcerated is (360) 840-5053, which is the cell phone of his sister Kathi. Mr. Bettys and his wife have a 5-year-old son named Harley. Mr. Bettys reported that the relationship with his wife has suffered greatly in his absence and under that strain it is unknown if Mr. Bettys will remain married to Marissa should he be allowed to reside and receive treatment in the community.

HISTORY OF MENTAL HEALTH AND PSYCHIATRIC TREATMENT

Mr. Bettys reported he has never been diagnosed with any mental health disorder or personality disorder. He has never been involved in any type of chemical dependency treatment. Mr. Bettys has no history of psychiatric hospitalization. His only history of mental health treatment involved some group sessions he participated in after his Indecent Liberties conviction in 1990. He was prescribed sinequan following his second conviction in 1993 through the mental health provided while incarcerated. He took the medication for about a year to help with suicidal ideation. He has not experienced any suicidal ideation since that period and he is currently not prescribed any medications.

Mr. Bettys had a Psychological/Alleged Sexual Offender Evaluation done in 1988 by Phillip L. Russell, PhD. This evaluation followed his Indecent Liberties charge.

SEXUAL HISTORY

It should be noted that this report contains detailed sexual history data that may or may not directly pertain to the assessment of Mr. Bettys' risk of sexual offense. Such data is provided to assist treatment professionals who may later be providing treatment services to Mr. Bettys.

History of sexual contact with minors prior to Index Offense: When interviewed by this evaluator Mr. Bettys reported that he was approximately 11-12-years-old when he began to engage in the fondling of his younger nieces Holly, who would have been approximately 8 at the time the contact first started. Mr. Bettys reported a pattern of fondling of the breast and genital areas that would occur as often as several times a week over a period of several years before it was reported to the police. This contact eventually included Holly's sister, Erin, who was approximately 7 years of age when the sexual contact began with her. During the course of his polygraph examination Mr. Bettys

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reported that he was approximately age 8 when this contact was first initiated with Holly and that Holly was age 7. He reported that he was 13 when he began to initiate sexual contact with Erin.

Mr. Bettys reported that when he was 10-11 years of age he had a sexual encounter with a neighbor girl who was approximately 2-3 years older than he was. He reported they had sexual intercourse. Mr. Bettys reported that the girl had previous sexual experiences and the girl's mother knew about it and did not discourage it. During the course of his polygraph examination Mr. Bettys reported that he was the initiator and that girl was closer in age, perhaps the same age as he, or one year older.

Mr. Bettys also reported the incidents surrounding his conviction in 1993. The sexual contact started when he was approximately 12-13-years-old. He had coerced his nephews, Michael (age 12), and Danny (age 7) into engaging in fondling of genitals and oral sex. This contact would occur as often as once a week and went on for several years before being reported.

During the course of the polygraph evaluation Mr. Bettys reported that at age 17 he had sexual contact with a female relative, aged 8, that consisted of mutual fondling over and under clothing and oral sex. This was reported to have happened once. He further reported Mr. Bettys that at age 13 he had a one-night encounter with a 13-year-old relative that involved mutual fondling, masturbation, oral sex and unsuccessful attempts at anal intercourse. Between ages 13-15 he reported sexual contact, including mutual fondling, oral sex, and masturbation, with two male relatives, aged 11 and 9, that occurred over a period of about two years. He also reported that at age 16 or 17 he had a one-time sexual encounter with a male neighborhood friend, age 12-13, that consisted of oral sex.

Sexual contact with animals: When interviewed by this evaluator and during the course of his polygraph evaluation Mr. Bettys reported a history of sexual contact with dogs. He reported this behavior as being random in frequency and occurred when he was approximately 13-14 years old. He reported that it had occurred perhaps 4 times. He would rub the dogs' genitals and rub his own genitals against the dog until he ejaculated. During the course of his polygraph examination Mr. Bettys further reported fantasies involving "having sex with dogs . . . girls having sex with dogs."

History of experiencing sexual abuse: When interviewed by this evaluator and during the course of his polygraph evaluation, Mr. Bettys reported that when he was approximately 5-6 years of age his older sister, Edwina (Joan), who would have been 15-16 years of age, would practice fellatio on him. He reported that this would occur several times a week and went on for approximately six months. During the course of his polygraph examination Mr. Bettys reported that his sister was 13 years of age when this took place.

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Mr. Bettys reported that when he was 11-12 years of age he was "trapped" in a camper once and coerced into having oral sex with a 14-year-old male neighbor. This, he reported, was a one-time event.

During this same period Mr. Bettys reported another neighbor, a man in his 40's who would entice the local kids to come around and offer them candy and soda in exchange for oral sex. This he reported happened several times over the course of a year.

History of consensual, age appropriate sexual contact: When interviewed by this evaluator and during the course of his polygraph evaluation, Mr. Bettys reported he had many girlfriends with which he had sex between the time he was 10-16 years of age. One relationship, in particular, lasted from the time he was 16 until he was 18. The girl was two years younger than he. He reported that they lived together for the last six months and the relationship ended when he went to jail in 1993.

Mr. Bettys reported that he lived with a woman after he got out of jail in 2004-05 for about six months. He reported that this woman was 18 years old. He reported a history of infidelity within many of the relationships he was socially connected with throughout his life.

When interviewed by this evaluator, Mr. Bettys reported that in 2007 he met his wife and they were married shortly after. Mr. Bettys reported that he had engaged in twosomes and threesomes since the time he was 14-years-old. These encounters would occur at random and happened perhaps 6-8 times altogether. He also reported that his wife is bi-sexual and he had participated/watched her having sex with "her partners."

History of sexual contact with men: When interviewed by this evaluator and during the course of his polygraph evaluation, Mr. Bettys reported the incident from his prior conviction from 1993. He reported that when he was approximately 12-13 years old he engaged in a pattern of fondling and oral sex with his younger nephews, Michael (9-10 years old) and Danny, (7-8 years old). These behaviors occurred as often as once per week over a period of several years. He reported that he knew these behaviors were wrong and that he had tried to stop. When he would try to get help from his family, namely his mother, it was minimized and he was told he would grow out of it.

He also referred to the incidents reported above in which he was the victim of an older boy and a neighborhood man in his 40's.

History of pornography use: When interviewed by this evaluator and during the course of his polygraph evaluation, Mr. Bettys reported a long history of using pornographic materials including magazines, movies, and websites for the purpose of arousal and masturbation. He reported that his father had large collections of pornographic magazines that he had discovered when he was approximately 9 years of age. He would use this material for the visual stimulation but he also very much enjoyed the sexual written content as well.

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Mr. Bettys reported that when he was 12-13 years of age he had access to his older sisters collection of pornographic videos. He reported they usually depicted scenes involving adult men and women (and sometimes lesbians) involved in various forms of sexual intercourse/contact. He would view these on random occasions hundreds of times throughout his youth.

Mr. Bettys reported he frequently explored pornographic websites after getting out of jail in 2003. He reported that his wife was not tolerant of having pornography in the house and when he got married in 2007 his use of pornography seized.

When asked about child pornography, Mr. Bettys reported no history of visual child pornography. He reported, however, that he has created his own stories, some of which, perhaps 10%, involve under-aged children. Some of these stories were mental fantasies and some were written stories for purposes of sexual stimulation. The children in these stories were between 10-13 years of age. Mr. Bettys reflected on this and commented that these fantasies started when he was young and has been with him his entire life. He also noted that it coincides with the age of his own first sexual experiences.

History of fetish behavior: When interviewed by this evaluator, Mr. Bettys reported he has stolen women's underwear, perhaps 20-30 times throughout his life. This would occur randomly with women he was intimately involved with, including his wife. During the course of his polygraph examination Mr. Bettys reported that from about age 12 he wore female clothing, typically panties, from victims, nieces, or other relatives. After his marriage this decreased somewhat and would include his wives panties. Female panties were commonly used during masturbation, 20-30% of the time.

He reported engaging in sexting and emails with sexual language. This was between he and his wife and was "always legal and age appropriate" consisting of sexually related dialogs. He also reported a history of using photography to "document" the sexual activities of past girlfriends and, more recently, his wife. This would occur randomly and he recalls engaging in this activity as often as 20-30 times. During the course of his polygraph examination Mr. Bettys reported that he has had sexual contact with "victim Mike and Danny's wives and video taped the acts." He "describes that the family is very sexual and put's little limitation to who they have sex with. Wife sharing and passing around the video's is pretty common among the family."

He reported urine being used during sexual encounters that began when he was about 13. He reported it was initiated by one of his victims. He found it stimulating and has continued to use it in his adult sex life. This is something that would occur randomly and has maybe been used a couple of dozen times. He reported his only history of exhibitionism was while he was incarcerated. He exposed himself to a female guard who came around doing cell checks. He reported that this occurred three times.

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He reported no history of voyeurism or frottage, however, during the course of his polygraph examination Mr. Bettys reported that between the ages of 10-18 he would "peep through windows to watch girls undress. Some being prior victims." This occurred from 3-10 times. He reported no history of patronizing prostitutes, strip bars, or peep shows nor ever accepting money for sexual acts.

Masturbation/History of deviant fantasies: When interviewed by this evaluator and during the course of his polygraph evaluation, Mr. Bettys reported he first learned about masturbation when he was 11-12 years old. He didn't experience ejaculation until he was asked to ejaculate several times for medical reasons. He reported that when he was 13 he received a malicious kick to the groin area that injured one of his testicles. Part of it had to be removed and he was asked to masturbate about 6 times over the course of two months to assure that the operation had been successful. From this experience masturbation became a part of his life from then on.

During the course of his polygraph examination Mr. Bettys reported that he currently masturbates about once a day, the last time being several hours before the examination while fantasizing about one of his 8-year-old female victims. He further reported that his most common sexual fantasies include "oral sex with a minor female . . . having reciprocal sexual contact with a minor female."

When interviewed by this evaluator, Mr. Bettys reported that approximately 90% of the time his fantasies involve adult females. About 10% of the time his fantasies include 10-13 year old children. He also reads stories that include strong sexual situations. Some these involve children from 10-13 years of age. The sexual situations include fondling of genitals and oral sex. He reported that using any type of physical force or violence has never been part of his sexual fantasies or sexual activity. During the course of his polygraph examination Mr. Bettys reported that about 80% of his sexual fantasies were about minor females, the youngest age being about 7-8 years. He reported that about 10% were about adult females. The other 10% were about minor males, age 10-12. He reported that most of his sexual fantasies have been about prior experiences with various partners and victims.

Current attitudes about sexual abuse, victim issues and treatment:

Mr. Bettys completed the **Bumby Cognitive Distortions Scales (the Molest Scale and the Rape Scale)** to assess his attitudes and beliefs about sexual abuse. Such instruments can sometimes yield important anecdotal data about an individual's belief systems. He rated all the items on a 1-4 scale, with "1" indicating strong disagreement and "4" indicating strong agreement.

Of the 36 items to be rated on the Rape Scale, Mr. Bettys responded with a "3" (agree), to the following of the statement:

- If a woman does not resist strongly to sexual advances, she is probably willing to have sex.

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Of the 36 items to be rated on the Rape Scale, Mr. Bettys responded with a "4" (strongly agree), to none of the statements.

Of the 38 items to be rated on the Molest Scale, Mr. Bettys responded with a "3" (agree somewhat), to the following statements:

- Some children are eager and willing to have sex with adults.
- Some children can act very seductively
- Trying to stay away from children is probably enough to prevent a molester from molesting again.
- A lot of times, kids make up stories about people molesting them because they want to get attention.
- Some people turn to children for sex because they were deprived of sex from adult women.
- Some young children are much more adult-like than other children.

Of the 38 items to be rated on the Molest Scale, Mr. Bettys responded with a "4" (strongly agree), to the following statements:

- Children can give adults more acceptance and love than other adults

Mr. Bettys also completed the **Abel & Becker Cognitions Scale**, a series of statements which were developed to assess attitudes and beliefs about sexual abuse. He rated all the items on a 1-5 scale, with "1" indicating strong agreement and "5" indicating strong disagreement. A "3" on the scale indicates a neutral response.

Of the 28 items to be rated on the Able & Becker Cognitions Scale, Mr. Bettys responded with a "1" (strongly agree) to the following statement:

- My daughter (son) or other young child knows that I will still love her (him) even if she (he) refuses to be sexual with me.

Of the 28 items to be rated on the Able and Becker Cognitions Scale, Mr. Bettys responded with a "2" (agree) to none of the statements.

The above responses, some not associated in any way with recidivism risk, suggest that Mr. Bettys endorses few of the rated attitudes and beliefs that would tend to support sexual molestation, sexual assault and rape behavior.

Current allegation of sexual misconduct / referring concerns

Official Version of Offense:

Noted in Mr. Bettys' pre-sentencing investigation report:

On 5/11/11 the defendant, John Edwards Bettys, was found Guilty of Child Molestation, First Degree (Count 1). He was sentenced to a term of life imprisonment on 7/11/11.

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Through a series of legal challenges Mr. Bettys was able to have the above conviction set aside and on 9/13/13 he entered in to a Plea Agreement with the Skagit County Prosecuting Attorney's Office wherein he agreed to enter a plea of Guilt to the amended charges of Communication With a Minor For Immoral Purposes (felony), Count I, and Assault in the Second Degree, Count II. Representing this in this matter is currently set for 9-26-13 at 1:30 p.m.

The following appear to be the material facts in this case:

According to information provided in the Prosecutor's Affidavit of Probable Cause, on 7/12/09 Daniel Edward King went to the Anacortes Police Department to report that his 5-year-old step-son MIF (DOB 3/24/10) had possibly been the victim of sexual abuse. Anacortes Police Officer Johnson took the initial complaint from Mr. King, while the victim and his mother, Andree Mae King, waited in the lobby of the police station.

Daniel King informed Officer Johnson that Andree King's mother, Laurie Lee Ferrell is the grandmother who reported that, at some point during his visit, MIF "grabbed her groin area." When Ms. Ferrell confronted MIF about the behavior he responded by saying that his uncle, John Edward Bettys, had touched him in that spot at some point in the past.

Upon learning of the above, Mr. King and his wife questioned MIF regarding the allegation that he had been touched inappropriately by his uncle. MIF indicated the "John" had specifically "poked" his penis on the outside of his clothing. MIF indicated that the incident happened "a long time ago" and was unable to provide a specific date or time.

On 7/13/09 Anacortes Police Detective Michael Hansen telephoned MIF's mother Andree King to obtain further information. She confirmed that on 7/12/11 when she and her husband spoke with MIF he disclosed that John Bettys had "poked" or "pulled" at his penis with his hand "some time ago." She expressed concern that her husband Daniel had been molested by Mr. Bettys when Daniel was approximately 5 years of age. She said that John Bettys initiated his patterns of molestation by playfully touching his victims which later progresses to masturbating his victims and performing acts of fellatio. According to Detective Hansen, Ms. King reiterated her concern regarding possible sexual abuse of MIF by Mr. Bettys based upon MIF's acting out in a way that she perceives as sexually inappropriate for his age.

On 7/16/09 Child Interview Specialist Nicol Flaco conducted a forensic child interview of MIF in the Mt. Vernon Child Advocacy Center. She related that "during the interview MIF explained that he had a secret that he needed to tell the police. He went on to speak about his living situation and school, noting that "John" comes to take him to school." Ms. Flaco then asked MIF about what he was there to talk about. She said that MIF stated that "John (Bettys) touched him two times and told him 'Don't tell anyone.'" When describing the touching, MIF motioned several times towards his groin. When asked where the touching occurred MIF told Ms. Flaco that he had been at "grandma Sylvia's house." He believed it had been daytime and that he had been in the living room sitting on the couch when John Bettys moved closer to him and asked "Hey, can I do something?" MIF said that he replied "no," but that John Bettys had touched him anyway. When describing the touching, MIF said that John's hand had been over his clothing and that he softly touched what MIF described as his "penis." MIF related that being touched by Mr. Bettys made him "pretty pretty mad" and that it made his body "angry" and his "tummy growl." MIF said he confronted Mr. Bettys about the touching and that Mr. Bettys only laughed at him and told him not to tell anyone or he would get in trouble. MIF related that he told anyway and that he didn't get in trouble. Instead, he said that Mr. Bettys was in "big trouble" for touching him. Mr. Bettys remains confined in Skagit County Jail pending resentencing.

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SEALED**Mr. Bettys' Version of the Offense:**

Mr. Bettys was advised by counsel to decline any involvement with the Presentence Investigation interview. However, when interviewed by this evaluator, Mr. Bettys reported that he had been helping his nephew and his family in various ways. He helped with the transport his nephew's stepson to school and also at times by babysitting. Mr. Bettys reported that his own son was 1 1/2 years old at the time and in diapers. Because Micah (referred to in the police reports as MIF) had experience wetting himself he was wearing pull-ups. When he was babysitting, Mr. Bettys, as routine, would check both his son's diaper and Micah's pull-ups by feeling them in the area of the genitals to determine if they had been soiled.

Included in the Pre-sentence Investigation is a Victim's Concern statement from the victim's mother, Andree King. She states the following:

I believe that the defendant, John E. Bettys checked my sons pull up in the same manner that he would check his own sons' diaper.

Polygraph Results

It should be noted that the use of polygraph examination in the evaluation of persons who have committed sexual offenses is a common, yet controversial practice. Polygraph data used in this evaluation are considered simply additional sources of information, and decisions are not based solely on the polygraph results. There is a limited amount of empirical evidence supporting the use of polygraph testing with adults who have committed sexual offenses and even less research that have been conducted on the utility of polygraph testing with youth who have engaged in sexual misconduct. In addition, research has demonstrated that polygraph examination has a very high rate of false positives. That is, coming to a conclusion that someone is lying when they are actually telling the truth. Research findings also demonstrate that the validity and reliability of polygraph testing is low, and client behaviors and characteristics as well as the experience of the polygraph examiner affect the accuracy of the test results. Despite that information, I continue to use the polygraph in my practice with adolescents and adults who have committed sexual offenses. Research has found that the process of having clients undergo polygraph testing yields significant disclosures about behavior that otherwise may not get disclosed as readily. Therefore, while polygraph testing may have functional utility in many cases, I strongly believe that no decisions should be made on the sole basis of polygraph results. I believe that the results of the polygraph examination are much less important than the additional information that may be revealed throughout the process. For these reasons, I emphasize that the polygraph should only be used as one data point in any decision process, with much heavier weight going to documented and admitted behavior.

Mr. Bettys underwent a sexual history polygraph examination with David McNeil, PPD on 10/23/2013. Due to the existing situation this test was completed with two separate polygraph examinations. One being life history and the other being about the most recent victim Micah Ferrell-Chichester, age 4 at the time of alleged incident.

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SEALED**EXAM ONE:**

The following relevant issue questions were administered using an exploratory modified zone of comparison testing technique:

5. **Not to involve Micah, today when you described to me your past sexual experiences did you withhold information or lie to me? Answer: No**

7. **Excluding Micah, are there any other victims under age 18 that you have not disclosed to me today? Answer: No**

Based upon the evaluation of the physiological responses produced by the examinee, **NO DECEPTION** was indicated when the examinee answered the above questions as noted. The examiner's professional opinion is that the client was being truthful to the above questions when answering as noted.

Prior to the instrumentation portion of the polygraph phase of the examination all questions to be tested on were reviewed with the examinee and he/she indicated that they understood and agreed with the common meaning between he and this examiner.

EXAM TWO:

The following relevant issue questions were administered using an exploratory modified zone of comparison testing technique:

5. **Do you specifically remember touching Micah's genital area for a sexual reason? Answer: NO**

7. **Did you ever formulate in your mind any plan to touch Micah for your sexual gratification? Answer: NO**

Based upon the evaluation of the physiological responses produced by the examinee, **DECEPTION** was indicated when the examinee answered the above questions as noted. This examiner's professional opinion is that the client was not being truthful to the above questions when answering as noted.

Prior to the instrumentation portion of the polygraph phase of the examination all questions to be tested on were reviewed with the examinee and he/she indicated that they understood and agreed with the common meaning between he and this examiner.

The examinee was polite and pleasant during the interview and examination and related no physical or emotional condition which might preclude a valid examination.

FAMILY HISTORY

Mr. Bettys completed a Personal History Questionnaire to provide specific information about his family history and current family contact and relationships. Mr. Bettys reported

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he was born and raised in Anacortes, WA. He reported he resided in one home throughout his childhood, indicating consistency in academic and social environments. His parents are Ralph and Sylvia Bettys. Ralph Bettys worked at the local refinery, as a fisherman in Alaska, and as a scrap processor. His mother was a waitress, housekeeper, and tended the Country Girl Second Hand Shop. Sylvia passed away on June 5th of 2012 at 71 years of age. When asked to describe his past and current relationship with his parents, Mr. Bettys wrote, "Was close to mom until she passed away. Pop's always been drunk and verbally abusive. He is providing for financial needs while in prison until release. There are times when we work pretty well together for the betterment of everyone in the family. However, I'm not sure of how mom's death has changed things yet?"

He referred to his mother as the matriarch of the family. "All communication went through her." "Mom was the glue that held the family together for many years, and I've been in prison since that glue was removed." He also added that his "father prefers me locked up. He's only visited me once."

Mr. Bettys reported having three siblings, Kathi, Edwina, and Sheila. When asked to describe his past and current relationship with his siblings, Mr. Bettys wrote, "Kathy is the only sibling I still have contact with. Edwina has tried to shoot me in the past for my sex crimes, and Sheila walked away in 1991 over the 1988 sex crimes. It is pretty much Kathi, Dad, and I left in the family now."

When asked to describe any history of drug and/or alcohol use or abuse within his family, Mr. Bettys wrote, "Dad and Sheila are [the] alcoholics in the family. Kathi is the social drinker and Jonnie [Edwina] [has been] on weed since age 13, daily." He reported that he used alcohol and marijuana until the age 18. "After prison I was sure I did not want to drink like dad or smoke like my sister to excess."

When asked to describe his family history of emotional, physical, or sexual abuse, Mr. Bettys wrote, "I was sexually abused at around age 5 by my sister Edwina and this led to sexually abusing Sheila's daughters in 1988 and Edwina's son's in 1990-93. Our father was verbally abusive due to the alcohol." Mr. Bettys reported that his sister Edwina has mental issues and "is certified mentally nuts." He reported she had been diagnosed at Western State Hospital but offered no more details of this. Mr. Bettys reported that his sexual behaviors troubled him and he knew they were wrong and wanted help. He reported that the sexual activities within and around the family were minimized and he was told, it's "Just kids playing around. You'll outgrow it."

MARITAL / RELATIONSHIP HISTORY

When interviewed by this evaluator, Mr. Bettys reported that he has been married once. He was married on 08/17/2007 when he was 33. He married Marissa S. Ray, who was 18 years old at the time. Mr. Bettys reported that he met his wife at a Jack-in-the-Box drive through window. He was traveling with a friend of Marissa's. He was encouraged to go back and picked her up from work, they hung out, and Marissa ended up staying for a

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couple of weeks. He asked her to marry him, "and we created Harley" their five-year-old son.

Mr. Bettys reported having many relationships with girls throughout his early teens. They were all with females who were within two years of his age. One in particular lasted approximately two years and they lived together for about six months. His incarceration in 1993 ended that relationship.

Mr. Bettys reported he had a relationship in 1991 when he was approximately 16-17 years old with a woman who was 21 that produced twins, a boy and a girl. When John found out he told the mother to "let them grow up with you" and when they're 18 if they want to see me that will be fine. He recalls seeing them once.

Mr. Bettys reported another relationship which he believes resulted in having a child, Amber, who is now 21. The biological link has not been medically confirmed but he feels reasonably certain that the young woman is his daughter through a relationship he had in 1992 when he was approximately 18. The woman was a friend of the families that he had known since he was 5 years old and had dated when he was 16. He refers to Amber as his "God-Daughter." She has spent summers with him before he was incarcerated and he is considering providing housing for her when he gets out.

SUBSTANCE USE / ABUSE HISTORY

When interviewed by this evaluator and during the course of his polygraph examination Mr. Bettys reported he first began to drink alcohol and use marijuana in his teens when he was approximately 13-18 years old. He reported his father and his oldest sister as the family members with heavy alcohol use and his middle sister the one with the marijuana habit. "After prison I was sure I did not want to drink or smoke like dad and my sister to excess." He reported that he might drink socially, like his youngest sister. He reported being drunk a few times in his life when he was much younger and didn't really like it.

CRIMINAL HISTORY / HISTORY OF VIOLENCE

Prior to his current charges, Mr. Bettys has been charged with 5 juvenile felonies, one adult felony, and one juvenile misdemeanor.

The Juvenile Felonies include:

12/1/88	Indecent Liberties
3/29/89	Burglary, 2 nd Degree
4/20/90	Burglary, 2 nd Degree
4/30/90	TMVWOP (Taking Motor Vehicle Without Permission)
1/17/91	Theft, 2 nd Degree
	TMVWOP
	Malicious Injury (Damage of a fence)

Juvenile Misdemeanor:

6/19/90	Theft, 3 rd Degree
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The Adult Felony:
9/23/93 Rape of a Child, 1st Degree

Mr. Bettys reported that some of the minor criminal activity actually gave him a break from his father. He came to think of Juvenile Detention as "Summer Camp." An opportunity to "get away from dad's drinking."

There are no reports indicating Mr. Bettys has a history of physical aggression or violence towards others.

ACADEMIC HISTORY

When asked about his academic history Mr. Bettys reported that he had received special speech services while in grade school. He reported that in Junior High he was "suspended and expelled many times for every reason possible. He attended Anacortes High School into the 10th grade in their Learning and Opportunities Center program. Due to factors relating to his registration status he was given the impression that he would not be able to graduate. The school counselor convinced him to quit.

He reported getting his GED 1994 while incarcerated. He went on to earn two years worth of college credits in business management and computer repair from Edmonds Community College at their Washington Corrections Center Branch.

EMPLOYMENT HISTORY

While completing his Personal History Questionnaire, Mr. Bettys reported that he has been self employed his entire life. He has worked as an auto mechanic, a scrap processor/recycler and also helped out in his family's second hand store. When he got out of jail in 2003 he found it very difficult to get any employers attention, putting out 86 applications and not hearing back from one. He was able to help make ends meet by setting up a used car business, which he worked until incarceration in 2010. Upon exiting from jail he is hoping to re-establish this business.

MILITARY HISTORY

While completing his Personal History Questionnaire, Mr. Bettys reported he has never serviced in any branch of the military.

RELIGIOUS AFFILIATION

While completing his Personal History Questionnaire, Mr. Bettys noted that he is "Christian" and "attended church with his son and wife prior to 2010." He reported that it is difficult to find an "excepting church group in light of [his] past" offenses and sexual registration status. He worked with the chaplain in the chapel at Twin Rivers Corrections Center while he was there. He found it to be a constructive use of his time and enjoyed trying to help others.

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CLIENT'S MOTIVATION TOWARD EVALUATION AND TREATMENT

Mr. Bettys was polite and cooperative throughout the evaluation. Mr. Bettys was assigned homework assignments including completing specific testing material and a personal history questionnaire. He completed all homework assignments in a timely manner and followed all directions. He appeared to put sufficient thought and effort into his responses, adding three extra sheets of paper to the Personal History Questionnaire. Mr. Bettys reported that he has wanted and has asked for help many times throughout his life. "I want treatment when I am released. I want tools to help me understand my experiences and how to work with and overcome them." He presents as one who is very open and willing to address various issues related to his history of unlawful misconduct and sexual offenses.

TEST RESULTS

It should be noted that psychometric data sometimes yields information that can prove useful in formulating clinical impressions of persons with sexual behavior problems. However, such psychometric data serves as only one reference point in a thorough assessment, and that there are no specific test profiles that are associated with adult sex offenders or adults with sexual behavior problems. It should also be noted that this evaluator reports both significant and elevated scores on personality testing. Although there is no empirical evidence for interpreting elevated scores, this evaluator believes that elevated scores provide some additionally useful information regarding personality functioning.

Kaufman Brief Intelligence Test, Second Edition

Mr. Bettys was administered an intellectual assessment instrument, the Kaufman Brief Intelligent Test (KBIT- 2). His Verbal Standard Score was 97 (66th percentile, average), indicating that there is a 90% probability that his true verbal IQ score will fall between 99 and 113. His Nonverbal Standard Score was 98 (45th percentile, average), indicating that there is a 90% probability that his true nonverbal IQ score will fall between 90 and 106. His Composite Standard Score was 102 (55th percentile, average), which suggests that there is a 90% probability that his true composite IQ score will fall between 97 and 107.

The Verbal subtests are a measure of verbal intelligence, achievement, and crystallized intelligence (i.e., the acquisition of facts). Whereas, the Nonverbal subtest is a measure of nonverbal intelligence, mental processing ability, and fluid intelligence (i.e., the ability to solve novel problems). However, the reader is cautioned that no specific theoretical, neuropsychological, or educational interpretation should be given to a significant discrepancy between standard score on Vocabulary and Matrices. Moreover, the KBIT - 2 is a brief screening test. Overall, Mr. Bettys appears to be functioning in the average range of intellectual ability. The difference between his Verbal score and his Nonverbal score was not clinically significant.

Personal Problems Checklist for Adults (PPCA)

The Personal Problems Checklist for Adults was developed as an aid in the evaluation and assessment of adults. The PPCA is to be completed by the adult being assessed. It is

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intended as a survey measure to identify relevant problems, establish rapport, and provide written documentation of presenting problems consistent with community standards of care. Since the PPCA is essentially a structured information-gathering instrument, scoring is accomplished by summarizing the problem areas and important item endorsements.

Mr. Bettys completed the PPCA assigned as homework. He was asked to indicate self-identified areas of concerns in 13 different areas including social issues, issues involving personal appearance, vocational issues, family/home issues, academic issues, financial issues, religious issues, emotional issues, sexual issues, legal issues, health issues, issues with general attitude and current crisis issues. He was also directed to indicate the most significant issue effecting his life under each category.

Under the ~~social issues~~ category, Mr. Bettys indicated that being criticized by others, not fitting in with peers, feeling uncomfortable in social settings, being shy, not having close friends, ~~being unpopular, being uncomfortable when talking to people, feeling inferior,~~ and being embarrassed by family background are current issues affecting his life. He indicated that his "not having close friends" is the most significant issue in this category.

Under the personal appearance category, Mr. Bettys indicated that being overweight, not being clean and well-groomed, not having suitable clothes, and being noticed for physical appearance are current issues affecting his life. He indicated that his "being overweight" is the ~~most significant~~ issue in this category.

Under the vocational category, Mr. Bettys indicated that ~~not having a job, being disliked by co-workers, friends or relatives criticizing job, working too many hours, and job having no future~~ are current issues affecting his life. He indicated that his "not having a job" is the most significant issue in this category.

Under the family and home category, Mr. Bettys indicated that child or spouse having emotional problem, having problems with in-laws, having problems with parents, being separated or divorced from spouse, having constant arguments with spouse, spouse having different interests, spouse having different background, spouse being unfaithful, not getting along with neighbors, and not being able to afford living alone are current issues affecting his life. He indicated that ~~"being separated from his wife"~~ and "spouse being unfaithful" are the most significant issue/s in this category.

Under the academic issues category, Mr. Bettys indicated no current issues.

Under the category of financial issues, Mr. Bettys indicated that not having enough money, not having a steady income, having unpaid bills, depending on others for financial support, and not being able to pay medical bills are current issues effecting his life. He indicated that "not having a steady income" is the most significant issue in this category.

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Under the category of religious issues, Mr. Bettys indicated that not being able to get to church and his fear of being rejected by his church are current issues affecting his life. He indicated that "not being able to get to church" is the most significant issue in this category.

Under the category of emotional issues, Mr. Bettys indicated that feeling guilty, not being able to relax, and being influenced by others are current issues affecting his life. He indicated that his "feeling guilty" is most significant issue in this category.

Under the category of sexual issues, Mr. Bettys indicated that being uncomfortable with the opposite sex, worrying about sexual performance, and thinking about sex too often are current issues affecting his life. He indicated that "being uncomfortable with the opposite sex" is the most significant issue in this category.

Under the category of legal issues, Mr. Bettys indicated that not having retirement funds being on parole, being legally disowned by his family, and having legal problem with neighbors are current issues affecting his life. He indicated that "having legal problem with neighbors" is the most significant issue in this category.

Under the category of health issues, Mr. Bettys indicated that not getting enough exercise, eating too much, having physical disability, being unhappy with medical care, having poor eating habits, and not making time for leisure activities are current issues affecting his life. He indicated that "having physical disability" is the most significant issue in this category.

Under the category of general attitude, Mr. Bettys indicated that not understanding the attitudes of others, having a poor attitude towards family, and having a poor attitude towards self are current issues affecting his life. He indicated that having a poor attitude toward self is the most significant issue in this category.

Under the category of current crisis issues, Mr. Bettys indicated that friend or family member dying and losing something valuable are current issues affecting his life. He indicated that "friend or family member dying" is the most significant issue in this category.

When directed to list other problems he has at this time, Mr. Bettys noted the following:

- Basing my daily life on the fact that I am a registered sex offender.

Millon Clinical Multiaxial Inventory – III

Mr. Bettys was administered the Millon Clinical Multiaxial Inventory – III (MCMI-III). MCMI-III reports are normed on patients who were in the early phases of assessment or psychotherapy for emotional discomfort or social difficulties. Respondents who do not fit this normative population or who have inappropriately taken the MCMI-III for non-clinical purposes may have inaccurate reports. The MCMI-III cannot be considered definitive. It should be evaluated in conjunction with additional clinical data.

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The MACI-III results noted the following:

"The client is a 39-year-old married male with 14 years of education. He is currently being seen as a correctional offender, and he reports that he has recently experienced problems that involve antisocial behavior and low self-confidence. These self-reported difficulties, which have occurred in the last three to seven years, may take the form of an Axis I disorder."

The results of the MCMI-III noted Mr. Bettys achieved significant scores on the avoidant scale (BR=97), on the dependent scale (BR=86), on the antisocial scale (BR=85), on the masochistic scale (BR=84), on the anxiety scale (BR=85), and on the drug dependence scale (BR=79).

Noteworthy responses include the following:

Interpersonal Alienation:

- What few feelings I seem to have I rarely show to the outside world. (True)
- I'm afraid to get really close to another person because it may end up with my being ridiculed or shamed. (True)
- When I have a choice, I prefer to do things alone. (True)
- I avoid most social situations because I expect people to criticize or reject me. (True)
- I'm alone most of the time and I prefer it that way. (True)
- In social groups I am almost always very self-conscious and tense. (True)
- I have little desire for close friendships. (True)
- I seem to create situations with others in which I get hurt or feel rejected. (True)
- Other than my family, I have no close friends. (True)
- I take great care to keep my life a private matter so no one can take advantage of me. (True)
- Although I'm afraid to make friendships, I wish I had more than I do. (True)

Emotional Dyscontrol:

- My moods seem to change a great deal from one day to the next. (True)

Self-Destructive Potential

- I began to feel like a failure some years ago. (True)
- I have been downhearted and sad much of my life since I was quite young. (True)
- I've never been able to shake the feeling that I'm worthless to others. (True)
- I have tried to commit suicide. (True)

Childhood Abuse

- I'm ashamed of some of the abuses I suffered when I was young. (True)
- I hate to think about some of the ways I was abused as a child. (True)

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MENTAL STATUS EXAMINATION

Appearance and Behavior: Mr. Bettys is a 39 year old, Caucasian male of above average height and weight. He was incarcerated during the course of the evaluation, as a result, his pattern of arriving on time as scheduled could not be assessed. Mr. Bettys was polite, cooperative and talkative throughout the evaluation process.

Dress, grooming, hygiene: Mr. Bettys was dressed in jail issued coveralls. Mr. Bettys appears to practice appropriate grooming and hygiene while incarcerated. He reported no difficulty maintaining appropriate hygiene while living in the community.

Posture and Gate: No abnormal features observed.

Facial Expression: Facial expression was appropriate and consistent with reported mood. He maintained appropriate eye contact throughout the evaluation during times of discussion.

Motor Activity: No abnormalities reported or observed.

Specific Mannerisms: No abnormalities reported or observed.

Speech: Mr. Bettys was talkative throughout the interview process. He was quite easy to understand when he spoke.

Rate: Rate of speech was within normal limits for his age and development.

Pitch, Volume, Clarity: No additional abnormalities reported or observed.

Abnormalities: No abnormalities observed or reported.

Emotions: Observed affect appropriately reflects stated mood.

Mood: Mr. Bettys reported to be mildly nervous about the evaluation, polygraph examination and possible results. He reported feeling generally depressed as a result of being incarcerated, losing his job, being separated from his family and not being able to support his family. He verbalized feeling a great deal of guilt and shame as a result of his past sexual offenses.

Affect: Mr. Bettys' affect clearly reflected his mood and feelings being presented. His facial features expressed emotions and feelings well.

Thought and Perceptions: No abnormalities reported or observed.

Process (flow of ideas): No abnormalities reported or observed.

Content: No abnormalities reported or observed.

Delusions: No abnormalities reported or observed.

Hallucinations: Mr. Bettys reported no history of auditory or visual hallucinations.

Obsessions and Phobias: No abnormalities reported or observed.

Suicidal and homicidal ideations: Mr. Bettys reported a brief history of suicidal ideation following his conviction in 1993. While incarcerated he was prescribed sinequan for approximately one year to help manage this. There is no history of homicidal ideation or interpersonal violence.

Sensorium and Intellectual Functioning

Orientation (person, place, time): Mr. Bettys was oriented to person, place and time.

Concentration: His ability to concentrate appeared was adequate for the testing and questions needed for the evaluation.

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Memory (immediate, recent, remote): Memory appeared generally intact.

Fund of knowledge: Intelligence testing indicated that Mr. Bettys is functioning within the average range of intellectual ability.

Abstraction: Mr. Bettys' ability to comprehend abstractions is within the normal range.

Judgment: Mr. Bettys' judgment appears relatively normal for his age, development and cognitive ability.

Insight: Mr. Bettys has displayed a moderate degree of personal insight into his life circumstances, his behaviors and how his behaviors affect those around him. He reported, for example, that he has come to realize that a lot of what has happened within his family has contributed to his situation.

ASSESSMENT OF RISK

It should be noted that the following risk assessment was based on information available to this evaluator at the time of the evaluation and outlined on this report. Additional, relevant information bearing on this case could substantially alter this evaluator's assessment of risk. It should also be noted that standardized instruments were utilized for this evaluation as an attempt to gain additional information about risk of sexual re-offense and psychopathy. This evaluator concurs with other clinicians and researchers who conceptualize risk as a "temperature" that fluctuates with different conditions. This means that even someone who is considered to be at high risk, is not equally high risk all of the time. Thus, risk predictions are inherently probabilistic, and may vary considerably based on changes in environmental, social, or psychological circumstances.

The following risk factors appear to be related to increased risk and have substantial support in the professional literature at the present time:

- Multiple paraphilias
- Prior history of sexual victimization
- Cognitive impairment
- Substance abuse
- Suicidal ideation
- Lack of stable relationships / parasitic lifestyle
- Lack of stable employment
- Impulsivity
- Past history of sexual offenses
- Past violations of probation / parole orders
- High density offenses / Multiple offense types
- Physical harm to the victims
- Use of weapons or threats
- Escalation in frequency / severity
- Minimization / denial of offenses
- Cognitive distortions
- Attitude towards treatment

Mr. Bettys was scored on the Static-99R, which is a brief actuarial instrument designed to estimate the probability of sexual and violent recidivism among adult males who have already been convicted of at least one sexual offense against a child or non-consenting

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adult. This instrument has been shown to be a moderate predictor of sexual re-offense potential. Furthermore, its accuracy in assessing relative risk has been consistent across a wide variety of samples, countries, and unique settings. As the table below illustrates, Mr. Bettys received a total score of 5, which placed him in the Moderate-High Risk Category for being charged or convicted of another sexual offense:

Note: In the following chart Risk Factor # 5 is based on convictions as well as charges. Although not represented in the documentation we received it is likely there are more charges for sexual offense than the 2 previous convictions that are currently on record. The score, however, does not reflect this. Regarding Risk Factor # 1 Mr. Bettys will turn 40 in less than a year and this would have reduced his score from 0 to -1. Additionally, regarding Risk Factor #2: While Mr. Bettys received a 0 for this risk factor, he has lived with someone 2 years or longer only once and it wasn't for much longer than the required two years.

Static-99R Score Summary

	Risk Factor Yes = 1, No = 0	Codes	Scores
1.	Young?	Aged 18 to 34.9 = 1 Aged 35 to 39.9 = 0 Aged 40 to 59.9 = 0 Aged 60 or older = -3	0
2.	Ever lived With?	Ever lived with a lover for at least two years? Yes = 0 No = 1	0
3.	Index non-sexual violence, any conviction?	No = 0 Yes = 1	0
4.	Prior non-sexual violence, any conviction?	No = 0 Yes = 1	0
5.	Prior sex offenses? (Score range is 0-3)	Charges Convictions None None = 0 1-2 1 = 1 3-5 2-3 = 2 6-7 4-5 = 3	2
6.	Prior sentencing dates (excluding index)	3 or less = 0 4 or more = 1	1
7.	Any convictions for non-contract sex offenses?	No = 0 Yes = 1	0

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8.	Any unrelated victims?	No = 0 Yes = 1	
9.	Any stranger victims?	No = 0 Yes = 1	0
10.	Any male victims?	No = 0 Yes = 1	1
		Total Score =	
		Risk Category =	Moderate-High

There are several factors that may be considered low risk considerations, or protective factors in this case.

- ~~Mr. Bettys was cooperative with the evaluation.~~ He showed good follow through during this evaluation by completing his assigned homework as requested. He appeared to put sufficient thought into his answers to both verbal and written questions.
- ~~Mr. Bettys' sexual assaults did not include physical force, use of weapons, threats of violence, or the use of violence.~~
- ~~Mr. Bettys endorsed few cognitive distortions, attitudes or beliefs that would tend to support sexual molestation, sexual assault and rape behavior.~~
- ~~There is little evidence to suggest that Mr. Bettys' sexual misconduct is predatory. His sexual misconduct would be better described as opportunistic as he takes advantage of periods of time when he feels he can engage in the behaviors without facing consequences.~~
- ~~Mr. Bettys reported no recent or current episodes of suicidal ideation. He did report experiencing suicidal ideations when he was 17-18 years old around the time of his sentencing in 1993. However, he reported that he received clinical assistance around at that time and he has experienced no reoccurrence.~~
- ~~Mr. Bettys has reported no history of violence towards other people.~~
- ~~Intelligence testing indicates Mr. Bettys is functioning in the average range of intellectual ability. As a result, it is likely that he could benefit from a cognitive - behavioral therapeutic approach addressing various issues.~~
- ~~Mr. Bettys has no history of drug or alcohol abuse.~~

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- Mr. Bettys has a plan for employment, starting up his old used car business, upon exiting incarceration.
- Mr. Bettys engaged in treatment focusing on sexual deviancy in 1990. He reported benefiting from it but the resource was only available for a short period of time. He talks openly about his sexual life and appears to be very motivated to addressing his sexual and non-sexual behavioral issues. "My son is the main reason I'm motivated to get treatment."

There are factors in Mr. Bettys' life that should be considered to be high risk factors.

- Mr. Bettys reported experience with fetishes or other paraphilias throughout his life. It should be noted, however, that while his past bestiality is considered to be a fetish behavior, his infrequency of the behavior would keep it from being considered a fetish. It was more likely a sexual outlet when he felt unable to engage in preferred sexual behaviors.
- Mr. Bettys has been convicted of two sex crimes in the past. At age 14 he served time in Juvenile Detention for Indecent Liberties and at age 18 he served 10 years in prison for Rape of a Child, 1st Degree.
- Mr. Bettys has a long history of pornography use dating back to his early adolescence. Mr. Bettys uses the adult pornography for sexual arousal and masturbation. However, he reported that his wife has a zero tolerance for it and during their time living together he has been able to refrain from its use.
- Mr. Bettys acknowledges engaging in deviant fantasies while masturbating. He reports spending 90% of his fantasy time focusing on minors of both genders (80% female and 10% male).
- Even though Mr. Bettys is married his relationship with his wife appears unstable and is characterized, at least in part, by the infidelity of his wife. Mr. Bettys reported infidelity as common occurrence among many of the relationships he has been socially involved with throughout his life.
- Mr. Bettys reported feeling very little support from his immediate family members including his father and two of three siblings.
- Mr. Bettys reports a lack of positive social relationships throughout his life.
- Mr. Bettys' family history includes sexual abuse. Mr. Bettys reported being sexually abused by his older sister when he was approximately 5 years old. In addition, Mr. Bettys reported that his mother and a sister had also been

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sexually abused in their youth. Clearly, these reports of familial sexual abuse require further processing in treatment.

- Mr. Bettys has a very long history of violating the boundaries of others. He has eight previous charges. ~~Two are for sexual violation and six for theft and burglary.~~ Address:

Clients undergoing assessment for sexually abusive behavior patterns frequently display factors known as potentiators of offense behavior, which may serve to increase known offender's risk of re-offense. In many cases, such potentiators may include alcohol and drug abuse, personal life stresses, affect and mood variables, sexual arousal patterns, use of pornography, or other social and environmental influences. In Mr. Bettys' case, some possible potentiators of inappropriate sexual conduct could include unsupervised contact with minors, unreported and reliance on deviant sexual fantasies, and increasing sexual drive through continued exposure to pornography.

SUMMARY AND CONCLUSIONS

- 1) History of sexual misconduct: When interviewed by this evaluator Mr. Bettys reported that he was approximately 14-12-years-old when he began to engage in the fondling of his younger nieces Holly (age 8). Mr. Bettys reported a pattern of fondling of the breast and genital areas that would occur as often as several times a week over a period of several years before it was reported to the police. This contact eventually included Holly's sister Erin, who was approximately 7 years of age when the sexual contact began with her. During the course of his polygraph examination Mr. Bettys reported that he was approximately age 8 when this contact was first initiated with Holly and that Holly was age 7.

Mr. Bettys reported the incident from his prior conviction from 1993. He reported that when he was approximately 12-13 years old he engaged in a pattern of fondling and oral sex with his younger nephews, Michael (9-10 years old) and Danny (7-8 years old). These behaviors occurred as often as once per week over a period of several years. He reported that he knew these behaviors were wrong and that he had tried to stop. When he would try to get help from his family, namely his mother, it was minimized and he was told he would grow out of it.

During the course of his polygraph examination Mr. Bettys reported sexual contact with three additional males. Between ages 13-15 he reported sexual contact, including mutual fondling, oral sex, and masturbation, with two male relatives, aged 9 and 14, that occurred over a period of about two years. He also reported that at age 16 or 17 he had a one-time sexual encounter with a male neighborhood friend, age 12-13, that consisted of oral sex. Mr. Bettys reported that at age 17 he had sexual contact with a female relative (aged 8) that consisted of mutual fondling over and under clothing and oral sex. This was reported to have happened once.

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- 2) **History of sexual contact with animals:** When interviewed by this evaluator and during the course of his polygraph evaluation Mr. Bettys reported a history of sexual contact with dogs. He reported this behavior as being random in frequency and occurred when he was approximately 13-14 years old. He reported that it had occurred perhaps 4 times. He would rub the dogs' genitals and rub his own genitals against the dog until he ejaculated. During the course of his polygraph examination Mr. Bettys further reported fantasies involving "having sex with dogs . . . girls having sex with dogs."
- 3) **History of being sexually victimized:** When interviewed by this evaluator and during the course of his polygraph evaluation, Mr. Bettys reported that when he was approximately 5-6 years of age his older sister, Edwina, who would have been 15-16 years of age, would practice fellatio on him. He reported that this would occur several times a week and went on for approximately six months. Mr. Bettys reported that when he was 10-11 years of age he had a sexual encounter with a neighbor girl who was approximately 2-3 years older than he was. He reported they had sexual intercourse. The girl had previous sexual experiences and the girl's mother knew about it yet did not discourage it. Mr. Bettys reported that when he was 11-12 years of age he was trapped in a camper once and coerced into having oral sex with a 14-year-old male neighbor. This, he reported, was a one-time event. During this same period Mr. Bettys reported another neighbor, a man in his 40's who would entice the local kids to come around and offer them candy and soda in exchange for oral sex. This he reported happened several times over the course of a year.
- 4) **Marital status:** Mr. Bettys reported he has been married one time. He was married on 07/05/2007 when he was 33 years. He married Marissa S. Ray who was 18 years old at the time. Mr. Bettys reported he met his wife at a Jack-in-the-Box drive through window. He was traveling with a friend of Marissa's. He reported that he was encouraged to go back and picked her up from work. He picked her up from work, they hung out, Marissa ended up staying for a couple of weeks and so he asked her to marry him, "and we created Harley" their five-year-old son.
- 5) **History of pornography use:** When interviewed by this evaluator and during the course of his polygraph evaluation, Mr. Bettys reported a long history of using pornographic materials including magazines, movies, and websites for the purpose of arousal and masturbation. He reported that his father had large collections of pornographic magazines that he had discovered when he was approximately 9 years of age. He would use this material for the visual stimulation but he also very much enjoyed the sexual written content as well. Mr. Bettys reported that when he was 12-13 years of age he had access to his older sisters collection of pornographic videos. He reported they usually depicted scenes involving adult men and women (and sometimes lesbians) involved in various forms of sexual contact. He would view these on random occasions

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hundreds of times throughout his youth. Mr. Bettys reported he frequently explored pornographic websites after getting out of jail in 2003. He reported that his wife was not tolerant of having pornography in the house and when he got married in 2007 his use of pornography ceased.

- 6) **History of viewing child pornography:** When asked by this evaluator about child pornography, Mr. Bettys reported no history of visual child pornography. He reported, however, that he reads stories that have strong sexual situations. Some of these involve under-aged children, typically between the ages of 10-13. He also creates his own stories, some are mental fantasies and some are written stories for purposes of sexual stimulation. The children in these stories are between 10-13 years of age. Mr. Bettys reflected on this and commented that this started when he was young and has been with him his entire life. He also noted that it coincides with the age of his own first sexual experiences.
- 7) **Deviant fantasies:** When interviewed by this evaluator, Mr. Bettys reported that approximately ~~90% of the time~~ his fantasies involve ~~adult females~~. About 10% of the time his fantasies include 10-13 year old children. He also reads stories that include strong sexual situations. Some these involve children from 10-13 years of age. The sexual situations include fondling of genitals and oral sex. He reported that using any type of ~~physical force~~ or violence has never been part of his sexual fantasies or sexual activity. During the course of his polygraph examination Mr. Bettys reported that about 80% of his sexual fantasies were about minor females, the youngest age being about 7-8 years. He reported that about 10% were about adult females. The other 10% were about minor males, age 10-12. He reported that most of his sexual fantasies have been about prior experiences with various partners and victims.
- 8) **History of Drug / alcohol use or abuse:** Mr. Bettys reported he first began to drink alcohol and use marijuana in his late teens when he was approximately ~~17~~ ^{Fix} 19 years old. He reported his father and his oldest sister as the family members with heavy alcohol use and his middle sister as the one with the marijuana habit. "After prison I was sure I did not want to drink or smoke like dad and my sister to excess. He reported that he may engage socially, like his youngest sister.
- 9) **Intelligence Testing:** Intelligence testing indicates that Mr. Bettys is functioning at the average range. The results of the K-BIT2 indicated he has an average verbal IQ equivalent of 106, an average nonverbal IQ equivalent of 98 and an average composite, overall IQ equivalent of 102. This evaluator reminds the reader that the K-BIT2 should be used as a screening tool for intelligence testing. This evaluator does not recommend Mr. Bettys undergo more thorough intelligence testing at this time.
- 10) **Mental Health symptoms:** The results of the MCMI-III noted Mr. Bettys achieved significant scores on the avoidant scale (BR=97), the dependent scale

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(BR=86), the antisocial scale (BR=85), the masochistic scale (BR=84), and on the anxiety scale (BR=85). In addition, the results of the MCMI-III noted that Mr. Bettys achieved elevated scores on the drug dependence scale (BR=79). Based on his answers to questions throughout the interview process and on the MACI-III Mr. Bettys seems to struggle with the social isolation that has characterized his life. This can manifest as symptoms relating to mood, depression or, anxiety disorders.

- 11) **Current level of risk:** ~~Mr. Bettys is at a high risk for future sexual offending at~~ the present time; however, if he does not cooperate with treatment rules and guidelines, his risk level to engage in sexual misconduct would increase. Mr. Bettys would clearly benefit from participating in individual and group treatment with a Certified or Affiliate Sex Offender Treatment Provider.
- 12) According to information presently available, the following DSM -IV diagnosis is suggested:

Axis I:	Pedophilia, Sexually attracted to females, non-exclusive type
Axis II:	Deferred
Axis III:	Deferred
Axis IV:	Severity of Psychosocial Stressors: Severe! including pending prosecution for sexual offenses, separation from wife and son and possible divorce, alienation from family members, no immediate employment, and financial stressors.
Axis V:	GAF: 65

RECOMMENDATIONS

This evaluator believes that upon release from incarceration Mr. Bettys is an appropriate candidate for our treatment program in conjunction with community supervision. Mr. Bettys seems motivated to participate in a treatment program to address a variety of issues, and he seems to have a realistic understanding of the treatment process. Mr. ~~Bettys is not considered to be a predatory type of sexual offender,~~ and while he meets diagnostic criteria for pedophilia, he presents with a non-exclusive, female preference, type that is considered by be very treatable in a community-based treatment program.

This evaluator recommends that Mr. Bettys participate in weekly individual and group therapy (if available) with a Certified or Affiliate Sex Offender Treatment Provider. Mr. Bettys should be expected to comply with all of his treatment and community placement rules and at present, the following conditions should be included in any treatment contract or community placement order in this case:

- 1) Mr. Bettys should attend, actively participate, and make reasonable progress in all scheduled individual and group therapy sessions with a Certified or Affiliate Sex Offender Treatment Provider. A combination of group and

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individual therapy is recommended in this case.

- 2) Mr. Bettys should be required to complete all assigned readings, treatment homework assignments, and other clinical tasks as assigned by his treatment provider. He may be expected to complete workbooks for adult sexual offenders such as Who am I and Why am I in Treatment? And The Adult Relapse Prevention Workbook.
- 3) Mr. Bettys should follow all lifestyle restrictions or treatment requirements imposed by his treatment provider.
- 4) Mr. Bettys should not be allowed to possess or view any form of pornographic material without the expressed permission by his treatment provider.
- 5) Mr. Bettys should be ordered to submit to routine polygraph at the request of his therapist. It is recommended that such exams be required at three to six month intervals during the onset of treatment. His first polygraph should be held within several months of starting treatment in order to further corroborate the responses to questions asked during this evaluation.
- 6) Mr. Bettys should be supervised around minors at all times. He should not be allowed any caregiving responsibilities over minors, including changing diapers, bathing, changing clothes, etc.
- 7) Mr. Bettys is not considered to be a predatory type of offender and I believe that he should be allowed to have normal community access for routine activities, as long as he is avoiding situations where unsupervised contact with minors would occur. He should not be allowed to engage in formal or informal mentoring of any person under the age of 18.
- 8) All use of alcohol or drugs should be prohibited.
- 9) Mr. Bettys should be mandated to be gainfully employed or participating in an educational program during the course of his community supervision.
- 10) Mr. Bettys' contact with his victim, Micah, should be allowed at the discretion of Micah's parents and as approved by his treatment provider. Any contact between Mr. Bettys and Micah should be supervised and, again, such contact should be at the discretion of Micah's parents and treatment provider after Mr. Bettys has made some progress in his treatment. Anyone supervising Mr. Bettys' potential contact with minors should first meet with Mr. Bettys and his treatment provider to hear a full disclosure of his sexual offense and review appropriate supervision guidelines and expectations.

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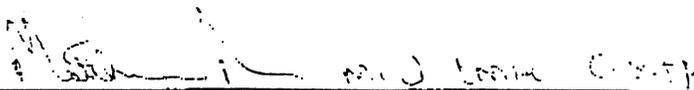
11) Any identified treatment provider/s should be provided with a copy of this evaluation.

I declare under penalty of perjury under the law of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Written by:



Daniel R. Boyce, M.A. LMHCA
Affiliate Sex Offender Treatment Provider-A



Matthew J. Platte, M.Ed. LMHC
Certified Sex Offender Treatment Provider