

COURT OF APPEALS  
DIVISION TWO  
OF THE STATE OF WASHINGTON

FILED  
COURT OF APPEALS

06 SEP 25 AM 9:50

STATE OF WASHINGTON )  
)  
Respondent, )  
)  
v. )  
)  
Delbert E Beatty )  
(your name) )  
)  
Appellant. )

No. 34967-1-11

STATE OF WASHINGTON  
BY E DEPUTY

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

I, Delbert E Beatty, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

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Additional Ground 2

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If there are additional grounds, a brief summary is attached to this statement.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

① I would like the court to look at the fact that the states witness could not keep to her story. First she told the Detective that I touched her knee. Then she said I touched her butt. Then she said it was her genitals. This all changed over a time frame of nine months. From the first interview to time of trial. (RP 89) and it was not clear whether said touching happened over the nightgown or under. So that brings the question if touching even happened? (RP 90-207-08)

② I would like the court to look at the fact that the charges changed at the half way point of the trial. With at that time it went from conspiracy to commit rape of a child in the first degree and attempted rape of a child in the first degree to conspiracy to commit molestation in the first and attempted child molestation in the first. If a prosecutor can keep changing the charges. How can a person be ever found not guilty. We went to trial to defend against the first charges. Then at lunch time they change to a new set of charges. With I feel at that time it was a new case. It is not right that when the prosecutor is not proving her case that she can change to something different.

③ I would like the court to look at RP 91. Where C.E.C made the statement that she fell asleep. Someone that is afraid that they are going to be touched or mess with

WOULD NOT HAVE FELT ASLEEP.

④ C.E.C. TESTIFIED THAT W.E.C. AND I TOOK HER TO WAL-MART WHERE I PURCHASED BRAS AND THONG UNDERWEAR. THE STATE IS MAKING IT LOOK LIKE IT WAS MY IDEA. WITCH I WAS GOING TO GET OTHER THINGS LIKE CD'S AND A BIRTHDAY GIFT FOR MY GRANDSON. AND THEY WENT WITH. THE BRAS AND UNDERWEAR C.E.C. TESTIFIED THAT SHE PICKED OUT (RP 73-74.) AND IF HER MOTHER LET HER PICK THEM OUT COULDN'T SAY ANYTHING ABOUT IT I KNOW NOW THAT I SHOULD HAVE SAID NO IM NOT PAYING FOR THAT.

⑤ C.E.C. TESTIFIED THAT LATER THAT NIGHT W.E.C. TOLD C.E.C. TO PUT ON THE THONG UNDERWEAR AND BLACK NIGHTGOWN. RP 72. BOTH W.E.C. AND MR BEATTY POKED C.E.C. BUTTOCK'S. RP 75 W.E.C. THEN ASKED C.E.C. TO GET IN BED WITH MR BEATTY AND HERSELF. SO IF WE WERE IN BED HOW WERE WE POKING HER BUTTOCK'S? (RP 75-77) THEN C.E.C. TESTIFIED THAT I DID SOMETHING TO W.E.C. UNDER THE COVER'S FOR SEVERAL MINUTES. BUT THE THING IS SOMETHING UNDER THE COVER'S. THAT DOESN'T SAY ANYTHING TO DO WITH SEX WAS GOING ON. (RP 78-81) THEN C.E.C. TESTIFIED THAT SHE FELT ILL AND WENT TO THE BATH ROOM AND W.E.C. FOLLOWED HER. THERE WAS NO WAY I COULD KNOW WHAT WAS BEING SAID IN THE BATH ROOM. OR HAVE ANYTHING TO DO WITH WHAT WAS BEING SAID.

AND FURTHER MORE THAT SAYS SHE WAS FREE TO COME AND GO AS SHE WISHED.

THERE AGIN C.E.C TESTIFIED THAT WHEN SHE RETURNED FROM THE BATHROOM THAT MR. BEATTY ASKED HER TO GET BACK IN BED. SEE THERE AGIN SOMEONE WHO WAS AFRAID OF BEING RAPED OR MOLESTED WOULD NOT HAVE RETURNED TO THAT ROOM. RP-84

AND AGIN C.E.C TESTIFIED THAT W.E.C WENT UNDER THE COVERS AND DID SOMETHING TO MR. BEATTY RP 84

SO MY QUESTION IS IF THERE WAS SOMETHING GOING ON WHY DIDN'T C.E.C GET UP AND LEAVE THE ROOM? SHE SAID THAT SHE GOT UP AND WENT TO THE BATHROOM AND NO ONE STOPPED HER. THE

KIDS ARE TOLD IN SCHOOL AND ON T.V AND IN BOOKS THAT IF SOMEONE TOUCHES YOU IN A WAY THAT YOU

DON'T LIKE JUST TELL YOUR TEACHER OR COUNSELOR AND THEY WILL TAKE CARE OF IT. BUT THEY

DON'T TELL CHILD WHAT WILL HAPPEN. I HAVE TWO SONS THAT I RAISED. AS A SINGLE PARENT. THEY TOLD ME ALL ABOUT WHAT THEY TEACH IN

SCHOOL. WHICH IS A GOOD THING BUT THEY

NEED TO TEACH THE HOLE STORY. AGIN C.E.C TESTIFIED THAT I SAID THAT I WOULD MASSAGE

HER SCIATIC NERVE WHICH SHE HAD HEARD HER MOM SAY THAT HERS HURT ALL THE TIME. AND

SHE TESTIFIED THAT I TOUCHED HER BUTTOCKS AND LEGS. RP-89 C.E.C CLOSED HER LEGS AND TOLD HIM TO

STOP AND HE DID NOT TOUCH HER ANY FURTHER. C.E.C THEN FELL ASLEEP.

AGIN IF THIS WAS HAPPENING THEN WHY DIDN'T SHE GET UP AND LEAVE. BUT NO SHE WENT TO SLEEP. (PP 91.) I'M TRYING TO TELL SOME OF MY SIDE OF THE STORY HEAR. I NEVER GOT TO TESTIFY IN MY BE HAFT.

© SENTENCING. BOTH CONVICTIONS WERE MERGED FOR PURPOSES OF SENTENCING. I WOULD LIKE THE COURT TO LOOK AT THE SENTENCE. 51 MONTHS TO LIFE I'M A FIRST TIME OFFENDER. AND I GOT NO CONSIDERATION FROM THE COURT FOR THAT FACT. NOT ONLY THE 51 TO LIFE BUT THEY GAVE ME COMMUNITY CUSTODY FOR LIFE IF I DO GET OUT. THEY HAVE ME UNDER THE SENTENCE REVIEW BOARD I HAVE HAD EVERY THING TAKEN AWAY FROM ME FOR THIS. I FEEL THAT THE PUNISHMENT IS A LITTLE HIGH FOR WHAT THE CASE IS. AND I'M ASKING THE COURT TO OVERTURN THE SENTENCE. THEY TELL ME HEAR AT TRD THAT WITH THE LIFE ON MY SENTENCE. THAT THEY CAN KEEP ME FOR HOW EVER LONG THEY FEEL NEEDED TO.

THANK YOU FOR YOUR  
HELP  
Celia Beatty

PS I SENDING YOU 4 COPIES OF MY JUDGEMENT AND SENTENCE TO LOOK AT. THESE ARE THING THEY HAVE ADDED IN TO MY SENTENCE THAT I DON'T FEEL ARE RIGHT.

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF LEWIS**

STATE OF WASHINGTON	]	Cause No.: 05-1-00282-9
	]	
	Plaintiff ]	
	v. ]	<b>JUDGEMENT AND SENTENCE (FELONY)</b>
BEATTY, DELBERT E.	]	<b>APPENDIX H</b>
	Defendant ]	<b>COMMUNITY PLACEMENT / CUSTODY</b>
	]	
DOC No. 889544	]	

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The court having found the defendant guilty of offense(s) qualifying for community placement, it is further ordered as set forth below.

**COMMUNITY PLACEMENT/CUSTODY:** Defendant additionally is sentenced on convictions herein, for each sex offense and serious violent offense committed on or after June 6, 1996 to community placement/custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2) whichever is longer; and on conviction herein for an offense categorized as a sex offense or serious violent offense committed on or after July 1, 1990, but before June 6, 1996, to community placement for two years or up to the period of earned release awarded pursuant to RCW 9.94A.150 (1) and (2) whichever is longer; and on conviction herein for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, to a one-year term of community placement.

Community placement/custody is to begin either upon completion of the term of confinement or at such time as the defendant is transferred to community custody in lieu of early release.

(a) **MANDATORY CONDITIONS:** Defendant shall comply with the following conditions during

05-1-00282-9  
BEATTY, DELBERT E. 889544  
Page 1 of 3

1193

the term of community placement/custody:

- (1) Report to and be available for contact with the assigned Community Corrections Officer as directed;
- (2) Work at Department of Corrections' approved education, employment, and/or community service;
- (3) Not consume controlled substances except pursuant to lawfully issued prescriptions;
- (4) While in community custody not unlawfully possess controlled substances;
- (5) Pay supervision fees as determined by the Department of Corrections;
- (6) Receive prior approval for living arrangements and residence location;
- (7) Defendant shall not own, use, or possess a firearm or ammunition when sentenced to community service, community supervision, or both (RCW 9.94A, 120 (13));
- (8) Notify community corrections officer of any change in address or employment; and
- (9) Remain within geographic boundary, as set fourth in writing by the Community Corrections Officer.

**WAIVER:** The following above-listed mandatory conditions are waived by the Court:

(b) **OTHER CONDITIONS:** Defendant shall comply with the following other conditions during the term of community placement / custody:

- 1) The defendant shall submit to a sexual deviancy evaluation with a therapist licensed by the state, and follow all treatment recommendations.
- 2) The defendant shall have no contact with minor-aged children without prior approval from the Community Corrections Officer and/or treatment provider.
- 3) The defendant shall hold no position of authority or trust involving minor-aged children.
- 4) The defendant shall not enter into any relationship with persons who have minor-aged children in their custody or care without prior approval of the Community Corrections Officer and/or treatment provider.
- 5) The defendant shall not possess or view ~~pornographic material~~ <sup>Sexually Explicit material</sup>, as defined by the Community Corrections Officer and/or treatment provider.
- 6) The defendant shall not use or possess alcohol and/or controlled substances during the period of community custody.
- 7) The defendant shall have no contact (directly or indirectly - which includes no contact by mail, telephone, or through third parties) with the victim, C.E.C. - DOB 05/14/94, without prior approval of the Community Corrections Officer and/or treatment provider.

05-1-00282-9

BEATTY, DELBERT E. 889544

Page 2 of 3

12813

8) The defendant shall submit to polygraph testing and provide non-deceptive polygraphs at the request of the Community Corrections Officer and/or treatment provider, and the defendant shall submit to plethysmograph testing at the request of the treatment provider as well.

9) The defendant shall submit to random UA's and BAC's as directed by the assigned Community Corrections Officer.

10) The defendant shall have no access to or contact with the internet or a computer in any way as instructed by the assigned Community Corrections Officer and/or treatment provider.

11) The defendant must consent to allow home visits by DOC to monitor compliance with supervision. Home visits will include access for purposes of visual inspection of all areas of the residence in which the offender lives or has exclusive or joint control or access.

JUNE 9, 2006  
DATE

*Melan E. Head*  
JUDGE, LEWIS COUNTY SUPERIOR COURT

05-1-00282-9

BEATTY, DELBERT E. 889544

Page 3 of 3

13813

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	3	X	50.25 -66.75		50.25 -66.75	Life and or \$50,000
I	3	X	50.25 - 66.75		50.25 -66.75	Life and or \$50,000

\* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present.

Additional current offense sentencing data is attached in Appendix 2.3.

2.4  EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence:

within  below the standard range for Count(s) \_\_\_\_\_.

above the standard range for Count(s) \_\_\_\_\_.

The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

Aggravating factors were  stipulated by the defendant,  found by the court after the defendant waived jury trial,  found by jury by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4.  Jury's special interrogatory is attached. The Prosecuting Attorney  did  did not recommend a similar sentence.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

\_\_\_\_\_

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are  attached  as follows: \_\_\_\_\_

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2  The court DISMISSES Counts \_\_\_\_\_  The defendant is found NOT GUILTY of Counts \_\_\_\_\_