

FILED  
COURT OF APPEALS  
DIVISION II

09 DEC -3 PM 12:17

STATE OF WASHINGTON  
BY  \_\_\_\_\_  
DEPUTY

NO. 39577-1-II

COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON

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**STATE OF WASHINGTON**, Respondent,

**v.**

**JAMES MONTE STOGSDILL**, Appellant.

---

APPELLANT'S BRIEF

---

Rebecca Wold Bouchey  
WSBA #26081  
Attorney for Appellant

P.O. Box 1401  
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    MINOR CHILDREN, INCLUDING HIS OWN BIOLOGICAL CHILDREN. 5

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## **I. ASSIGNMENTS OF ERROR**

1. The court erred by denying Mr. Stogsdill's CrR 7.8 motion to modify his sentence to permit contact with his biological children.
2. The trial court abused its discretion by making a sentence condition that Mr. Stogsdill have no contact with any minor children, including his own biological children, for life.
3. The trial court violated Mr. Stogsdill's constitutional right to parent by ordering that he have no contact with his own biological minor children.

## **II. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

1. The court erred by denying Mr. Stogsdill's motion to modify his sentence and failing to modify the sentence condition that prohibited all contact with minor children, including his own biological children.

## **III. STATEMENT OF THE CASE**

James Stogsdill pled guilty via an *In re Barr* plea on March 2, 2006, to one count of second-degree rape of a child. Supp. CP, Statement

of Defendant on Plea of Guilty, 1; RP 3/31/06 3-4. The plea listed two victims, A.T., the daughter of Mr. Stogsdill's girlfriend, and H.W., who was unrelated to him, and who was older than the 14 year old limit. Supp. CP, Statement of Defendant on Plea of Guilty, 1; RP 3/31/06 3-4.

Prior to sentencing, Mr. Stogsdill submitted to a psychosexual examination. The report indicates that Mr. Stogsdill admitted sexual contact with A.T. when she was between the ages of 12 and 14 and with H.W. Supp. CP, Reports from Treatment, Comte, p. 2. The report also states that "He is now admitting to sexually molesting his daughter, who is now nine-years-old. He said she was four when he sexually abused her . . ." Supp. CP, Reports from Treatment, Comte, p. 2. However, the report also indicates that "He denied sexually abusing his children, except for the daughter from his relationship with Ms. Peterson." Supp. CP, Reports from Treatment, Comte, pp. 2.

In his motion, Mr. Stogsdill denies that he ever molested any of his biological children. CP 3. At the sentencing hearing, Mr. Stogsdill neither acknowledged nor disputed this fact. *See* RP 3/31/06.

The State never proved nor charged Mr. Stogsdill with sexual misconduct with his biological daughter, and acknowledged at sentencing that his daughter had been interviewed and denied that anything sexual

had happened with her father. RP 3/31/06 9-10. She had never disclosed abuse. RP 3/31/06 9-10.

As a part of the Judgment and Sentence, the court ordered that Mr. Stogsdill “shall have no contact with: minor children” for the duration of his sentence, which had a maximum of life. Supp. CP, Judgment and Sentence at p. 6.

Mr. Stogsdill appealed his conviction and sentence and the court’s unpublished opinion affirming can be found at *State v. Stogsdill*, 139 Wn. App. 1013, 2007 WL 1674452 (2007).

On September 5, 2007, Mr. Stogsdill filed two motions to modify or correct sentence and judgment. CP 1-3; 4-7.

In his first motion, Mr. Stogsdill argued that the judgment and sentence violated his constitutional “liberty and privacy interest in the care, custody and enjoyment of his child.” CP 1. Mr. Stogsdill asked the court “to lift the blanket prohibition of contact with his minor biological children and at a minimum allow supervised contact, phone calls and letter writing.” CP 2. This issue had not been raised in Mr. Stogsdill’s direct appeal. *See State v. Stogsdill*, 139 Wn. App. 1013, 2007 WL 1674452 (2007).

Mr. Stogsdill also filed a separate motion that sought to withdraw his guilty plea, arguing that he was not advised of the maximum life

sentence until just before the hearing and that by then, he was advised that it was too late to back out. RP 7/24/09 8; CP 4-7. The order denying defendant's motion also addresses this motion and is included in the notice of appeal. CP 19-22.

Initially, his motions were denied without a hearing, but on appeal, the court was ordered to consider the motion in a full hearing. RP 7/24/09; CP 8-9; 10-11; 12-16; *State v. Stogsdill*, 2009 WL 132250 (2009). Therefore, on July 24, 2009, the court heard the merits of Mr. Stogsdill's motions. Mr. Stogsdill was not permitted counsel at this hearing, but proceeded pro se. *See* RP 7/24/09.

The court denied both motions, finding that the judgment and sentence properly prohibited Mr. Stogsdill from contact with his children "since it relates directly to the circumstances of the crime for which he was convicted," and "The court notes that the defendant admitted to sexual contact with his own biological child during his sexual deviancy evaluation." CP 19-20. The court also denied Mr. Stogsdill's second motion, finding that "the record adequately reflects that the defendant's plea was entered into knowingly, intelligently and voluntarily after being fully advised of the direct consequences of this plea." CP 19-20.

Mr. Stogsdill timely appealed the court's order denying his motions. CP 21-22.

## IV. ARGUMENT

**ISSUE 1: THE COURT ERRED BY DENYING MR. STOGSDILL'S MOTION TO MODIFY HIS SENTENCE AND FAILING TO MODIFY THE SENTENCE CONDITION THAT PROHIBITED ALL CONTACT WITH MINOR CHILDREN, INCLUDING HIS OWN BIOLOGICAL CHILDREN.**

*1. The trial court abused its discretion and violated Mr. Stogsdill's constitutional right to parent by placing a lifetime no contact order between Mr. Stogsdill and his biological minor children in the sentencing conditions.*

Under RCW 9.94A.505(8), a sentencing court has the authority to impose crime-related prohibitions, including no-contact orders. *State v. Armendariz*, 160 Wn.2d 106, 113, 156 P.3d 201 (2007). A crime-related prohibition is "an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted." RCW 9.94A.030(13). A court may impose probationary conditions that tend to prevent the future commission of a crime. *State v. Williams*, 97 Wn.App. 257, 263, 983 P.2d 687 (1999). Crime-related prohibitions are reviewed for an abuse of discretion. *State v. Armendariz*, 160 Wn.2d 106, 110, 156 P.3d 201 (2007). Discretion is abused when "the decision is manifestly unreasonable or exercised on untenable grounds or for untenable reasons." *State v. Ancira*, 107 Wn.App. 650, 653, 27 P.3d 1246 (2001).

"Parents have a fundamental liberty interest in the care, custody,

and control of their children." *Ancira*, at 653. (citing *Santosky v. Kramer*, 455 U.S. 745, 753, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982)). However, the State also has a compelling interest in preventing harm to children, and an obligation to intervene to protect children from actions that would jeopardize their physical or mental health. *In re Sumey*, 94 Wn.2d 757, 762, 621 P.2d 108 (1980).

A no-contact order to protect children is within a court's discretion if the order is reasonably necessary to protect children from harm and there is the appropriate nexus between the offense committed and the sentencing condition. *Ancira*, 107 Wn.App. at 653-54. Conduct prohibited during community custody need not be causally related to the crime. *State v. Llamas-Villa*, 67 Wn.App. 448, 456, 836 P.2d 239 (1992).

In *State v. Letourneau*, 100 Wn.App. 424, 997 P.2d 436 (2000), Ms. Letourneau was convicted of two counts of second degree rape of a child who was unrelated to her. As part of her judgment and sentence, Ms. Letourneau was ordered to have no in-person contact with her biological children unless supervised. *Id.* at 426-27. The appellate court reversed the no-contact order because there was no evidence that Ms. Letourneau was a pedophile or that she otherwise posed a danger to her own children. The court concluded that the no-contact order was not reasonably necessary to prevent harm to Ms. Letourneau's children. *Id.* at 441.

In *Ancira*, Mr. Ancira was convicted of violating a domestic violence no-contact order against his wife. The court issued a five-year no-contact order that included his children, prohibiting all contact. *Ancira*, 107 Wn.App. at 652-53. The court reasoned that the no-contact order was necessary to prevent further harm to the children who had witnessed the abuse of their mother. The appellate court considered whether the no-contact order was necessary to protect the children from the harm of witnessing domestic violence. *Id.* The court noted that this particular condition, prohibiting all contact, was a “severe condition” and an “extreme degree of interference with fundamental parental rights.” 107 Wn. App. at 654. Ultimately, the appellate court held that while “some limitations on Ancira’s contact with his children, such as supervised visitation, might be appropriate, even as a part of a sentence,” that this no-contact order was far too broad and the facts of the case “do not form a sufficient basis for this extreme degree of interference with fundamental parental rights.” *Id.*, at 655-56.

In *State v. Berg*, 147 Wn. App. 923, 198 P.3d 529 (2008), Mr. Berg was convicted of rape of a child and third degree child molestation. In *Berg*, as here, the victim was an unrelated female child living in his home. The appellate court affirmed a sentence condition imposed on Mr. Berg prohibiting **unsupervised** contact with “female minors,” without

excluding Mr. Berg's biological children. 147 Wn. App. at 930, 944. The Court concluded that this restriction was "sufficiently tailored to the crime," which involved a victim who was then living in Mr. Berg's home, although not his child. 147 Wn. App. at 944. The Court notes that:

Even though [the order] restricts all forms of contact, not just physical contact, it addresses the potential for the same kind of abuse at issue here, which Berg was able to achieve by exploiting a child's trust in him as a parental figure. Prohibiting Berg from having any unsupervised contact with A.B. prevents him from again fostering this kind of trust and putting her at the same risk of harm.

*Berg*, at 944. The Court notes with approval that the trial court "limited the order to Berg's unsupervised contact with female children, noting that the prosecutor expressed no concern with Berg's contact with boys." *Id.*, at 942.

Unlike *Berg*, the trial court did not sufficiently tailor the restriction to limit the impact on Mr. Stogsdill's parental rights, while still meeting the State's interest in protecting his children. The trial court here imposed a lifetime no contact order for all "minor children." Supp. CP, Judgment and Sentence, p. 6. This is the same kind of "severe condition" disapproved in *Ancira*. This order would include boys as well as girls, although there was no evidence Mr. Stogsdill posed any danger to his sons

or other boys.<sup>1</sup> It also would apply to any future children Mr. Stogsdill might have, as well as his grandchildren. Moreover, the order here includes all contact, not just unsupervised contact, with his biological children, which exceeds the scope of the orders in *Letourneau* and *Berg* and resembles the order overturned in *Ancira*.

Mr. Stogsdill pled guilty to sexual contact with the teenage daughter of his girlfriend, and another teenage girl, also unrelated to him. Supp. CP, Amended Information, RP 3/31/06. The prosecutor and the trial court expressed concern for Mr. Stogsdill's daughter based on his alleged self-report during his treatment evaluation. RP 3/31/06 9, 10, 16, 37. The first problem here is that there is no proof that this actually occurred—the child herself denied that anything happened and this is an uncharged and completely unproved event. See RP 3/31/06 9. However, even if this did provide an adequate evidentiary basis to invoke the State's interest in protecting Mr. Stogsdill's daughter, an order limiting unsupervised contact with all female children would still serve the State's interests without placing a complete prohibition on all contact between Mr. Stogsdill and his children. *Berg* seems to suggest that this tailoring is

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<sup>1</sup> Mr. Stogsdill has at least one son who is still a minor. Supp. CP, Reports from Treatment (Comte), p. 6. There were no concerns expressed for the safety of Mr. Stogsdill's sons or other boys. See Supp. CP, Reports from Treatment (Comte).

necessary to meet the constitutional requirements of such a restriction on the fundamental constitutional right to parent. This order is even more severe than in *Berg* because it is a lifetime order.

The trial court abused its discretion in failing to tailor the order narrowly to avoid unnecessary infringement on Mr. Stogsdill's parental rights.

***2. The trial court erred by denying Mr. Stogsdill's Cr.R. 7.8 motion to modify his sentence.***

As shown above, the trial court abused its discretion by placing a broad lifetime prohibition against contact with all minor children, including Mr. Stogsdill's own biological children without narrowly tailoring the order. Therefore, the trial court erred by denying Mr. Stogsdill's CrR 7.8 Motion to Modify Sentence and Judgment, should have granted his motion to modify, and should have tailored the no contact order to limit only unsupervised contact.

## **V. CONCLUSION**

This case should be remanded to the trial court for modification of the judgment and sentence such that the trial court's order prohibiting Mr. Stogsdill's contact with his biological children be revised to permit at least supervised contact with his children.

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COURT OF APPEALS  
DIVISION II

09 DEC -3 PM 12:17

STATE OF WASHINGTON

BY [Signature]  
DEPUTY

DATED: December 2, 2009

By: Rebecca W. Bouchey  
Rebecca Wold Bouchey #26081  
Attorney for Appellant

CERTIFICATE OF SERVICE

I certify that on December 2, 2009, I caused a true and correct copy of this Appellant's Brief to be served on the following via prepaid first class mail:

*Counsel for the Respondent:*  
Kathleen Proctor  
Office of Prosecuting Attorney  
930 Tacoma Ave. S., Rm. 946  
Tacoma, Washington 98402-2171

*Appellant:*  
James Monte Stogsdill  
DOC# 713484  
McNeil Island Corrections Center  
P.O. Box 88900  
Steilacoom, WA 98388-0900

Rebecca W. Bouchey

Rebecca Wold Bouchey  
WSB# 26081  
Attorney for Appellant

**ATTACHMENT 1:**  
**Motion to Modify or Correct Sentence and Judgment**  
**Filed 9/5/07**

**CP 1-3**



04-1-03718-4 28184948 MTMO 09-05-07

FILED  
IN COUNTY CLERK'S OFFICE

A.M. SEP - 5 2007 P.M.

SUPERIOR COURT FOR THE STATE OF WASHINGTON  
COUNTY OF Pierce

PIERCE COUNTY, WASHINGTON  
BY KEVIN STOGG County Clerk  
DEPUTY

State of Washington, )  
Plaintiff/Respondent )  
  
vs )  
James M. Stogsdill )  
Defendant/Respondent )

NO. 04-1-03718-4  
~~MOTION TO MODIFY OR~~  
CORRECT SENTENCE  
AND JUDGMENT

FACTS

I. That the Defendant, James M. Stogsdill, in the above-entitled case.

II. That the Defendant, appeared before Judge Lisa Worwick, the State being represented by Kevin A. McCann of Pierce County Prosecutors Office, and Defense Attorney Daryl Graves representing the Defendant. Defendant is Acting Pro Se in this matter

III. That the Defendant plead/went to trial and received a sentence of 136 months to life.

GROUNDS

Defendant as per Judgment and sentence that was given on 3-31-2006 was ordered to have no contact with minor children. The defendant's attorney never asked the court to make an exception for defendant to have contact with his minor children. Therefore the court severely impaired his liberty interest in parenting or contacting his children. A parent has a fundamental liberty and privacy interest in the care, custody and enjoyment of his child. Troxel v. Granville, 530 U.S. 57, 64-67, 120 S.Ct. 2054 (2000); State v. Aveira, 107 Wn. App. 650, 653, 27 P.3d 1246 (2001); Letourneau, 100 Wn. App. at 438.

RELIEF

The defendant seeks the court to  
remand for resentencing. Defendant  
ask's the court to lift the blanket  
prohibition of contact with his minor  
biological children and at a minimum  
allow supervised contact, phone calls and  
letter writing.

I, James Stogsdill, swear under the laws of perjury of the State of  
Washington that the foregoing is true and correct.

James M. Stogsdill  
Signature  
James M. Stogsdill  
Printed Name

Washington State Penitentiary  
1313 North 13<sup>th</sup> Avenue  
Walla Walla, WA 99362

WILKES STOGSDILL WAS SENTENCED TO 100 MONTHS TO RITE ON 5-31-2006  
One of the stipulations to Mr. Stogsdill's judgement and sentence was to have <sup>NO</sup> contact with minor children. The court was aware that the defendant has minor children of his own. Mr. Stogsdill's Attorney failed to ask the court to make an exception so that Mr. Stogsdill may have contact with his minor biological children. There is no compelling state interest to limit Mr. Stogsdill's contact with his minor biological children, nor has the state made an affirmative showing that defendant is either a pedophile or that he possess a danger to sexually molest his minor children. When the court imposed the crime-related provision requiring defendant to have no contact with minor's the court severely impaired defendant's liberty interest in parenting or contacting his minor children. A parent has a fundamental liberty and privacy interest in the care, custody and enjoyment of his child.

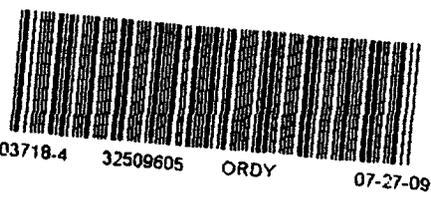
Troxel v. Granville, 530 U.S. 57, 64-67, 120 S. Ct. 2054 (2000); State v. Ancina, 107 Wn. App. 650, 653, 27 P.3d 1246 (2001); Letourneau, 100 Wn. App. at 438. A parent's liberty interest in his child is "perhaps the oldest of the fundamental liberty interest" recognized by the courts. Troxel, 530 U.S. at 530. The Washington State Supreme Court has referred to the bond between a parent and child as "more precious than ... life itself". In re Myricks, 85 Wn.2d 252, 254, 533 P.2d 841 (1975).

There is some ~~concern~~ concern's by the defendant of the validity of the pre test polygraph examination by Mr. Rick Minnich and the defendant ~~was~~ never admitted to molesting daughter Tiffany on four occasions over a one year period. Nor did he ever admit to molest his son's on the Psychosexual Evaluation. Therefore the Court lacks authority to restrict contact with biological son or daughter. Also defendant is aware that Ruddy Gray the CCD that wrote the presentencing report also had concern's about the validity of the pre test polygraph examination.

Defendant will be able to have both mothers of son and daughter come to court to testify that they want Mr. Stogsdill in children's lives and don't believe he is a threat to children, and would like him to have contact with children. Here is a letter from Cyndi Peterson Tiffany's mom & father that Tiffany can visit her on 1-1-1

**ATTACHMENT 2:**  
**Order Denying Defendant's Motion**  
**Filed 7/24/09**

CP 19-20



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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-03718-4

vs.

JAMES MONTE STOGSDILL,

Defendant.

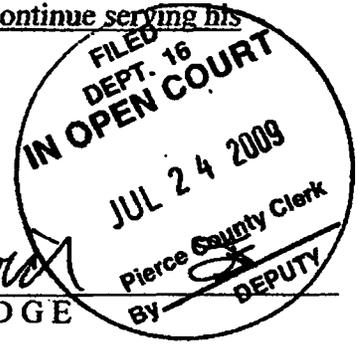
ORDER DENYING DEFENDANT'S MOTION

THIS MATTER having come on regularly before the undersigned judge of the above-entitled court,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that The Court, having reviewed the records, briefs motions and having heard argument from the parties, hereby enters the following order: the defendant's motion to modify the conditions of his Judgment and Sentence which bars him from having contact with his own minor children is denied. The court enters this finding pursuant to State v. Ancira 107 Wn. App 650, finding that his children were properly included in this order since it relates directly to the circumstances of the crime for which he was convicted. The court notes that the defendant admitted to sexual contact with his own biological child during his sexual deviancy evaluation. The court further orders that the defendant's motion under CrR 7.8 to withdraw his plea of guilty is denied. The court finds that the record adequately reflects that the defendant's plea was entered into knowingly, intelligently and voluntarily after being fully advised of the direct consequences of this plea. The defendant's claim that the State breached it's plea agreement by amending the information to crimes whose

sentencing range exceeded eleven years on the high end is without merit. The State did not violate the plea agreement. The defendant's motions are hereby denied and the defendant shall be transported immediately back to the Department of Corrections to continue serving his sentence for this offense.

DONE IN OPEN COURT this 24 day of July, 2009.



Wesley Worswick  
JUDGE

Presented by:

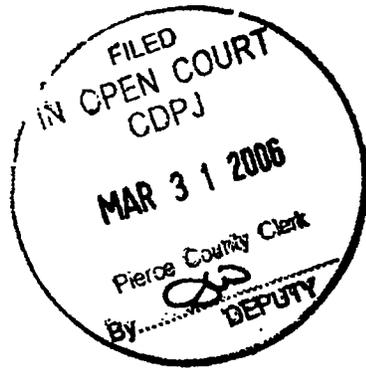
Kevin A. McCann  
KEVIN A. MCCANN  
Deputy Prosecuting Attorney  
WSB # 25182

James Monte Stogsdill  
JAMES MONTE STOGSDILL

kam

**ATTACHMENT 3:**  
**Judgment and Sentence**  
**Filed 3/31/06**

**Supp. CP**



04-1-03718-4 25222800 JDSWCD 03-31-06

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 04-1-03718-4

vs.

JAMES MONTE STOGSDILL,

Defendant.

WARRANT OF COMMITMENT

- 1)  County Jail
- 2)  Dept. of Corrections
- 3)  Other Custody

MAR 31 2006

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

- [ ] 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).
- ✓ 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections, and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody).

[ ] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement or placement not covered by Sections 1 and 2 above).

Dated: 3/31/06

By direction of the Honorable  
Lisa Worsfold  
JUDGE

By: B. Knight  
DEPUTY  
MAKERR  
Pierce County Clerk  
By: QAD  
DEPUTY

FILED  
KEVIN STOCK  
CLERK OF COURT  
PIERCE COUNTY  
JAN 31 2006

CERTIFIED COPY DELIVERED TO SHERIFF

Date: MAR 31 2006 B. Knight

STATE OF WASHINGTON

ss.

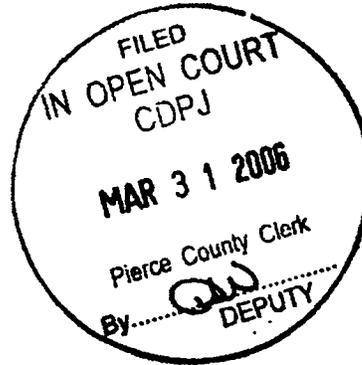
County of Pierce

I, Kevin Stock, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

KEVIN STOCK, Clerk  
By: \_\_\_\_\_ Deputy

kam



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-03718-4

vs.

JUDGMENT AND SENTENCE (JS)

JAMES MONTE STOGSDILL

Defendant.

- Prison
- Jail One Year or Less
- First-Time Offender
- SSOSA
- DOSA
- Breaking The Cycle (BTC)

SID: 14910434  
DOB: 08/16/66

MAR 31 2006

I HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II FINDINGS

There being no reason why judgment should not be pronounced, the court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 03/02/06 by [ X ] plea [ ] jury-verdict [ ] bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	RAPE OF A CHILD IN THE SECOND DEGREE	9A.44.076	N/A	09/02/01 - 03/30/03	03-023-0742

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

as charged in the First Amended Information

[ ] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):

[ ] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

06-9-03935-2

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J ADULT JUV	TYPE OF CRIME
1	BURGLARY 2	09/27/93	PIERCE CO, WA	07/04/81	J	NV
2	UDCS	09/27/93	PIERCE CO, WA	04/22/93	A	NV
3	THEFT 2	02/03/04	PIERCE CO, WA	09/25/03	A	NV
4	UPCS	Other Current	PIERCE CO, WA	11/10/04	A	NV

[ ] The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancement)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancement)	MAXIMUM TERM
I	3	XI	102-136 (to life)	N/A	102-136 (to life)	Life

2.4 [ ] EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence [ ] above [ ] below the standard range for Count(s) \_\_\_\_\_. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney [ ] did [ ] did not recommend a similar sentence.

2.5 LEGAL FINANCIAL OBLIGATIONS. The judgment shall upon entry be collectable by civil means, subject to applicable exemptions set forth in Title 6, RCW. Chapter 379, Section 22, Laws of 2003.

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

[ ] The following extraordinary circumstances exist that make payment of nonmandatory legal financial obligations inappropriate:

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [ ] attached [ ] as follows: STATE TO ASK FOR HIGH END DEFENSE TO ARGUE FOR SSOSA

III. JUDGMENT

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

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

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

4.8 [X] DNA TESTING

The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

4.9 NO CONTACT

The defendant shall not have contact with A.T. (4/1/87) <sup>H.W (6/22/87)</sup> (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for life years (not to exceed the maximum statutory sentence).

[X] Domestic Violence Protection Order or Antiharassment Order is filed with this Judgment and Sentence

4.10 OTHER:

Empty rectangular box for additional information.

4.11 BOND IS HEREBY EXONERATED

4.12 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

136 months on Count I \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

CONFINEMENT. RCW 9.94A.712. Defendant is sentenced to the following term of confinement in the custody of the Department of Corrections (DOC):

Count I Minimum Term: 136 Months Maximum Term: life  
Count \_\_\_\_\_ Minimum Term \_\_\_\_\_ Months Maximum Term: \_\_\_\_\_  
Count \_\_\_\_\_ Minimum Term \_\_\_\_\_ Months Maximum Term: \_\_\_\_\_

The Indeterminate Sentencing Review Board may increase the minimum term of confinement.

Actual number of months of total confinement ordered is: 136 to life

education, employment and/or community service; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

The defendant shall not consume any alcohol.

Defendant shall have no contact with: minor children

Defendant shall remain  within  outside of a specified geographical boundary, to wit:

The defendant shall participate in the following crime-related treatment or counseling services: \_\_\_\_\_

The defendant shall undergo an evaluation for treatment for  domestic violence  substance abuse

mental health  anger management and fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: \_\_\_\_\_

See Appendix "F" & "H"

Other conditions may be imposed by the court or DOC during community custody, or are set forth here: \_\_\_\_\_

4.14  **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.13.

4.15 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: \_\_\_\_\_

**CONFINEMENT.** RCW 9.94A.712. Defendant is sentenced to the following term of confinement in the custody of the Department of Corrections (DOC):

Count \_\_\_\_\_ Minimum Term: \_\_\_\_\_ Months Maximum Term: \_\_\_\_\_

Count \_\_\_\_\_ Minimum Term \_\_\_\_\_ Months Maximum Term: \_\_\_\_\_

Count \_\_\_\_\_ Minimum Term \_\_\_\_\_ Months Maximum Term: \_\_\_\_\_

The Indeterminate Sentencing Review Board may increase the minimum term of confinement.

**COMMUNITY CUSTODY** is Ordered for counts sentenced under RCW 9.94A.712, from time of release from total confinement until the expiration of the maximum sentence:

30 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

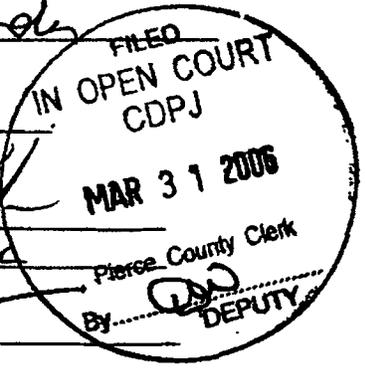
If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the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

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

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

5.7 OTHER: register as a sex offender

DONE in Open Court and in the presence of the defendant this date: 3/31/06



JUDGE Lisa Worswick  
Print name Lisa Worswick

Attorney for Defendant  
Print name: Daryl Graves  
WSB # 75101

[Signature]  
Deputy Prosecuting Attorney  
Print name: Kevin McCann  
WSB # 25102

[Signature]  
Defendant  
Print name: James Monte Stogsdill

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**CERTIFICATE OF CLERK**

CAUSE NUMBER of this case: 04-1-03718-4

I, KEVIN STOCK Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: \_\_\_\_\_.

Clerk of said County and State, by: \_\_\_\_\_, Deputy Clerk