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COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

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DEPUTY

NO. 40143-6-II

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

STATE OF WASHINGTON, Respondent

v.

RYAN NICHOLAS FARRIS, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE BARBARA JOHNSON
CLARK COUNTY SUPERIOR COURT CAUSE NO.08-1-01708-7

BRIEF OF RESPONDENT

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I. STATEMENT OF FACTS

The State accepts the statement of facts as set forth by the defendant.

II. RESPONSE TO ASSIGNMENTS OF ERROR 1 AND 2

The first two assignments of error raised by the defendant both deal with comments made by the prosecutor during closing argument. The defense maintains that these comments, though not objected to by the defense, constitute prosecutorial misconduct. Further, because there were no objections made by the defense, a claim of ineffective assistance of counsel is also being brought by the defendant.

The State submits that the defense on appeal has taken the comments out of context and because of that an unfair slant has been given to the discussions raised by the deputy prosecutor. An example of this is the claims that the deputy prosecutor is putting information into the case and presenting to the jury facts which were not produced at the time of trial. Further, because of this and other factors, he is vouching for the credibility of the complaining witness.

However, the State submits that when the discussions are put into the full context of the closing argument it becomes obvious that the deputy prosecutor is not vouching for the witness nor is he trying to put before the

jury inappropriate information. What he is doing, in a large section of his closing, is discussing with the jury the fact that the small girl has timidly and reluctantly come forward and discussed this matter repeatedly with adults including possible friends and family, law enforcement, experts, prosecutors and defense attorneys, and ultimately then to a jury. The deputy prosecutor maintains that throughout this she has been fairly consistent in what she has been talking about with these various adults.

Then, only because of mandatory reporting, does it even go to law enforcement, and it goes to law enforcement in Colorado. And in Colorado, she has to talk to a detective. So she has an interview with a detective in Colorado and has to tell this stranger what happened to her, and that her 15 year old stepbrother forced his penis inside her ten-year-old vagina, to a stranger, the detective.

But it doesn't stop there. At that point, shortly after that she actually has to go to a medical doctor, who you heard testify on the stand today, and have a physical sexual assault exam done. Again, not a comfortable place. In a place where you would assume, reasonably so, that a patient would tell their doctor the truth, wanting the best possible treatment. So she tells the doctor, tells the doctor that she never had sex before other than this incident.

This is not something she really considers sex because this is not by any remote imagination a consensual type encounter. This is an encounter that, by definition, cannot be consensual.

So she tells the doctor that she's never had any sort of sexual activity and she goes through this examination with the doctor, which is impinging on her own privacy – forced

in the supine position in order to do some of the exam, also in a position with her legs in the stirrups, all because she was trying to get the help she needed through her counselor.

So she's following through with this, not because it's what she wants to do, but it's because it's what the law says needs to be done. And she's doing each step and she's telling the same thing each step.

Not only does she go to this doctor and go through this procedure where she has this essentially little tube inserted into her vaginal canal and opening up the hymen – not only does she do that, but then, after all that, after the reports are created for that, she comes to Vancouver, Washington to speak with – well, there's a meeting with the prosecutor where she tells the prosecutor what happened, another stranger.

There's a meeting with the defense attorney, with an investigator of the defense attorney there to document the meeting. She tells them what happened to her and that her stepbrother, 15 year old Ryan Farris sexually abused her. So she goes through each of those steps and the core of the account, the core of the account remains unchanged, the core of the account remains unchanged.

So you have that defense interview, but it doesn't end there. She then comes and she has to testify before you, 13 adults that she doesn't know at all, complete strangers; a clerk, a judge, people in the courtroom. And she tells what happens to her, and the core of the account remains the same. There's no incentive for her to be anything but truthful in this situation where the first information she provided was to a counselor providing her with help to get through her issues.

-(RP 149, L9 – 151, L14)

Whether or not this is permissible (and the State submits that it is totally permissible argument to be made to the jury), nevertheless the defense does not object but wishes to use this as part of an overall strategy to attack the complaining witness in the areas where the defendant felt she's most vulnerable.

When the defense attorney begins his closing argument he sets forth this contention as follows:

Ladies and gentlemen, the prosecution essentially just conceded that they cannot prove their case beyond a reasonable doubt. Why do I say that? Because they're resorting to a trick.

What's that trick? The trick is, why would she lie? Why would Amanda lie? What motivation does she have? I'd love to be able to go into motive, I would love to be able to present evidence as to motive, but I'm not in a position to do that. Think about it for a second. Why would she lie? It turns the presumption of innocence on its head. It means that Ryan now has to prove a negative.

Why would she lie? Suddenly shifts the burden of proof from the prosecution to Ryan. Why would she lie? It spits on the presumption of innocence. Ryan doesn't have to prove that she lied. I'll read from the jury instructions. The defendant has no burden of proving that a reasonable doubt exists as to the elements.

-(RP 158, L24 – 159, L15)

The defense attorney then begins to attack the “many holes” in the State’s case, arguing that it’s “like a big piece of swiss cheese”. (RP 159, L22-23). To do this then he goes through the various witnesses and points out the inconsistencies. Thus, rather than objecting to this in the part of the closing argument by the prosecution, the defense attorney wishes to use it to show the areas that the defense maintains establish inconsistencies and lack of truthfulness on the part of the complaining witness. The defense does a fine job of picking at the various areas where it maintains the complaining witness is not being forthright with the jury. For example:

It’s kind of convenient, isn’t it? She tells you what she’s wearing. Oh, yeah, I remember details here, give a little, you know, let’s go ahead and get some details out here so it’s got that ring of truth. But I’m not going to give you any details about him because that’s stuff that you could then disprove easily. So I don’t know anything, I know nothing about him.

-(RP 163, L11-17)

Another example:

The problem is that Amanda makes this accusation and now suddenly the only way for Ryan to be able to prove he didn’t do this is to have been shadowed 24 hours a day by another couple people for him to be trustworthy – really hard to prove the negative.

They talked about the mandatory reporting, they talked about that Amanda didn't want to do this. Amanda didn't want to do this. She went to a counselor and the counselor said you gotta report this, and that's how it started. Two months ago in my interview with Amanda's mother, I asked her, whose idea was it to report this? And she said, quote, "It was Amanda's idea," unquote.

She never said a thing about counseling, she never said a thing about mandatory reporting, she never said one little thing about Amanda didn't want to, that this was being put on her. What she said was, quote, "It was Amanda's idea," unquote. And when I asked her, why didn't you tell me that, she goes, you didn't ask. Really? When I asked the question, whose idea was it to report this – you think that it was Amanda's idea is a full explanation?

You're not going to bring up the fact that Amanda didn't want to report this? Amanda testified on the stand that she didn't want to do this, that she didn't want to go through this. But her mother tells me it was Amanda's idea. Doesn't say one little thing about, oh, she was in counseling, it was a mandatory reporting.

She had the opportunity to bring up that information, but she didn't. Instead, it comes out here at trial. That's when it comes out. Oh, okay. It's not very consistent with her prior statements.

-(RP 166, L5 – 167, L9)

Finally, another example:

So it's one occasion here at first at trial. Then when I remind her of the interview when she said they let us take baths twice, oh, yeah, okay, so it was twice. So it changed during her testimony. Her own father says that never happened. Her uncle said no, that didn't happen. Ryan's mother and sister both said that didn't happen. Her own

father, who Amanda said Ryan talked to and asked if he could take baths with, testified Ryan never asked him that. That's a huge hole. There's something wrong with that.

-(RP 168, L13-22)

The State submits that these examples clearly show that there was a tactical decision made by the defense to attack the complaining witness in the areas where they felt she was most vulnerable. Rather than objecting and prohibiting that from going to the jury if it were improper (which again, the State maintains it wasn't) the defense elected to attack the complaining witness.

The defendant bears the burden of showing that the prosecuting attorney's conduct was both improper and prejudicial. State v. Fisher, 165 Wn.2d 727, 747, 202 P.3d 937 (2009) (*citing* State v. Gregory, 158 Wn.2d 759, 858, 147 P.3d 1201 (2006)). Where, as here, defense counsel does not object to the alleged misconduct, we deem the defendant to have waived the issue on appeal unless the misconduct is “so flagrant and ill-intentioned that it evinces an enduring and resulting prejudice” incurable by a jury instruction. Gregory, 158 Wn.2d at 841 (*quoting* State v. Stenson, 132 Wn.2d 668, 719, 940 P.2d 1239 (1997), cert. denied, 523 U.S. 1008 (1998)). If the defense counsel's trial conduct can be characterized as legitimate trial strategy or tactics, it cannot provide a

basis for a claim of ineffective assistance of counsel. State v. Aho, 137 Wn.2d 736, 745, 975 P.2d 512 (1999).

Prosecutorial misconduct concepts are spelled out in State v. Anderson, 153 Wn. App. 417, 428-429, 220 P.3d 1273 (2009):

The defendant raises several claims of prosecutorial misconduct. Where the defense claims prosecutorial misconduct, it bears the burden of establishing the impropriety of the prosecuting attorney's comments as well as their prejudicial effect. State v. Brown, 132 Wn.2d 529, 561, 940 P.2d 546 (1997)

We review a prosecuting attorney's allegedly improper remarks in the context of the total argument, the issues in the case, the evidence addressed in the argument, and the instructions given to the jury. State v. Russell, 125 Wn.2d 24, 85-86, 882 P.2d 747 (1994). In determining whether prosecutorial misconduct occurred, we first evaluate whether the prosecutor's comments were improper. State v. Reed, 102 Wn.2d 140, 145, 684 P.2d 699 (1984). If the statements were improper and an objection was lodged, we then consider whether there was a substantial likelihood that the statements affected the jury. Reed, 102 Wn.2d at 145. Absent a proper objection and a request for a curative instruction, however, the defense waives the issue of misconduct unless the comment was so flagrant or ill intentioned that an instruction could not have cured the prejudice. State v. Charlton, 90 Wn.2d 657, 661, 585 P.2d 142 (1978).

The State is generally afforded wide latitude in making arguments to the jury and prosecutors are allowed to draw reasonable inferences from the evidence. State v. Gregory, 158 Wn.2d 759, 860, 147 P.3d 1201 (2006) (*citing State v. Gentry*, 125 Wn.2d 570, 641, 888 P.2d 1105 (1995)). The State is entitled to comment upon the quality and quantity

of evidence the defense presents. Gregory, 158 Wn.2d at 860.

Furthermore, a prosecutor's expressions of personal opinion about the defendant's guilt or the witnesses' credibility are improper. State v. Dhaliwal, 150 Wn.2d 559, 577-78, 79 P.3d 432 (2003). To determine whether the prosecutor is expressing a personal opinion about the defendant's guilt, independent of the evidence, we view the challenged comments in context. State v. McKenzie, 157 Wn.2d 44, 53, 134 P.3d 221 (2006).

“[i]t is not uncommon for statements to be made in final arguments which, standing alone, sound like an expression of personal opinion. However, when judged in the light of the total argument, ... it is usually apparent that counsel is trying to convince the jury of certain ultimate facts and conclusions to be drawn from the evidence. Prejudicial error does not occur until such time as it is clear and unmistakable that counsel is not arguing an inference from the evidence, but is expressing a personal opinion.”

McKenzie, 157 Wn.2d at 53-54 (*quoting State v. Papadopoulos*, 34 Wn. App. 397, 400, 662 P.2d 59 (1983)). Finally, we presume the jury follows the trial court's instructions. State v. Hopson, 113 Wn.2d 273, 287, 778 P.2d 1014 (1989).

To raise prosecutorial misconduct on appeal when no objection was made at trial, the defendant must show that the alleged misconduct was so flagrant and ill-intentioned that no curative instruction would have obviated the prejudice it engendered. State v. O'Donnell, 142 Wn. App. 314, 328, 174 P.3d 1205 (2007).

The federal and state constitutions guarantee a defendant the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); State v. McFarland, 127 Wn.2d 322, 335, 899 P.2d 1251 (1995). To prevail in an ineffective assistance of counsel claim, the defendant must show that (1) his trial counsel's performance was deficient and (2) this deficiency prejudiced him. Strickland, 466 U.S. at 687. Deficient performance is that which falls below an objective standard of reasonableness. State v. Horton, 116 Wn. App. 909, 912, 68 P.3d 1145 (2003). To demonstrate prejudice, the defendant must show that his trial counsel's performance was so inadequate that he was deprived of his right to counsel and that there is a reasonable probability that the trial result would have been different, thereby undermining confidence in the outcome. Strickland, 466 U.S. at 694; In re Pers. Restraint of Pirtle, 136 Wn.2d 467, 487, 965 P.2d 593 (1998). If he fails to establish either deficient performance or prejudice, the Appellate Court need not address the other element because an ineffective assistance of counsel claim requires proof of both elements. In re Pers. Restraint of Davis, 152 Wn.2d 647, 673, 101 P.3d 1 (2004).

When trial counsel's actions involve matters of trial tactics, the Court hesitates to find ineffective assistance of counsel. State v. Jones, 33 Wn. App. 865, 872, 658 P.2d 1262, review denied, 99 Wn.2d 1013 (1983).

“Deficient performance is not shown by matters that go to trial strategy or tactics.” State v. Cienfuegos, 144 Wn.2d 222, 227, 25 P.3d 1011 (2001) (*quoting* State v. Hendrickson, 129 Wn.2d 61, 77-78, 917 P.2d 563 (1996)). And the Appellate Court presumes that counsel's performance was reasonable. State v. Bowerman, 115 Wn.2d 794, 808, 802 P.2d 116 (1990). The decision of when or whether to object is an example of trial tactics, and only in egregious circumstances, on testimony central to the State's case, will the failure to object constitute incompetence of counsel justifying reversal. State v. Madison, 53 Wn. App. 754, 763, 770 P.2d 662, review denied, 113 Wn.2d 1002, 777 P.2d 1050 (1989). “However, even a lame cross-examination will seldom, if ever, amount to a Sixth Amendment violation.” In re Pers. Restraint of Pirtle, 136 Wn.2d 467, 489, 965 P.2d 593 (1998) (*citing* Henderson v. Norris, 118 F.3d 1283, 1287 (8th Cir. 1997), cert. denied, 522 U.S. 1129, 140 L. Ed. 2d 138, 118 S. Ct. 1081 (1998)). But, even deficient performance by counsel “does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment.” Strickland, 466 U.S. at 691. A defendant must affirmatively prove prejudice, not simply show that “the errors had some conceivable effect on the outcome.” Strickland, 466 U.S. at 693. “In doing so, ‘the defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding

would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.” State v. Crawford, 159 Wn.2d 86, 99-100, 147 P.3d 1288 (2006) (quoting Strickland, 466 U.S. at 694).

In our case, the trial court instructed the jury at the beginning of trial that only testimony and exhibits were evidence. At the close of evidence, the trial court again instructed the jury that the attorneys' remarks were not evidence and that only testimony and exhibits could be considered. It is presumed that juries follow instructions. State v. Russell, 125 Wn.2d 24, 84-85, 882 P.2d 747 (1994), cert. denied, 514 U.S. 1129, 115 S. Ct. 2004, 131 L. Ed. 2d 1005 (1995). At most, had the defendant's trial counsel objected, he might have received an additional instruction to the jury.

III. RESPONSE TO ASSIGNMENT OF ERROR NO. 3

The third assignment of error raised by the defendant is a claim that the sexual assault protection order that was issued in this case exceeded the statutory maximum term.

Attached as an appendix will be found the Felony Judgment and Sentence (CP 19). Also will be found a copy of the Order for Sexual Assault Protection (CP 59). As these documents clearly demonstrate, the

defendant was convicted of a Class A felony, the maximum sentence of which is life.

The State submits that there is nothing inappropriate or wrong with the entry of the protection order because it is within the statutory maximum period. Further, the State maintains that the contact with this young victim by the defendant and activities with her would all be related to crime related prohibitions.

A trial court has the authority to impose “crime-related prohibitions” when sentencing a felony case. RCW 9.94A.505(8). A “crime-related prohibition” is an order that “directly relates to the circumstances of the crime for which the offender has been convicted.” RCW 9.94A.030(13) (partial). In State v. Armendariz, 160 Wn.2d 106, 156 P.3d 201 (2007), the court authoritatively construed these provisions in the very same context of a no-contact order involving a witness who testified at trial. The court unanimously concluded that the statute expressly empowered trial courts to prohibit defendants from contacting witnesses for up to the statutory maximum time period for the offense. *Id.* at 118-120. The court reviews sentencing conditions for abuse of discretion. State v. Riley, 121 Wn.2d 22, 37, 846 P.2d 1365 (1993). Such conditions are usually upheld if reasonably crime related. *Id.* at 36-37.

IV. CONCLUSION

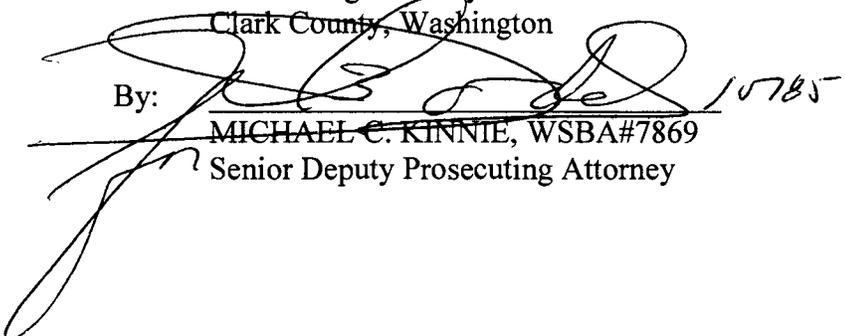
The trial court should be affirmed in all respects.

DATED this 13th day of September, 2010.

Respectfully submitted:

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Michael Green
Fail

FILED

JAN 11 2010

Sherry W. Parker, Clerk, Clark Co.

**Superior Court of Washington
County of Clark**

State of Washington, Plaintiff,

vs.

**RYAN NICHOLAS FARRIS,
Defendant.**

SID: _____
If no SID, use DOB: 6/22/1988

No. 08-1-01708-7

**Felony Judgment and Sentence –
Prison Nunc Pro Tunc**

RCW 9.94A.507 Prison Confinement
(Sex Offense and Kidnapping of a Minor)

(FJS)

Clerk's Action Required, para 2,1, 4.1, 4.3a,
4.3b, 5.2, 5.3, 5.5 and 5.7

Defendant Used Motor Vehicle

09-9-08377-0

I. Hearing

1.1 The court conducted a sentencing hearing this date; 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, in accordance with the proceedings in this case, the court **Finds:**

2.1 Current Offenses: The defendant is guilty of the following offenses, based upon

guilty plea jury-verdict 9/22/2009 bench trial :

Count	Crime	RCW (w/subsection)	Class	Date of Crime
01	RAPE OF A CHILD IN THE FIRST DEGREE	9A.44.073	FA	6/1/2002 to 9/1/2003

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

Additional current offenses are attached in Appendix 2.1a.

The defendant is a sex offender subject to indeterminate sentencing under RCW 9.94A.507.

The jury returned a special verdict or the court made a special finding with regard to the following:

The defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage a victim of child rape or child molestation in sexual conduct in return for a fee in the commission of the offense in Count _____ RCW 9.94A.839.

The offense was predatory as to Count _____ RCW 9.94A.836.

The victim was under 15 years of age at the time of the offense in Count _____ RCW 9.94A.837.

**Felony Judgment and Sentence (FJS) (Prison)
(Sex Offense and Kidnapping of a Minor Offense)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))**

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- The victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense in Count _____. RCW 9.94A.838, 9A.44.010.
- The defendant acted with **sexual motivation** in committing the offense in Count _____. RCW 9.94A.835.
- This case involves **kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent.** RCW 9A.44.130.
- The defendant used a **firearm** in the commission of the offense in Count _____. RCW 9.94A.602, 9.94A.533.
- The defendant used a **deadly weapon other than a firearm** in committing the offense in Count _____ RCW 9.94A.602, 9.94A.533.
- Count _____, **Violation of the Uniform Controlled Substances Act (VUCSA), RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.**
- The defendant committed a **crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture** in Count _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- Count _____ is a **criminal street gang-related felony offense** in which the defendant compensated, threatened, or solicited a minor in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- Count _____ is the **crime of unlawful possession of a firearm** and the defendant was a **criminal street gang member or associate** when the defendant committed the crime. RCW 9.94A.702, 9.94A._____.
- The defendant committed **vehicular homicide** **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- Count _____ involves **attempting to elude a police vehicle** and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- Count _____ is a **felony in the commission of which the defendant used a motor vehicle.** RCW 46.20.285.
- The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- The crime(s) charged in Count _____ involve(s) **domestic violence.** RCW 10.99.020.
- Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score (RCW 9.94A.589).
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):**

	<i>Crime</i>	<i>Cause Number</i>	<i>Court (county & state)</i>
1.			

- Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

	<i>Crime</i>	<i>Date of Crime</i>	<i>Date of Sentence</i>	<i>Sentencing Court (county & state)</i>	<i>A or J Adult, Juv.</i>	<i>Type of Crime</i>
1	NO FELONY CONVICTIONS					

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.
- The prior convictions for _____ are one offense for purposes of determining the offender score (RCW 9.94A.525).
- The prior convictions for _____ are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term	Maximum Fine
01	0	XII	93 MONTHS to 123 MONTHS		93 MONTHS to 123 MONTHS	LIFE	\$50,000.00

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9), (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude.

- Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are attached as follows: _____.

2.4 Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

- 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.
- within the standard range for Count(s) _____ but served consecutively to Count(s) _____. 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): _____
- The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

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 _____ in the charging document.

IV. Sentence and Order

It is ordered:

4.1 Confinement. The court sentences the defendant to total confinement as follows:

- (a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

93 months on Count 01

The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

The confinement time on Count _____ includes _____ months as enhancement for firearm deadly weapon sexual motivation VUCSA in a protected zone manufacture of methamphetamine with juvenile present sexual conduct with a child for a fee.

Actual number of months of total confinement ordered is: _____.

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____.

The sentence herein shall run consecutively with any other sentence previously imposed in any other case, including other cases in District Court or Superior Court, unless otherwise specified herein: _____.

Confinement shall commence immediately unless otherwise set forth here: _____.

The total time of incarceration and community supervision shall not exceed the statutory maximum for the crime.

- (b) **Confinement.** RCW 9.94A.507 (Sex Offenses only): The court orders the following term of confinement in the custody of the DOC:

Count _____ minimum term _____ maximum term Statutory Maximum

- (c) **Credit for Time Served:** The defendant shall receive 69 days credit for time served prior to sentencing for confinement that was solely under this cause number. RCW 9.94A.505. The jail shall compute earned early release credits (good time) pursuant to its policies and procedures.

- (d) **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for remaining time of confinement.

4.2 Community Custody. (To determine which offenses are eligible for or required for community placement or community custody see RCW 9.94A.701)

(A) The defendant shall be on community placement or community custody for the longer of:

- (1) the period of early release. RCW 9.94A.728(1)(2); or
- (2) the period imposed by the court, as follows:

Count(s) 1 36 months Sex Offenses (not ISRB per RCW 9.94A.507(2))

Count(s) _____ 36 months for Serious Violent Offenses
Count(s) _____ 18 months for Violent Offenses
Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the
unlawful possession of a firearm by a street gang member or associate)

(Sex offenses, only) For count(s) 01, sentenced under RCW 9.94A.507, for any period of time the defendant is released from total confinement before the expiration of the statutory maximum.

The total time of incarceration and community supervision/custody shall not exceed the statutory maximum for the crime.

(B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (9) for sex offenses, submit to electronic monitoring if imposed by DOC; and (10) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody. For sex offenders sentenced under RCW 9.94A.709, the court may extend community custody up to the statutory maximum term of the sentence.

The court orders that during the period of supervision the defendant shall:

- consume no alcohol.
- have no contact with: _____
- remain within outside of a specified geographical boundary
- not reside within 880 feet of the facilities or grounds of a public or private school (community protection zone). RCW 9.94A.030(8).
- participate in the following crime-related treatment or counseling services:

 undergo an evaluation for treatment for domestic violence substance abuse mental health
 anger management, and fully comply with all recommended treatment. _____
- comply with the following crime-related prohibitions: _____

- Additional conditions are imposed in "Appendix A" and "Appendix F" attached.

(C) For sentences imposed under RCW 9.94A.507, the Indeterminate Sentence Review Board may impose other conditions (including electronic monitoring if DOC so recommends). In an emergency, DOC may impose other conditions for a period not to exceed seven working days.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

Restitution ordered above shall be paid jointly and severally with:

Name of other defendant	Cause Number	Victim's name	Amount

The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month commencing _____, RCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

The court orders the defendant to pay costs of incarceration at the rate of \$ _____ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.3b **Electronic Monitoring Reimbursement.** The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____, for the cost of pretrial electronic monitoring in the amount of \$ _____.

4.4 DNA Testing. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

HIV Testing. The defendant shall submit to HIV testing. RCW 70.24.340.

4.5 No Contact:

The defendant shall not have contact with AL (female, 9/4/1992) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE (which does not exceed the maximum statutory sentence).

The defendant is excluded or prohibited from coming within:

500 feet 880 feet 1000 feet of:

AL (female, 9/4/1992) (name of protected person(s))'s

home/ residence work place school

(other location(s)) _____

other location _____

for Life years (which does not exceed the maximum statutory sentence).

A separate Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed concurrent with this Judgment and Sentence.

4.6 Other: _____

4.7 **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: _____

4.8 For Offenders on Community Custody, when there is reasonable cause to believe that the defendant has violated a condition or requirement of this sentence, the defendant shall allow, and the Department of Corrections is authorized to conduct, searches of the defendant's person, residence, automobile or other personal property. Residence searches shall include access, for the purpose of visual inspection, all areas of the residence in which the defendant lives or has exclusive/joint control/access and automobiles owned or possessed by the defendant.

4.9 If the defendant is removed/deported by the U.S. Immigration and Customs Enforcement, the Community Custody time is tolled during the time that the defendant is not reporting for supervision in the United States. The defendant shall not enter the United States without the knowledge and permission of the U.S. Immigration and Customs Enforcement. If the defendant re-enters the United States, he/she shall immediately report to the Department of Corrections if on community custody or the Clerk's Collections Unit, if not on Community Custody for supervision.

V. Notices and Signatures

5.1 **Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

5.2 **Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

5.3 **Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

5.4 **Community Custody Violation.**

(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.634.

(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.

5.5 Firearms. You may not own, use or possess any firearm unless your right to do so is restored by a superior court in Washington State, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040 and RCW 9.41.047.

5.6 Sex and Kidnapping Offender Registration. RCW 9A.44.130, 10.01.200.

1. General Applicability and Requirements: Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.130 (or other registerable offense), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

2. Offenders Who Leave the State and Return: If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within three business days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within three business 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.

3. Change of Residence Within State and Leaving the State: If you change your residence within a county, you must send signed 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 signed written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving and register with that sheriff within 24 hours of moving. You must also give signed 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 send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

4. Additional Requirements Upon Moving to Another State: 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. Notification Requirement When Enrolling In or Employed by a Public or Private Institution of Higher Education or Common School (K-12): 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. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution, whichever is earlier. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within 10 days of such termination. If you attend, or plan to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW, you are required to notify the sheriff of the county of your residence of your intent to attend the school. You must notify the sheriff within 10 days of enrolling or 10 days prior to arriving at the school to attend classes, whichever is earlier. The sheriff shall promptly notify the principal of the school.

6. Registration by a Person Who Does Not Have a Fixed Residence: Even if you do not have 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. Within 48 hours excluding weekends and holidays, after losing your fixed residence, you must send signed written notice to the sheriff of the county where you last registered. 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. You may be required to provide a 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.

7. Reporting Requirements for Persons Who Are Risk Level II or III: If you have a fixed residence and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least five years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

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

9. Length of Registration:

Class A felony – Life; Class B Felony – 15 years; Class C felony – 10 years

5.7 Motor Vehicle: If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.

5.8 Other: _____

5.9 Persistent Offense Notice

The crime(s) in count(s) 01 is/are "most serious offense(s)." Upon a third conviction of a "most serious offense", the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.030, 9.94A.570

The crime(s) in count(s) 01 is/are one of the listed offenses in RCW 9.94A.030.(31)(b). Upon a second conviction of one of these listed offenses, the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody.

1/21/10 nunc pro tunc to 11/25/09

Done in Open Court and in the presence of the defendant this date: _____

Ray A. Rusk
Judge/Print Name

<i>Kim Richardson</i>	<i>Michael P Green</i>	<i>Ryan Nicholas Farris</i>
Deputy Prosecuting Attorney	Attorney for Defendant	Defendant
WSBA No. 34094	WSBA No. 35425	Print Name:
Print Name: Dustin D. Richardson	Print Name: Michael P Green	RYAN NICHOLAS FARRIS

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature: *Ryan Nicholas Farris*

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

Interpreter signature/Print name: _____

I, Sherry Parker, 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 the Court of said county and state, by: _____, Deputy Clerk

Identification of the Defendant

RYAN NICHOLAS FARRIS

08-1-01708-7

SID No: _____
(If no SID take fingerprint card for State Patrol)

Date of Birth: 6/22/1988

FBI No.

Local ID No.

PCN No. _____

Other _____

Alias name, DOB:

Race: W

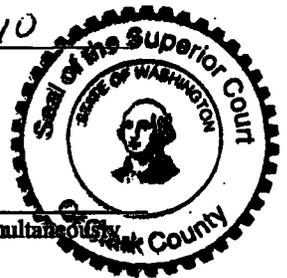
Ethnicity:

Sex: M

Fingerprints: I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto.

Clerk of the Court, Deputy Clerk, _____

Dated: 01/11/10



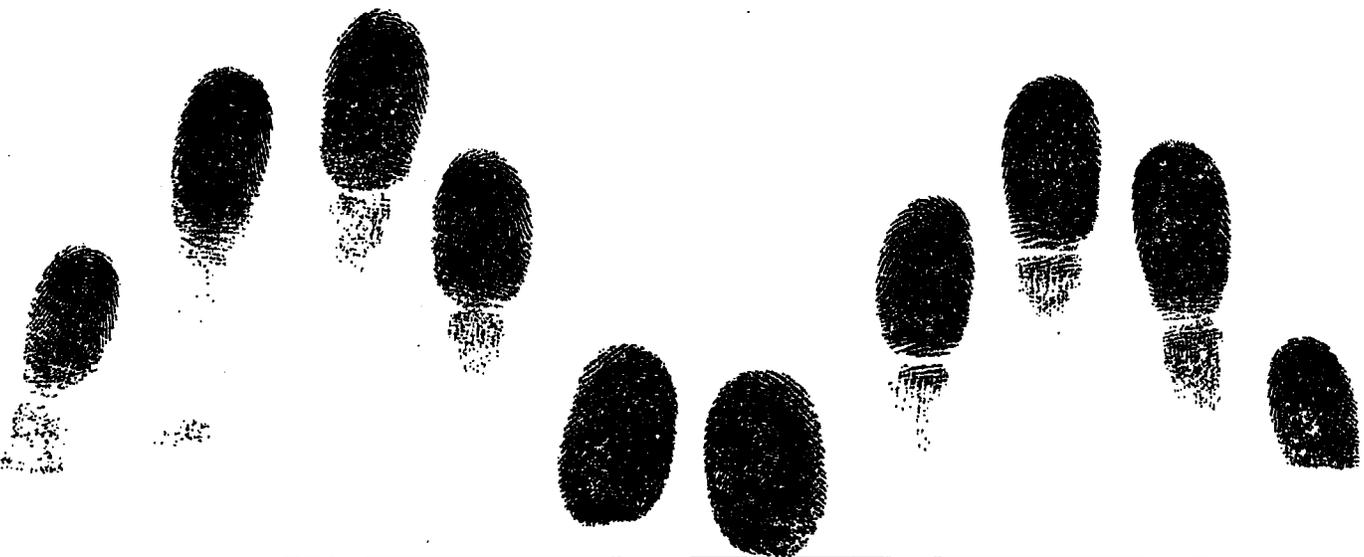
The defendant's signature: _____

Left four fingers taken simultaneously

Left
Thumb

Right
Thumb

Right four fingers taken simultaneously



SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v.

RYAN NICHOLAS FARRIS,

Defendant.

SID: _____
 DOB: 6/22/1988

NO. 08-1-01708-7

**WARRANT OF COMMITMENT TO STATE
 OF WASHINGTON DEPARTMENT OF
 CORRECTIONS**

THE STATE OF WASHINGTON, to the Sheriff of Clark County, Washington, and the State of Washington, Department of Corrections, Officers in charge of correctional facilities of the State of Washington:

GREETING:

WHEREAS, the above-named defendant has been duly convicted in the Superior Court of the State of Washington of the County of Clark of the crime(s) of:

COUNT	CRIME	RCW	DATE OF CRIME
01	RAPE OF A CHILD IN THE FIRST DEGREE	9A.44.073	6/1/2002 to 9/1/2003

and Judgment has been pronounced and the defendant has been sentenced to a term of imprisonment in such correctional institution under the supervision of the State of Washington, Department of Corrections, as shall be designated by the State of Washington, Department of Corrections pursuant to RCW 72.13, all of which appears of record; a certified copy of said judgment being endorsed hereon and made a part hereof,

NOW, THIS IS TO COMMAND YOU, said Sheriff, to detain the defendant until called for by the transportation officers of the State of Washington, Department of Corrections, authorized to conduct defendant to the appropriate facility, and this is to command you, said Superintendent of the appropriate facility to receive defendant from said officers for confinement, classification and placement in such correctional facilities under the supervision of the State of Washington, Department of Corrections, for a term of confinement of :

COUNT	CRIME	TERM
01	RAPE OF A CHILD IN THE FIRST DEGREE	93 Days Months

These terms shall be served concurrently to each other unless specified herein:

The defendant has credit for 69 days served.

The term(s) of confinement (sentence) imposed herein shall be served consecutively to any other term of confinement (sentence) which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein:

And these presents shall be authority for the same.

HEREIN FAIL NOT.

WITNESS, Honorable

[Handwritten signature] 1/11/10 none pre June
to 1/25/09

JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE: 1-11-10.

SHERRY W. PARKER, Clerk of the
Clark County Superior Court

By: *[Handwritten signature]*
Deputy



"APPENDIX A"
9.94A.712

STIPULATED CONDITIONS OF SENTENCE/COMMUNITY CUSTODY

1. You shall commit no law violations.
2. You shall report to and be available for contact with the assigned community corrections officer as directed.
3. You shall work at a Department of Corrections approved education program, employment program, and/or community service program as directed.
4. You shall not possess, consume, or deliver controlled substances, except pursuant to a lawfully issued prescription.
5. You shall pay a community placement/supervision fee as determined by the Department of Corrections.
6. You shall not have any direct or indirect contact with the victims, including but not limited to personal, verbal, telephonic, written, or through a third person without prior written permission from his community corrections officer, his therapist, the prosecuting attorney, and the court only after an appropriate hearing. This condition is for the statutory maximum sentence of Life, and shall also apply during any incarceration.

**VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE
UNDER CHAPTER 10.99 RCW AND WILL SUBJECT THE
VIOLATOR TO ARREST; ANY ASSAULT OR RECKLESS
ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER
IS A FELONY.**

7. You shall not enter into or frequent business establishments or areas that cater to minor children without being accompanied by a responsible adult. Such establishments may include but are not limited to video game parlors, parks, pools, skating rinks, school grounds, malls or any areas routinely used by minors as areas of play/recreation.
8. You shall not have any contact with minors. This provision begins at time of sentencing. This provision shall not be changed without prior written approval by the community corrections officer, the therapist, the prosecuting attorney, and the court after an appropriate hearing.

PRETRIAL OFFER - 4

Revised: July 20, 2009

9. You shall remain within, or outside of, a specified geographical boundary as ordered by your community corrections officer.
10. Your residence location and living arrangements shall be subject to the prior approval of your community corrections officer and shall not be changed without the prior knowledge and permission of the officer.
11. You must consent to allow home visits by Department of Corrections to monitor compliance with supervision. This includes search of the defendant's person, residence, automobile, or other personal property, and home visits include access for the purposes of inspection of all areas the defendant lives or has exclusive/joint control or access. RCW 9.94A.631
12. Your employment locations and arrangements shall be subject to prior approval of your community corrections officer and shall not be changed without the prior knowledge and permission of the officer.
13. You shall not possess, use, or own any firearms or ammunition.
14. You shall enter into, cooperate with, fully attend and successfully complete all inpatient and outpatient phases of a Washington State certified sexual deviancy treatment program as established by the community corrections officer and/or the treatment facility. You shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, community corrections officer and shall not change providers without court approval after a hearing if the prosecutor and/or community corrections officer object to the change. "Cooperate with" means you shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity.
15. The sex offender therapist shall submit quarterly reports on your progress in treatment to the court, Department of Corrections, and prosecutor and you shall execute a release of information to the community corrections officer, prosecutor and the court so that the treatment provider can discuss the case with them. The quarterly report shall reference the treatment plan and include the following, at a minimum: dates of attendance, your compliance with requirements, treatment activities, and your relative progress in treatment.
16. During the time you are under order of the court, you shall, at your own expense, submit to polygraph examinations at the request of the Community Corrections Order and/or the Prosecuting Attorney's office (but in no event less than twice

PRETRIAL OFFER - 5

Revised: July 20, 2009

yearly). Copies shall be provided to the Prosecuting Attorney's office upon request. Such exams will be used to ensure compliance with the conditions of community supervision/placement, and the results of the polygraph examination can be used by the State in revocation hearings.

17. You shall submit to plethysmography exams, at your own expense, at the direction of the community corrections officer and copies shall be provided to the Prosecutor's Office upon request.
18. You shall register as a sex offender with the County Sheriff's Office in the county of residence as defined by RCW 9.94A.030.
19. You shall not use/possess sexually explicit material as defined in RCW 9.68.130(2).
20. You shall sign necessary release information documents as required by Department of Corrections or the Prosecuting Attorney, to monitor your compliance with any of the conditions of this Judgment and Sentence. And, you shall stipulate that the Prosecuting Attorney can disseminate copies of any psychosexual evaluations and polygraph tests in this matter to the ISRB.
21. You shall have no association with persons known to be on probation, parole or community placement.
22. If the offense was committed on or after July 24, 2005, you may not reside within eight hundred eighty (880) feet of the facilities and grounds of a public or private school. RCW 9.94A.030.

The undersigned defendant agrees that he has read this Appendix A, or it has been read and explained to him; that he understands it, agrees with it, and has no questions about it. This is a binding agreement upon the undersigned defendant that is entered into knowingly, voluntarily and intelligently, as part of the plea of guilty and Judgment and Sentence.

Dated: 11/11/10 Signed:  (Defendant)

Print name: Ryan Farris (Defendant)

PRETRIAL OFFER - 6

Revised: July 20, 2009

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

STATE OF WASHINGTON)	Case No.: 08-1-01708-7
)	
Plaintiff)	
v.)	JUDGEMENT AND SENTENCE (FELONY)
Farris, Ryan Nicholas)	APPENDIX F
Defendant)	ADDITIONAL CONDITIONS OF SENTENCE
)	
DOC No. 344566)	

CRIME RELATED CONDITIONS:

- 1) No contact with anyone under the age of eighteen
- 2) Do not enter into or remain in areas where minors are known to congregate
- 3) Participate in polygraph examinations as directed by the Department of Corrections
- 4) Participate in a assessment for sexual deviancy and follow all treatment recommendations
- 5) Pay for the victim's counseling as it relates to this offense

DATE

JUDGE, CLARK COUNTY SUPERIOR COURT

**TYPE/CCO/IS-ISO.d
DATE**

Page 1 of 1

DOC 08-130 (S&P Rev. 04/05/2001)

**APPENDIX F - FELONY ADDITIONAL
CONDITIONS OF SENTENCE**

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FILED
NOV 25 2009
Sherry W. Parker, Clerk, Clark Co.
3:37 pm

Superior Court of Washington
County of Clark

No. 08-1-01708-7

State of Washington,
Plaintiff,

Sexual Assault Protection Order
(Criminal/Felony)
(ORSXP)
(JIS order code: SXP)

v. Ryan Nicholas Farris
Defendant.

Pretrial
 Post conviction
 Clerk's action required

SID:
If no SID, use DOB: 6/22/88

1. The court finds that the defendant has been charged with, arrested for, or convicted of a sex offense as defined in RCW 9.94A.030, a violation of RCW 9A.44.096, a violation of RCW 9.68A.090, or a gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030. Additional findings on page two.

2. This Sexual Assault Protection Order is entered pursuant to Laws of 2006, ch. 138 §16. This order protects:
A.L. female DOB 9/4/92

(Write protected person's name or if minor you may use initials and DOB. RCW 7.69A.030, 10.52.100, 10.97.130.)

It Is Ordered:

This Pretrial Sexual Assault Protection Order Expires on _____
This Post Conviction Sexual Assault Protection Order Expires on 11/25/2009

(A final sexual assault protection order entered in conjunction with a criminal prosecution shall remain in effect for a period of two years following the expiration of any sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole.)

Defendant is **Restrained** from:

- A. Having any contact with the protected person(s) directly, indirectly or through third parties regardless of whether those third parties know of the order.
- B. Knowingly coming within or knowingly remaining within 1000' (distance) of the protected person's (s) residence school place of employment other: _____
- C. (Pretrial: crimes defined as serious offenses) Obtaining, owning, possessing or controlling a firearm.
 (Conviction) Obtaining, owning, possessing or controlling a firearm.

Additional orders on page two.

Warnings to the Defendant: Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order.

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Cause No.: 08-1-01708-7

(Pretrial order for crimes not defined as serious offenses in RCW 9.41.010)

It Is Further Ordered:

- [] Defendant is **Prohibited** from obtaining or possessing a firearm, other dangerous weapon or concealed pistol license.
- [] The defendant shall immediately surrender all firearms and other dangerous weapons within the defendant's possession or control and any concealed pistol license to: _____ [name/law enforcement agency].

The the pretrial orders for crimes not defined as serious offenses in RCW 9.41.010 are based upon the court's finding that possession of a firearm or other dangerous weapon by the defendant presents a serious and imminent threat to public health or safety, or to the health or safety of any individual. RCW 9.41.800(4).

This order is issued in accordance with Full Faith and Credit provisions of VAWA: 18 U.S.C. § 2265.
 The court determines that the defendant's relationship to a person protected by this order is: current or former spouse parent of a common child current or former cohabitant as intimate partner current or former dating partner. Therefore, 18 U.S.C. §§ 2261 (federal violation penalties) may apply to this order.

It is further ordered that the clerk of the court shall forward a copy of this order on or before the next judicial day to Clark County Sheriff's Office, which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

Done in Open Court in the presence of the defendant this date: 11/25/2009

 Deputy Prosecuting Attorney WSBA No. <u>34094</u> Print or Type Name: <u>Dustin Richardson</u>	 Judge/Print or Type Name <u>Barbara D. Johnson</u>	 Defendant Print or Type Name: <u>Ryan Farris</u>
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A Law Enforcement Information Sheet (LEIS) must be completed.

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FILED

SEP 22 2009

Sherry W. Parker, Clerk, Clark Co.
rcvd @ 12:23 pm
by Sarah Vignoli,
Deputy Clerk

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

STATE OF WASHINGTON,
Plaintiff,
v.
RYAN NICHOLAS FARRIS,
Defendant.

No. 08-1-01708-7

**COURT'S INSTRUCTIONS
TO THE JURY**

DATED this 22 day of September, 2009.



SUPERIOR COURT JUDGE

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INSTRUCTION NO. 1

It is your duty to decide the facts in this case based upon the evidence presented to you during this trial. It also is your duty to accept the law from my instructions, regardless of what you personally believe the law is or what you personally think it should be. You must apply the law from my instructions to the facts that you decide have been proved, and in this way decide the case.

Keep in mind that a charge is only an accusation. The filing of a charge is not evidence that the charge is true. Your decisions as jurors must be made solely upon the evidence presented during these proceedings.

The evidence that you are to consider during your deliberations consists of the testimony that you have heard from witnesses, stipulations, and the exhibits that I have admitted, during the trial. If evidence was not admitted or was stricken from the record, then you are not to consider it in reaching your verdict.

Exhibits may have been marked by the court clerk and given a number, but they do not go with you to the jury room during your deliberations unless they have been admitted into evidence. The exhibits that have been admitted will be available to you in the jury room.

One of my duties has been to rule on the admissibility of evidence. Do not be concerned during your deliberations about the reasons for my rulings on the evidence. If I have ruled that any evidence is inadmissible, or if I have asked you to disregard any evidence, then you must not discuss that evidence during your deliberations or consider it in reaching your verdict. Do not speculate whether the evidence would have favored one party or the other.

In order to decide whether any proposition has been proved, you must consider all of the evidence that I have admitted that relates to the proposition. Each party is entitled to the benefit of all of the evidence, whether or not that party introduced it.

You are the sole judges of the credibility of each witness. You are also the sole judges of the value or weight to be given to the testimony of each witness. In considering a witness's

testimony, you may consider these things: the opportunity of the witness to observe or know the things he or she testifies about; the ability of the witness to observe accurately; the quality of a witness's memory while testifying; the manner of the witness while testifying; any personal interest that the witness might have in the outcome or the issues; any bias or prejudice that the witness may have shown; the reasonableness of the witness's statements in the context of all of the other evidence; and any other factors that affect your evaluation or belief of a witness or your evaluation of his or her testimony.

The lawyers' remarks, statements, and arguments are intended to help you understand the evidence and apply the law. It is important, however, for you to remember that the lawyers' statements are not evidence. The evidence is the testimony and the exhibits. The law is contained in my instructions to you. You must disregard any remark, statement, or argument that is not supported by the evidence or the law in my instructions.

You may have heard objections made by the lawyers during trial. Each party has the right to object to questions asked by another lawyer, and may have a duty to do so. These objections should not influence you. Do not make any assumptions or draw any conclusions based on a lawyer's objections.

Our state constitution prohibits a trial judge from making a comment on the evidence. It would be improper for me to express, by words or conduct, my personal opinion about the value of testimony or other evidence. I have not intentionally done this. If it appeared to you that I have indicated my personal opinion in any way, either during trial or in giving these instructions, you must disregard this entirely.

You have nothing whatever to do with any punishment that may be imposed in case of a violation of the law. You may not consider the fact that punishment may follow conviction except insofar as it may tend to make you careful.

The order of these instructions has no significance as to their relative importance. They are all important. In closing arguments, the lawyers may properly discuss specific instructions. During your deliberations, you must consider the instructions as a whole.

As jurors, you are officers of this court. You must not let your emotions overcome your rational thought process. You must reach your decision based on the facts proved to you and on the law given to you, not on sympathy, prejudice, or personal preference. To assure that all parties receive a fair trial, you must act impartially with an earnest desire to reach a proper verdict.

INSTRUCTION NO. 2

As jurors, you have a duty to discuss the case with one another and to deliberate in an effort to reach a unanimous verdict. Each of you must decide the case for yourself, but only after you consider the evidence impartially with your fellow jurors. During your deliberations, you should not hesitate to re-examine your own views and to change your opinion based upon further review of the evidence and these instructions. You should not, however, surrender your honest belief about the value or significance of evidence solely because of the opinions of your fellow jurors. Nor should you change your mind just for the purpose of reaching a verdict.

INSTRUCTION NO. 3

The defendant has entered a plea of not guilty. That plea puts in issue every element of the crime charged. The State is the plaintiff and has the burden of proving each element of the crime beyond a reasonable doubt. The defendant has no burden of proving that a reasonable doubt exists as to these elements.

A defendant is presumed innocent. This presumption continues throughout the entire trial unless during your deliberations you find it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly, and carefully considering all of the evidence or lack of evidence. If, from such consideration, you have an abiding belief in the truth of the charge, you are satisfied beyond a reasonable doubt.

INSTRUCTION NO. 4

The evidence that has been presented to you may be either direct or circumstantial. The term "direct evidence" refers to evidence that is given by a witness who has directly perceived something at issue in this case. The term "circumstantial evidence" refers to evidence from which, based on your common sense and experience, you may reasonably infer something that is at issue in this case.

The law does not distinguish between direct and circumstantial evidence in terms of their weight or value in finding the facts in this case. One is not necessarily more or less valuable than the other.

INSTRUCTION NO. 5

The defendant is not required to testify. You may not use the fact that the defendant has not testified to infer guilt or to prejudice him in any way.

INSTRUCTION NO. 6

A witness who has special training, education, or experience may be allowed to express an opinion in addition to giving testimony as to facts.

You are not, however, required to accept his or her opinion. To determine the credibility and weight to be given to this type of evidence, you may consider, among other things, the education, training, experience, knowledge, and ability of the witness. You may also consider the reasons given for the opinion and the sources of his or her information, as well as considering the factors already given to you for evaluating the testimony of any other witness.

INSTRUCTION NO. 7

A person commits the crime of rape of a child in the first degree when the person has sexual intercourse with a child who is less than twelve years old, who is not married to the person, and who is at least twenty-four months younger than the person.

INSTRUCTION NO. 8

To convict the defendant of the crime of rape of a child in the first degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That between June 1, 2002 and September 1, 2003, the defendant had sexual intercourse with A.B.L.;

(2) That A.B.L. was less than twelve years old at the time of the sexual intercourse and was not married to the defendant;

(3) That A.B.L. was at least twenty-four months younger than the defendant; and

(4) That this act occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 9

Sexual intercourse means that the sexual organ of the male entered and penetrated the sexual organ of the female and occurs upon any penetration, however slight.

INSTRUCTION NO. 10

When you begin deliberating, you should first select a foreman. The foreman's duty is to see that you discuss the issues in this case in an orderly and reasonable manner, that you discuss each issue submitted for your decision fully and fairly, and that each one of you has a chance to be heard on every question before you.

During your deliberations, you may discuss any notes that you have taken during the trial, if you wish. You have been allowed to take notes to assist you in remembering clearly, not to substitute for your memory or the memories or notes of other jurors. Do not assume, however, that your notes are more or less accurate than your memory. You will need to rely on your notes and memory as the testimony presented in the case will not be repeated for you during your deliberations.

You will be given the exhibits admitted in evidence, these instructions and a verdict form for recording your verdict. Some exhibits and visual aids may have been used in court but will not go with you to the jury room. The exhibits that have been admitted into evidence will be available to you in the jury room.

You must fill in the blank provided in the verdict form the words "not guilty" or the word "guilty" according to the decision you reach. Because this is a criminal case, each of you must agree for you to return a verdict. When all of you have so agreed, fill in the verdict form to express your decision. The foreman must sign the verdict form and notify the bailiff. The bailiff will bring you into court to declare your verdict.

FILED

SEP 21 2009

4:27 pm

Sherry W. Parker, Clerk, Clark Co.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,

Plaintiff,

v.

RYAN NICHOLAS FARRIS

Defendant.

AMENDED INFORMATION

No. 08-1-01708-7

(VPD 08-4114)

COMES NOW the Prosecuting Attorney for Clark County, Washington, and does by this inform the Court that the above-named defendant is guilty of the crime(s) committed as follows, to wit:

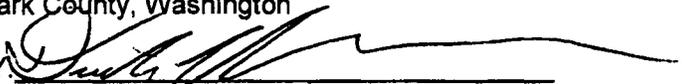
COUNT 01 - RAPE OF A CHILD IN THE FIRST DEGREE - 9A.44.073

That he, RYAN NICHOLAS FARRIS, in the County of Clark, State of Washington, between June 1, 2002 and September 1, 2003, did have sexual intercourse with A.B.L., who was less than twelve years old and not married to the defendant and the defendant was at least twenty-four months older than the victim; contrary to Revised Code of Washington 9A.44.073.

This crime is a "most serious offense" pursuant to the Persistent Offender Accountability Act (RCW 9.94A.030(29), RCW 9.94A.030(33), RCW 9.94A.505(2)(a)(v) and RCW 9.94A.570).

ARTHUR D. CURTIS
Prosecuting Attorney in and for
Clark County, Washington

Date: September 21, 2009

BY: 
Kimberly R. Farr, WSBA #08728
Senior Deputy Prosecuting Attorney
Dustin Richardson DPA, WSBA #34074

DEFENDANT: RYAN NICHOLAS FARRIS			
RACE: W	SEX: M	DOB: 6/22/1988	
DOL: FARRIRN120L2 WA		SID:	
HGT: 508	WGT: 195	EYES: GRN	HAIR:
WA DOC:		FBI:	
LAST KNOWN ADDRESS(ES):			
H - 20008 NE 11TH ST, CAMAS WA 98607			

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SL

FILED
COURT OF APPEALS
DIVISION II

10 SEP 16 PM 3:21

STATE OF WASHINGTON

BY C. _____
DEPUTY

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

STATE OF WASHINGTON,
Respondent,

v.

RYAN NICHOLAS FARRIS,
Appellant.

No. 40143-6-II

Clark Co. No. 08-1-01708-7

DECLARATION OF
TRANSMISSION BY MAILING

STATE OF WASHINGTON)

: ss

COUNTY OF CLARK)

On Sept. 13, 2010, I deposited in the mails of the United States of America a properly stamped and addressed envelope directed to the below-named individuals, containing a copy of the document to which this Declaration is attached.

TO: David Ponzoha, Clerk
Court of Appeals, Division II
950 Broadway, Suite 300
Tacoma, WA 98402-4454

Lisa E Tabbut
Attorney at Law
PO Box 1396
Longview WA 98632

RYAN NICHOLAS FARRIS
DOC # 334566
Washington Corrections Center
W 2321 Dayton Airport Rd.
PO Box 900
Shelton, WA 98584

DOCUMENTS: Brief of Respondent

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Jennifer Casley
Date: Sept. 13, 2010.
Place: Vancouver, Washington.