

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

DON WESLEY WINTON,

Petitioner.

RESPONSE OF
INDETERMINATE
SENTENCE REVIEW
BOARD

Respondent, the Indeterminate Sentence Review Board (Board), responds to Petitioner Don Winton's personal restraint petition pursuant to RAP 16.9.

I. BASIS FOR RESTRAINT

Petitioner Don Winton is a sex offender under the authority of the Indeterminate Sentence Review Board and the supervision of the Department of Corrections. On July 5, 2007, he pled guilty in Clark County Superior Court to three counts of child molestation in the first degree. *See* Exhibit 1, Judgment and Sentence, *State v. Winton*, Clark County Superior Court Cause No. 06-1-02237-8. The court (the Honorable Robert Harris) imposed a determinate sentence on counts one and three and an indeterminate sentence under former RCW 9.94A.712¹ on count two consisting of a minimum term of 98 months' confinement and community custody under the Board's jurisdiction for life. Exhibit 1, at 6-7. In August,

¹ Currently codified at RCW 9.94A.507.

2014, the Board ordered his conditional release from confinement and he is currently being supervised by the Department of Corrections. Exhibit 2, Decision and Reasons, Hearing Date August 21, 2014.

II. STATEMENT OF THE CASE

A. Facts of Petitioner's Crime

The Board, in its Decision and Reasons in March 2014, described the facts of Winton's crime:

File materials describe the underlying offense as occurring between January 1999 and August 2004 where Mr. Winton at age 45-51 sexually abused his niece between her ages of 7-12 years old. Mr. Winton and his wife were legal guardians of the victim. In November 2006 Mr. Winton's wife was contacted by the victim's school after a note had been written by the victim was turned into the school office. School officials asked the victim about the note; however she was uncomfortable speaking about the contents and instead wrote out a statement describing Mr. Winton's sexual abuse of her. Mr. Winton's wife then contacted the police.

The victim stated that the sexual abuse consisted of Mr. Winton touching her breasts and fondling her vaginal area. She also described incidents of Mr. Winton placing his mouth on her vaginal area and having the victim touch his penis. She stated that he would walk around the house with little or no clothing on and would order pornographic movies for them to watch. The victim also described going out on Mr. Winton's boat with him when he would take her near nude beaches and locations where people swam in the nude. He would then remove his clothing and have the victim also remove her clothing.

...

With regard to count III, upon hearing the current victim's disclosures Mr. Winton's wife became concerned that he may have also sexually abused her daughter who is now an adult. Mr. Winton's step-daughter, cousin of the current victim, then came forward and disclosed that Mr. Winton at age 46 began sexually abusing her at the age of 9. She stated that the abuse began with Mr. Winton rubbing lotion all over her body including her vaginal area. In addition, she recalled an incident where he requested she rub lotion on his buttocks. She refused and remembered getting into trouble. The victim stated the abuse became less frequent until her ages of 14-16. During that period Mr. Winton would come into her bedroom to say goodnight and would fondle and rub her bare vaginal area. She advised that the sexual abuse stopped at about the time Mr. Winton and her mother were attempting to gain custody of her cousin (the current victim).

Exhibit 3, Decision and Reasons, Decision Dated March 20, 2014, at 2-3.

B. 2014 Release Hearing and Board's Conditions

On February 5, 2014, the Board conducted a release hearing under RCW 9.95.420 (".420 hearing") to determine whether Winton could be released on community custody conditions at the end of his minimum term.

Exhibit 3. The Board found at that time that Winton was not releasable and added 12 months to Winton's minimum term to allow for completion of the sex offender treatment program (SOTP). *Id.* at 1. The Board noted that upon receipt of the SOTP treatment summary, the Board would conduct an administrative review and either schedule another .420 hearing or request an Offender Release Plan (ORP). *Id.* at 1-2. On July 3, 2014, the Board

requested an ORP. Exhibit 4, Administrative Board Decision, dated July 3, 2014.

In August 2014, the Board approved Winton's proposed release plan, which provided he would reside at an address in King County. Exhibit 2, at 3. The Board ordered Winton's release with a release date of September 29, 2014. Exhibit 5, Order of Release. The release plan contained an express condition that Winton could not enter the City of Seattle, Clark or Clallam County without prior written approval of his CCO and the Board. Exhibit 5, at 2 (Additional Specific Condition C). Winton signed and agreed to the conditions of his release to community custody on September 12, 2014. Exhibit 5, at 2.

In 2017, the Board was notified by Winton's Community Corrections Officer (CCO) about a discrepancy between the judgment and sentence and the Board's conditions. Exhibit 6, ISRB Administrative Decision Sheet. The court ordered a prohibition prohibiting Winton from consuming controlled substances without a valid prescription, however there was no condition ordered by the Court or the Board requiring Winton submit to urinalysis testing to monitor Winton's use of controlled substances. *Id.*

Winton's judgment and sentence contains a clause which states Winton shall, "not unlawfully possess controlled substances while in

community custody.” Exhibit 1, at 7 (§4.6, last ¶). Subsequently in the judgment and sentence is a check box regarding a condition stating the defendant shall not possess, use or deliver drugs prohibited by the Uniform Controlled Substances act, or any legend drugs, except by a lawful prescription. Exhibit 1, at 8. The box was initially checked and then scratched out. *Id.* However, the other provision regarding controlled substances is not crossed out and remains an ordered condition. Exhibit 1, at 7. Winton is also ordered to comply with conditions imposed by the Board and “submit to affirmative acts necessary to monitor compliance with the orders of the court.” Exhibit 1, at 7-8, 10. Winton refused to sign the Board’s condition requiring urinalysis testing to monitor the court’s condition. *See* Petition, at Exhibit L. The Board responded to Winton’s correspondence regarding the testing referring to the judgment and sentence which ordered him not to consume controlled substances and the condition requiring that he submit to affirmative acts necessary to monitor compliance with the court’s conditions. Exhibit 7, Correspondence from Matt Frank.

On July 16, 2018, the Board Chair Kecia Rongen signed an order of release and conditions addendum. Exhibit 8, Order of Release and Conditions Addendum. The Board modified Winton’s geographic conditions, striking all limitations regarding entering King County or Oregon. *Id.* The only remaining geographic condition limits Winton from

entering Clark County, without prior written approval from his CCO and the Board. *Id.*

III. STANDARD OF REVIEW

A petitioner who challenges a decision from which he has had “no previous or alternative avenue for obtaining state judicial review” must show that he is under restraint and the restraint is unlawful. *In re Cashaw*, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994); RAP 16.4(a), (c). Under RAP 16.4, a petitioner may obtain relief by showing either a constitutional violation or a violation of state law. RAP 16.4(c)(2), (6); *Cashaw*, 123 Wn.2d at 148.

A petitioner must set forth a statement of “the facts upon which the claim of unlawful restraint of petitioner is based and the evidence available to support the factual allegations, . . . [and] why the petitioner’s restraint is unlawful for one or more of the reasons specified in rule 16.4(c).” RAP 16.7(a)(2). However, bare assertions and conclusory allegations of constitutional violations are insufficient to support a personal restraint petition. *In re Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992).

In regard to offenders serving indeterminate sentences, offenders generally have no liberty interest in being released before serving the full maximum sentence. *In re McCarthy*, 161 Wn.2d 234, 240, ¶ 12, 164 P.3d 1283 (2007). The statutory language of RCW 9.95.420, in particular, gives

offenders only a limited liberty interest in “.420” releasability hearings. *Id.*, 161 Wn.2d at 245, ¶ 19. To protect offenders’ limited liberty interest, due process requires that offenders have minimum procedural protections at .420 hearings. *Id.*

An offender may seek relief by way of a personal restraint petition if he demonstrates that the Board failed to follow its own rules making minimum term determinations. *Cashaw*, 123 Wn.2d at 150. Otherwise, all Board decisions are subject to review only for an abuse of discretion. *In re Dyer*, 175 Wn.2d 186, 196, 283 P.3d 1103 (2012). An abuse of discretion may be found where the Board fails to follow its own procedural rules for parolability hearings or where the Board bases its decision on speculation and conjecture only. *Dyer*, 175 Wn.2d at 196 (citing *In re Dyer (Dyer II)*, 164 Wn.2d 274, 286, 189 P.3d 759 (2008)). “The petitioner bears the burden to prove the ISRB abused its discretion.” *Id.* (citation omitted).

The Court must approach the Board’s decisions “with substantial deference” because “the courts are *not* a super [Board] and will not interfere with a [Board’s] determination in this area unless the [Board] is first shown to have *abused its discretion . . .*” *Dyer*, 175 Wn.2d at 196 (emphasis in original; quotation marks and citations omitted). The courts “will not substitute their discretion for that of the [Board].” *Id.* (quotation marks and

citations omitted). A prisoner is “subject entirely to the discretion of the [Board], which may parole him now or never.” *Dyer*, 175 Wn.2d at 197 (quotation marks and citations omitted).

IV. ISSUE PRESENTED

Did the Board abuse its discretion by requiring that Winton, as a condition of his release from confinement, receive authorization from the Board and his CCO prior to entering Clark County and to submit to urinalysis testing?

V. ARGUMENT

A. The Board Has Express Authority Under RCW 9.95.420(3) to Impose Affirmative and Other Appropriate Conditions of Community Custody as a Condition of Release for Sex Offenders Sentenced Under RCW 9.94A.507

Winton argues that the Board had no authority to impose a condition of his release requiring that he obtain approval before traveling to Clark County or to require urinalysis testing to monitor compliance with a condition imposed in his judgment and sentence.

1. Geographic Condition Not to Enter Clark County

Winton does not have an unqualified liberty interest in being released from prison before serving his full maximum sentence. He is subject to the jurisdiction of the Board, and the Board has express legal authority to impose appropriate conditions of community custody,

including authority to require an offender remain outside a geographic boundary, considering the interests of public safety and Winton’s risk of re-offense. *See In re Martinez*, 2 Wn. App. 904, 912, 413 P.3d 1043 (2018). The Board did not abuse its discretion in Winton’s case.

While it is the function of the sentencing court to determine an offender’s punishment, the execution of the offender’s sentence and any efforts to rehabilitate the offender are administrative in nature and are “properly exercised by an administrative body, according to the manner prescribed by the Legislature.” *State v. Sansone*, 127 Wn. App. 630, 642, 111 P.3d 1251 (2005). It is appropriate for the administrative body to place conditions on offenders subject to parole or conditional release:

Parole (or supervised release, in the federal system) is one step removed from imprisonment. “The essence of parole is release from prison, before the completion of sentence, on the condition that the prisoner abide by certain rules during the balance of the sentence.” Although parolees “should enjoy greater freedom in many respects than a prisoner, . . . the Government may . . . impose restrictions on the rights of the parolee that are reasonably and necessarily related to the [Government’s] interests.”

Doe v. Harris, 772 F.3d 563, 571 (9th Cir. 2014) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 477, 92 S. Ct. 2593, 33 L.Ed.2d 484 (1972); *Birzon v. King*, 469 F.2d 1241, 1243 (2d Cir. 1972)). Under Washington law, sex offenders who are sentenced to a “determinate-plus” sentence under RCW 9.94A.507 (former RCW 9.94A.712) are under the jurisdiction of the

Indeterminate Sentence Review Board for the duration of their maximum terms, with the potential of conditional release to community custody under RCW 9.95.420 prior to the expiration of the maximum term. The statute provides in relevant part:

[N]o later than ninety days before expiration of the minimum term, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, *under such affirmative and other conditions as the board determines appropriate*, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

RCW 9.95.420(3)(a) (emphasis added).² A sex offender released on conditions by the Board under RCW 9.95.420 is subject to supervision by the Department of Corrections and the continuing jurisdiction of the Board

² Conditional release decisions under RCW 9.95.420 are analogous to parole release decisions under RCW 9.95.100 for offenders subject to indeterminate sentences. *In re McCarthy*, 161 Wn.2d 234, 243-44, 164 P.3d 1283 (2007).

until the expiration of the maximum term of his sentence. RCW 9.94A.507(6).³

In Winton’s case, the Board determined at his .420 hearing that he met the relevant criteria for release and therefore could be released from confinement so long as he was subject to several Board-imposed conditions of community custody. Exhibit 5. One of the conditions Winton is subject to is the condition he is now challenging in this personal restraint petition, the requirement that he not travel to Clark County without first obtaining approval to do so. *See* Petition. The other challenges to Winton’s geographic conditions are moot following the Board’s 2018 addendum. Exhibit 8.

In *State v. Schimelpfenig*, 128 Wn. App. 224, 115 P.3d 338 (2005), the sentencing court imposed a condition prohibiting the defendant, who was convicted of first-degree murder, from residing in Grays Harbor County for the remainder of his life, to protect the mental well-being of the murder victim’s family. *Id.* at 225. Schimelpfenig argued on appeal that the order impermissibly encroached on his constitutional right to travel within the state. *Id.* The Court agreed and, using the guidance provided by appellate decisions from other jurisdictions, applied a strict scrutiny

³ *See also* RCW 9.95.064(2) (“Offenders released under RCW 9.95.420 are subject to crime-related prohibitions and affirmative conditions established by the court, the department of corrections, or the board . . .”).

standard and set forth five factors that Washington sentencing courts should consider before imposing a specific geographic restriction:

(1) whether the restriction is related to protecting the safety of the victim or witness of the underlying offense; (2) whether the restriction is punitive and unrelated to rehabilitation; (3) whether the restriction is unduly severe and restrictive because the defendant resides or is employed in the area from which he is banished; (4) whether the defendant may petition the court to temporarily lift the restriction if necessary; and (5) whether less restrictive means are available to satisfy the State's compelling interest. . . . Consideration of such factors ensures that the use of a geographical restriction will always turn on a careful analysis of the facts, circumstances, and total atmosphere of the case.

Schimelpfenig, 128 Wn. App. at 229-30. The Court vacated the sentencing court's condition, concluding the lifetime banishment order was not narrowly tailored to serve a compelling state interest in light of the facts of *Schimelpfenig's* case. *Id.* at 230. The Court cautioned, however, that "[i]n so ruling, we do not imply that countywide or other types of jurisdictional prohibitions will always be inappropriate. Relying on the well-defined boundaries of a county or city fosters the uniform enforcement of such a restriction. But the propriety of such restrictions must turn on the facts of each case." *Id.*

In *Martinez*, this Court affirmed that the State has a compelling interest in "preventing contact between a defendant and victim" where the defendant continues to pose a threat to the victim after release. *Martinez*, 2

Wn. App. at 915. In *Martinez*, the Board imposed a condition prohibiting Martinez from entering Thurston County due to “victim issues” in that area. *Id.* The Court of Appeals took issue with the implication that Martinez had no “readily available means of modifying his conditions” even when the justification for the condition ceases to exist, finding it appeared Martinez was entirely dependent on the discretion of his CCO. *Martinez*, 2 Wn. App. at 916.

The Board is always free to relieve an offender like Winton from a particular condition at any time if changed circumstances arise (for example, if his victim relocates to a different county). Winton was notified when he signed his conditions of release that Board-imposed conditions would remain in effect until a condition was no longer necessary based on his crime of conviction, his risk of re-offense, and community safety and explained the procedure to appeal a Board imposed condition. Exhibit 5, at 3. Further, Winton has written to the Board on at least six occasions regarding upcoming hearings or his conditions, and each time a Board investigator responded to Winton providing an explanation of the Board’s action or decision. Exhibit 9, June 2009 Correspondence; Exhibit 10, January 2014/December 2013 Correspondence; Exhibit 11, February/March 2014 Correspondence; Exhibit 12, November 2014

Correspondence; Exhibit 13, June/July 2016 Correspondence; Exhibit 14, May 2017 Correspondence; Exhibit 7.

The challenged condition in Winton's case is not comparable to a true "banishment" imposed as part of an offender's sentence. Winton is not completely barred from entering Clark County. Board Hearing investigator Jill Getty informed Winton via correspondence that his geographic conditions *permit* travel to and through Clark County so long as he has an appropriate reason and obtains prior approval from his CCO and the Board. Exhibit 12, Correspondence from Jill Getty. Winton does not allege that it is an onerous burden to get the required approval to travel to Clark County. Winton requests the travel passes via email and the travel passes are emailed back to Winton. Exhibit 15, OMNI Chronos. The Department regularly grants Winton travel passes to various counties and out of state upon request. Exhibit 15.

The Board-imposed release condition that Winton obtain approval before traveling to Clark County is not an arbitrary one. It has both a rehabilitative purpose and a community safety purpose. Winton has a life-time harassment no contact order prohibiting him from contacting, intimidating, threatening, keeping under surveillance or otherwise interfering with the victims, to stay away from the victims' home, school, business, and place of employment and from coming within 1000 feet of

those locations. Petition, at Exhibit B & Exhibit C. Winton refused to sign the court's no contact orders. *Id.* The Board's geographic condition was imposed as a means of minimizing Winton's risk of re-offense in the community and to protect the victims and victims' family of his crimes, who still reside and work in various locations in Clark County. Exhibit 16, Declaration of Sheila Lewallen.

As the *Schimelpfenig* court was careful to note, geographical prohibitions are not per se forbidden: "we do not imply that countywide or other types of jurisdictional prohibitions will always be inappropriate. Relying on the well-defined boundaries of a county or city fosters the uniform enforcement of such a restriction." *Schimelpfenig*, 128 Wn. App. at 230. The Board's geographic condition is subject to modification in the event of changed circumstances, as evidenced by the Board's recent addendum to Winton's condition. The Board did not abuse its discretion in imposing this requirement in Winton's case. His petition should be denied.

2. Urinalysis Testing (UA) Condition to Monitor Court Imposed Condition

The statute authorizes the Board to require an offender perform affirmative conduct as part of community custody. *See* Former RCW 9.94A.713 (2002); RCW 9.95.420. This includes the use of UAs for the purpose of monitoring compliance with conditions. *See State v. Olsen*, 189

Wn.2d 118, 130, 399 P.3d 1141 (2017), relying on *State v. Riles*, 135 Wn.2d 326, 957 P.2d 655 (1998), *abrogated on other grounds by State v. Valencia*, 169 Wn.2d 782, 239 P.3d 1059 (2010) (Holding the use of polygraph testing and UAs have been approved as monitoring tools to enforce valid parole or probation conditions).

In *State v. Olsen*, the court referred to the trial court’s conditioning of Olsen’s release on her agreement to refrain from drug and alcohol use. *State v. Olsen*, 189 Wn.2d at 130. The *Olsen* court found that the trial court then had authority to monitor its court imposed condition by UAs, noting they are important monitoring tools. *Id.* (citing *Williams*, 97 Wn. App. 257, 260, 983 P.2d 687 (1999) (authorizing requirement that probationer submit to . . . UA upon probation officers request.)); *see also State v. Parramore*, 53 Wn. App. 527, 532, 768 P.2d 530 (1989) (holding the primary purpose of a condition requiring testing is not rehabilitation, but to monitor ingestion of controlled substances). Random testing allows a probation officer a “practical mechanism” to determine whether rehabilitation is taking place. *State v. Olsen*, 189 Wn.2d at 131. Finally, the court held that random UA’s are distinguishable from other broad sweeping probation conditions and referred to the trial court’s order authorizing random UAs only to ensure “compliance with conditions regarding the consumption of alcohol and controlled substances.” *State v. Olsen*, 189 Wn.2d at 132-133.

Winton's judgment and sentence does not contain an express provision *requiring* the Department or Board to impose UA testing. Even so, the judgment and sentence does contain express provisions stating:

- (4) [N]ot consume controlled substances except pursuant to lawfully issued prescriptions;
- (5) [N]ot unlawfully possess controlled substances while in community custody;
- ...
- (7) [P]erform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections . . .

Exhibit 1, at 7 (§4.6, last ¶).

For Sentences imposed under RCW 9.94A.712, other conditions . . . may be imposed during community custody by the Indeterminate Sentence Review Board

Exhibit 1, at 8.

It is correct that the judgment and sentence has a check box which was marked then scratched out and "no" was written next to the box. Exhibit 1, at 8. That condition does in fact relate to possession, use or delivery of controlled substances. *Id.* Perhaps the check box was scratched out because the condition is already encompassed in the conditions ordered previously in the judgment and sentence. There could be other reasons why it was scratched out as well. Nonetheless, neither the Department nor the

Board have legal authority to ignore conditions specifically ordered⁴ within the four corners of Winton’s judgment and sentence. *See In re Davis*, 67 Wn. App. 1, 9, 834 P.2d 92 (1992) (The Department is bound by the plain language of a judgment and sentence, even if legally flawed.). Winton himself acknowledges this stating, “RCW 9.94A.704(6) prohibits the Department from imposing conditions that are contrary to those ordered by the court or *contravene a court-imposed condition.*” The Board cannot strike the court’s condition prohibiting use of controlled substances. The fact that UA testing was not originally required, due to an oversight, does prevent the Board from correcting the omission once it was discovered.

Winton refers to the State’s plea offer suggesting that constitutes the trial court’s order or encompasses the trial court’s intent and thereby prohibits the Board from requiring UA testing. Petition, at 3-4. However, Appendix A is just that, the plea offer, and it is attached to the judgment and sentence as a result of section 2.6 of the judgment and sentence. Exhibit 1, at 3. The trial court’s order begins on the following page. Further, the state’s plea offer, initialed by the prosecutor and not the court, crosses out a prohibition on the use of controlled substances. Exhibit 1, at Appendix A,

⁴ To the extent Winton takes issues with the trial court’s order imposing the condition prohibiting Winton from consuming controlled substances as not crime related, the Board and Department do not take a position on that issue. That is a sentencing issue and neither the Board nor the Department are the proper Respondents.

at 6 (Pretrial Offer). Yet that very same condition is ordered within the actual terms of the trial court's sentence. Exhibit 1, at 7. If the plea agreement were the binding document then Winton would be forbidden from possessing, consuming, or delivering controlled substances, except pursuant to a lawful prescription, despite the fact that the trial court scratched out the check box and marked no in the judgment and sentence. Exhibit 1, at 7. That condition is contained as the fourth stipulated condition on page five of the state's pretrial offer. Exhibit 1, at Appendix A, at 5 (Pretrial Offer).

Urinalysis testing is the only means the Board has to monitor Winton's compliance with the court's condition that he not use controlled substances. This is a legitimate monitoring tool. Winton argues it is a fishing expedition and opens him up to invasion of his privacy of other matters. This is untrue. Per DOC Policy, offenders classified as low risk are only tested quarterly. Exhibit 17, DOC Policy 420.380(IV)(B)(1)(c), at 5. The Department uses an on-site drug test which tests for very specific substances. The on-site test utilizing a specimen cup or an oral swab will test for Methamphetamine, Amphetamine, Cocaine Metabolite, Opiate (MOP), Benzodiazepine and Oxycodone. *Id.* at 6 § VI(A). The Department has the option of using a test strip for urine to also determine whether an offender has used Phencyclidine (PCP), Buprenorphine (Suboxone),

Tetrahydrocannabinol (THC), Adulterants/dilutions and Spice (Synthetic Canibinoid). *Id.* at 6 § VI(B). Finally, a third category of drugs can be tested for if ordered with justification which includes Barbiturates, Methadone, Propoxyphene, Ecstasy and Bath salts. *Id.* at 6-7 § (VI)(C).

The condition imposed by the Board, which Winton refused to sign, requires Winton to submit to random drug testing. Petition, at Exhibit L. The hearing investigator Matt Frank, explained in a letter to Winton the condition relates to his judgment and sentence, section 4.6(a) which orders him not to consume controlled substances and also refers to the order requiring that he submit to affirmative acts *necessary to monitor compliance with the orders of the court*. Exhibit 14. The Board's decision sheet in this regard also makes it clear the purpose of the UA condition is solely to monitor compliance with a court imposed condition. Exhibit 6.

The Board's UA condition is directly related to conditions ordered in Winton's judgment and sentence. The Board has statutory authority to impose conditions to monitor compliance with the court's conditions.

Winton's claim is without merit.

VI. CONCLUSION

Respondent respectfully requests that the Court dismiss Winton's petition with prejudice.

RESPECTFULLY SUBMITTED this 23rd day of July, 2018.

ROBERT W. FERGUSON
Attorney General

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CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed the foregoing RESPONSE OF INDETERMINATE SENTENCE REVIEW BOARD with the Clerk of the Court using the electronic filing system which will serve the following filing participant:

ELIZABETH MOUNT PENNER
NEWTON & HALL
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elizabeth@newtonandhall.com

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

EXECUTED this 23rd day of July, 2018, at Olympia, Washington.

s/ Cherrie Melby
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NO. 52371-0-II

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In August 2014, the Board approved Winton's proposed release plan, which provided he would reside at an address in King County. Exhibit 2, at 3. The Board ordered Winton's release with a release date of September 29, 2014. Exhibit 5, Order of Release. The release plan contained an express condition that Winton could not enter the City of Seattle, Clark or Clallam County without prior written approval of his CCO and the Board. Exhibit 5, at 2 (Additional Specific Condition C). Winton signed and agreed to the conditions of his release to community custody on September 12, 2014. Exhibit 5, at 2.

In 2017, the Board was notified by Winton's Community Corrections Officer (CCO) about a discrepancy between the judgment and sentence and the Board's conditions. Exhibit 6, ISRB Administrative Decision Sheet. The court ordered a prohibition prohibiting Winton from consuming controlled substances without a valid prescription, however there was no condition ordered by the Court or the Board requiring Winton submit to urinalysis testing to monitor Winton's use of controlled substances. *Id.*

Winton's judgment and sentence contains a clause which states Winton shall, "not unlawfully possess controlled substances while in

community custody.” Exhibit 1, at 7 (§4.6, last ¶). Subsequently in the judgment and sentence is a check box regarding a condition stating the defendant shall not possess, use or deliver drugs prohibited by the Uniform Controlled Substances act, or any legend drugs, except by a lawful prescription. Exhibit 1, at 8. The box was initially checked and then scratched out. *Id.* However, the other provision regarding controlled substances is not crossed out and remains an ordered condition. Exhibit 1, at 7. Winton is also ordered to comply with conditions imposed by the Board and “submit to affirmative acts necessary to monitor compliance with the orders of the court.” Exhibit 1, at 7-8, 10. Winton refused to sign the Board’s condition requiring urinalysis testing to monitor the court’s condition. *See* Petition, at Exhibit L. The Board responded to Winton’s correspondence regarding the testing referring to the judgment and sentence which ordered him not to consume controlled substances and the condition requiring that he submit to affirmative acts necessary to monitor compliance with the court’s conditions. Exhibit 7, Correspondence from Matt Frank.

On July 16, 2018, the Board Chair Kecia Rongen signed an order of release and conditions addendum. Exhibit 8, Order of Release and Conditions Addendum. The Board modified Winton’s geographic conditions, striking all limitations regarding entering King County or Oregon. *Id.* The only remaining geographic condition limits Winton from

entering Clark County, without prior written approval from his CCO and the Board. *Id.*

III. STANDARD OF REVIEW

A petitioner who challenges a decision from which he has had “no previous or alternative avenue for obtaining state judicial review” must show that he is under restraint and the restraint is unlawful. *In re Cashaw*, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994); RAP 16.4(a), (c). Under RAP 16.4, a petitioner may obtain relief by showing either a constitutional violation or a violation of state law. RAP 16.4(c)(2), (6); *Cashaw*, 123 Wn.2d at 148.

A petitioner must set forth a statement of “the facts upon which the claim of unlawful restraint of petitioner is based and the evidence available to support the factual allegations, . . . [and] why the petitioner’s restraint is unlawful for one or more of the reasons specified in rule 16.4(c).” RAP 16.7(a)(2). However, bare assertions and conclusory allegations of constitutional violations are insufficient to support a personal restraint petition. *In re Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992).

In regard to offenders serving indeterminate sentences, offenders generally have no liberty interest in being released before serving the full maximum sentence. *In re McCarthy*, 161 Wn.2d 234, 240, ¶ 12, 164 P.3d 1283 (2007). The statutory language of RCW 9.95.420, in particular, gives

offenders only a limited liberty interest in “.420” releasability hearings. *Id.*, 161 Wn.2d at 245, ¶ 19. To protect offenders’ limited liberty interest, due process requires that offenders have minimum procedural protections at .420 hearings. *Id.*

An offender may seek relief by way of a personal restraint petition if he demonstrates that the Board failed to follow its own rules making minimum term determinations. *Cashaw*, 123 Wn.2d at 150. Otherwise, all Board decisions are subject to review only for an abuse of discretion. *In re Dyer*, 175 Wn.2d 186, 196, 283 P.3d 1103 (2012). An abuse of discretion may be found where the Board fails to follow its own procedural rules for parolability hearings or where the Board bases its decision on speculation and conjecture only. *Dyer*, 175 Wn.2d at 196 (citing *In re Dyer (Dyer II)*, 164 Wn.2d 274, 286, 189 P.3d 759 (2008)). “The petitioner bears the burden to prove the ISRB abused its discretion.” *Id.* (citation omitted).

The Court must approach the Board’s decisions “with substantial deference” because “the courts are *not* a super [Board] and will not interfere with a [Board’s] determination in this area unless the [Board] is first shown to have *abused its discretion . . .*” *Dyer*, 175 Wn.2d at 196 (emphasis in original; quotation marks and citations omitted). The courts “will not substitute their discretion for that of the [Board].” *Id.* (quotation marks and

citations omitted). A prisoner is “subject entirely to the discretion of the [Board], which may parole him now or never.” *Dyer*, 175 Wn.2d at 197 (quotation marks and citations omitted).

IV. ISSUE PRESENTED

Did the Board abuse its discretion by requiring that Winton, as a condition of his release from confinement, receive authorization from the Board and his CCO prior to entering Clark County and to submit to urinalysis testing?

V. ARGUMENT

A. The Board Has Express Authority Under RCW 9.95.420(3) to Impose Affirmative and Other Appropriate Conditions of Community Custody as a Condition of Release for Sex Offenders Sentenced Under RCW 9.94A.507

Winton argues that the Board had no authority to impose a condition of his release requiring that he obtain approval before traveling to Clark County or to require urinalysis testing to monitor compliance with a condition imposed in his judgment and sentence.

1. Geographic Condition Not to Enter Clark County

Winton does not have an unqualified liberty interest in being released from prison before serving his full maximum sentence. He is subject to the jurisdiction of the Board, and the Board has express legal authority to impose appropriate conditions of community custody,

including authority to require an offender remain outside a geographic boundary, considering the interests of public safety and Winton’s risk of re-offense. *See In re Martinez*, 2 Wn. App. 904, 912, 413 P.3d 1043 (2018). The Board did not abuse its discretion in Winton’s case.

While it is the function of the sentencing court to determine an offender’s punishment, the execution of the offender’s sentence and any efforts to rehabilitate the offender are administrative in nature and are “properly exercised by an administrative body, according to the manner prescribed by the Legislature.” *State v. Sansone*, 127 Wn. App. 630, 642, 111 P.3d 1251 (2005). It is appropriate for the administrative body to place conditions on offenders subject to parole or conditional release:

Parole (or supervised release, in the federal system) is one step removed from imprisonment. “The essence of parole is release from prison, before the completion of sentence, on the condition that the prisoner abide by certain rules during the balance of the sentence.” Although parolees “should enjoy greater freedom in many respects than a prisoner, . . . the Government may . . . impose restrictions on the rights of the parolee that are reasonably and necessarily related to the [Government’s] interests.”

Doe v. Harris, 772 F.3d 563, 571 (9th Cir. 2014) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 477, 92 S. Ct. 2593, 33 L.Ed.2d 484 (1972); *Birzon v. King*, 469 F.2d 1241, 1243 (2d Cir. 1972)). Under Washington law, sex offenders who are sentenced to a “determinate-plus” sentence under RCW 9.94A.507 (former RCW 9.94A.712) are under the jurisdiction of the

Indeterminate Sentence Review Board for the duration of their maximum terms, with the potential of conditional release to community custody under RCW 9.95.420 prior to the expiration of the maximum term. The statute provides in relevant part:

[N]o later than ninety days before expiration of the minimum term, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, *under such affirmative and other conditions as the board determines appropriate*, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

RCW 9.95.420(3)(a) (emphasis added).² A sex offender released on conditions by the Board under RCW 9.95.420 is subject to supervision by the Department of Corrections and the continuing jurisdiction of the Board

² Conditional release decisions under RCW 9.95.420 are analogous to parole release decisions under RCW 9.95.100 for offenders subject to indeterminate sentences. *In re McCarthy*, 161 Wn.2d 234, 243-44, 164 P.3d 1283 (2007).

until the expiration of the maximum term of his sentence. RCW 9.94A.507(6).³

In Winton’s case, the Board determined at his .420 hearing that he met the relevant criteria for release and therefore could be released from confinement so long as he was subject to several Board-imposed conditions of community custody. Exhibit 5. One of the conditions Winton is subject to is the condition he is now challenging in this personal restraint petition, the requirement that he not travel to Clark County without first obtaining approval to do so. *See* Petition. The other challenges to Winton’s geographic conditions are moot following the Board’s 2018 addendum. Exhibit 8.

In *State v. Schimelpfenig*, 128 Wn. App. 224, 115 P.3d 338 (2005), the sentencing court imposed a condition prohibiting the defendant, who was convicted of first-degree murder, from residing in Grays Harbor County for the remainder of his life, to protect the mental well-being of the murder victim’s family. *Id.* at 225. Schimelpfenig argued on appeal that the order impermissibly encroached on his constitutional right to travel within the state. *Id.* The Court agreed and, using the guidance provided by appellate decisions from other jurisdictions, applied a strict scrutiny

³ *See also* RCW 9.95.064(2) (“Offenders released under RCW 9.95.420 are subject to crime-related prohibitions and affirmative conditions established by the court, the department of corrections, or the board . . .”).

standard and set forth five factors that Washington sentencing courts should consider before imposing a specific geographic restriction:

(1) whether the restriction is related to protecting the safety of the victim or witness of the underlying offense; (2) whether the restriction is punitive and unrelated to rehabilitation; (3) whether the restriction is unduly severe and restrictive because the defendant resides or is employed in the area from which he is banished; (4) whether the defendant may petition the court to temporarily lift the restriction if necessary; and (5) whether less restrictive means are available to satisfy the State's compelling interest. . . . Consideration of such factors ensures that the use of a geographical restriction will always turn on a careful analysis of the facts, circumstances, and total atmosphere of the case.

Schimelpfenig, 128 Wn. App. at 229-30. The Court vacated the sentencing court's condition, concluding the lifetime banishment order was not narrowly tailored to serve a compelling state interest in light of the facts of *Schimelpfenig's* case. *Id.* at 230. The Court cautioned, however, that "[i]n so ruling, we do not imply that countywide or other types of jurisdictional prohibitions will always be inappropriate. Relying on the well-defined boundaries of a county or city fosters the uniform enforcement of such a restriction. But the propriety of such restrictions must turn on the facts of each case." *Id.*

In *Martinez*, this Court affirmed that the State has a compelling interest in "preventing contact between a defendant and victim" where the defendant continues to pose a threat to the victim after release. *Martinez*, 2

Wn. App. at 915. In *Martinez*, the Board imposed a condition prohibiting Martinez from entering Thurston County due to “victim issues” in that area. *Id.* The Court of Appeals took issue with the implication that Martinez had no “readily available means of modifying his conditions” even when the justification for the condition ceases to exist, finding it appeared Martinez was entirely dependent on the discretion of his CCO. *Martinez*, 2 Wn. App. at 916.

The Board is always free to relieve an offender like Winton from a particular condition at any time if changed circumstances arise (for example, if his victim relocates to a different county). Winton was notified when he signed his conditions of release that Board-imposed conditions would remain in effect until a condition was no longer necessary based on his crime of conviction, his risk of re-offense, and community safety and explained the procedure to appeal a Board imposed condition. Exhibit 5, at 3. Further, Winton has written to the Board on at least six occasions regarding upcoming hearings or his conditions, and each time a Board investigator responded to Winton providing an explanation of the Board’s action or decision. Exhibit 9, June 2009 Correspondence; Exhibit 10, January 2014/December 2013 Correspondence; Exhibit 11, February/March 2014 Correspondence; Exhibit 12, November 2014

Correspondence; Exhibit 13, June/July 2016 Correspondence; Exhibit 14, May 2017 Correspondence; Exhibit 7.

The challenged condition in Winton's case is not comparable to a true "banishment" imposed as part of an offender's sentence. Winton is not completely barred from entering Clark County. Board Hearing investigator Jill Getty informed Winton via correspondence that his geographic conditions *permit* travel to and through Clark County so long as he has an appropriate reason and obtains prior approval from his CCO and the Board. Exhibit 12, Correspondence from Jill Getty. Winton does not allege that it is an onerous burden to get the required approval to travel to Clark County. Winton requests the travel passes via email and the travel passes are emailed back to Winton. Exhibit 15, OMNI Chronos. The Department regularly grants Winton travel passes to various counties and out of state upon request. Exhibit 15.

The Board-imposed release condition that Winton obtain approval before traveling to Clark County is not an arbitrary one. It has both a rehabilitative purpose and a community safety purpose. Winton has a life-time harassment no contact order prohibiting him from contacting, intimidating, threatening, keeping under surveillance or otherwise interfering with the victims, to stay away from the victims' home, school, business, and place of employment and from coming within 1000 feet of

those locations. Petition, at Exhibit B & Exhibit C. Winton refused to sign the court's no contact orders. *Id.* The Board's geographic condition was imposed as a means of minimizing Winton's risk of re-offense in the community and to protect the victims and victims' family of his crimes, who still reside and work in various locations in Clark County. Exhibit 16, Declaration of Sheila Lewallen.

As the *Schimelpfenig* court was careful to note, geographical prohibitions are not per se forbidden: "we do not imply that countywide or other types of jurisdictional prohibitions will always be inappropriate. Relying on the well-defined boundaries of a county or city fosters the uniform enforcement of such a restriction." *Schimelpfenig*, 128 Wn. App. at 230. The Board's geographic condition is subject to modification in the event of changed circumstances, as evidenced by the Board's recent addendum to Winton's condition. The Board did not abuse its discretion in imposing this requirement in Winton's case. His petition should be denied.

2. Urinalysis Testing (UA) Condition to Monitor Court Imposed Condition

The statute authorizes the Board to require an offender perform affirmative conduct as part of community custody. *See* Former RCW 9.94A.713 (2002); RCW 9.95.420. This includes the use of UAs for the purpose of monitoring compliance with conditions. *See State v. Olsen*, 189

Wn.2d 118, 130, 399 P.3d 1141 (2017), relying on *State v. Riles*, 135 Wn.2d 326, 957 P.2d 655 (1998), *abrogated on other grounds by State v. Valencia*, 169 Wn.2d 782, 239 P.3d 1059 (2010) (Holding the use of polygraph testing and UAs have been approved as monitoring tools to enforce valid parole or probation conditions).

In *State v. Olsen*, the court referred to the trial court’s conditioning of Olsen’s release on her agreement to refrain from drug and alcohol use. *State v. Olsen*, 189 Wn.2d at 130. The *Olsen* court found that the trial court then had authority to monitor its court imposed condition by UAs, noting they are important monitoring tools. *Id.* (citing *Williams*, 97 Wn. App. 257, 260, 983 P.2d 687 (1999) (authorizing requirement that probationer submit to . . . UA upon probation officers request.)); *see also State v. Parramore*, 53 Wn. App. 527, 532, 768 P.2d 530 (1989) (holding the primary purpose of a condition requiring testing is not rehabilitation, but to monitor ingestion of controlled substances). Random testing allows a probation officer a “practical mechanism” to determine whether rehabilitation is taking place. *State v. Olsen*, 189 Wn.2d at 131. Finally, the court held that random UA’s are distinguishable from other broad sweeping probation conditions and referred to the trial court’s order authorizing random UAs only to ensure “compliance with conditions regarding the consumption of alcohol and controlled substances.” *State v. Olsen*, 189 Wn.2d at 132-133.

Winton's judgment and sentence does not contain an express provision *requiring* the Department or Board to impose UA testing. Even so, the judgment and sentence does contain express provisions stating:

- (4) [N]ot consume controlled substances except pursuant to lawfully issued prescriptions;
- (5) [N]ot unlawfully possess controlled substances while in community custody;
- ...
- (7) [P]erform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections . . .

Exhibit 1, at 7 (§4.6, last ¶).

For Sentences imposed under RCW 9.94A.712, other conditions . . . may be imposed during community custody by the Indeterminate Sentence Review Board

Exhibit 1, at 8.

It is correct that the judgment and sentence has a check box which was marked then scratched out and "no" was written next to the box. Exhibit 1, at 8. That condition does in fact relate to possession, use or delivery of controlled substances. *Id.* Perhaps the check box was scratched out because the condition is already encompassed in the conditions ordered previously in the judgment and sentence. There could be other reasons why it was scratched out as well. Nonetheless, neither the Department nor the

Board have legal authority to ignore conditions specifically ordered⁴ within the four corners of Winton’s judgment and sentence. *See In re Davis*, 67 Wn. App. 1, 9, 834 P.2d 92 (1992) (The Department is bound by the plain language of a judgment and sentence, even if legally flawed.). Winton himself acknowledges this stating, “RCW 9.94A.704(6) prohibits the Department from imposing conditions that are contrary to those ordered by the court or *contravene a court-imposed condition.*” The Board cannot strike the court’s condition prohibiting use of controlled substances. The fact that UA testing was not originally required, due to an oversight, does prevent the Board from correcting the omission once it was discovered.

Winton refers to the State’s plea offer suggesting that constitutes the trial court’s order or encompasses the trial court’s intent and thereby prohibits the Board from requiring UA testing. Petition, at 3-4. However, Appendix A is just that, the plea offer, and it is attached to the judgment and sentence as a result of section 2.6 of the judgment and sentence. Exhibit 1, at 3. The trial court’s order begins on the following page. Further, the state’s plea offer, initialed by the prosecutor and not the court, crosses out a prohibition on the use of controlled substances. Exhibit 1, at Appendix A,

⁴ To the extent Winton takes issues with the trial court’s order imposing the condition prohibiting Winton from consuming controlled substances as not crime related, the Board and Department do not take a position on that issue. That is a sentencing issue and neither the Board nor the Department are the proper Respondents.

at 6 (Pretrial Offer). Yet that very same condition is ordered within the actual terms of the trial court's sentence. Exhibit 1, at 7. If the plea agreement were the binding document then Winton would be forbidden from possessing, consuming, or delivering controlled substances, except pursuant to a lawful prescription, despite the fact that the trial court scratched out the check box and marked no in the judgment and sentence. Exhibit 1, at 7. That condition is contained as the fourth stipulated condition on page five of the state's pretrial offer. Exhibit 1, at Appendix A, at 5 (Pretrial Offer).

Urinalysis testing is the only means the Board has to monitor Winton's compliance with the court's condition that he not use controlled substances. This is a legitimate monitoring tool. Winton argues it is a fishing expedition and opens him up to invasion of his privacy of other matters. This is untrue. Per DOC Policy, offenders classified as low risk are only tested quarterly. Exhibit 17, DOC Policy 420.380(IV)(B)(1)(c), at 5. The Department uses an on-site drug test which tests for very specific substances. The on-site test utilizing a specimen cup or an oral swab will test for Methamphetamine, Amphetamine, Cocaine Metabolite, Opiate (MOP), Benzodiazepine and Oxycodone. *Id.* at 6 § VI(A). The Department has the option of using a test strip for urine to also determine whether an offender has used Phencyclidine (PCP), Buprenorphine (Suboxone),

Tetrahydrocannabinol (THC), Adulterants/dilutions and Spice (Synthetic Canibinoid). *Id.* at 6 § VI(B). Finally, a third category of drugs can be tested for if ordered with justification which includes Barbiturates, Methadone, Propoxyphene, Ecstasy and Bath salts. *Id.* at 6-7 § (VI)(C).

The condition imposed by the Board, which Winton refused to sign, requires Winton to submit to random drug testing. Petition, at Exhibit L. The hearing investigator Matt Frank, explained in a letter to Winton the condition relates to his judgment and sentence, section 4.6(a) which orders him not to consume controlled substances and also refers to the order requiring that he submit to affirmative acts *necessary to monitor compliance with the orders of the court*. Exhibit 14. The Board's decision sheet in this regard also makes it clear the purpose of the UA condition is solely to monitor compliance with a court imposed condition. Exhibit 6.

The Board's UA condition is directly related to conditions ordered in Winton's judgment and sentence. The Board has statutory authority to impose conditions to monitor compliance with the court's conditions.

Winton's claim is without merit.

VI. CONCLUSION

Respondent respectfully requests that the Court dismiss Winton's petition with prejudice.

RESPECTFULLY SUBMITTED this 23rd day of July, 2018.

ROBERT W. FERGUSON
Attorney General

s/ Mandy L. Rose
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CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed the foregoing RESPONSE OF INDETERMINATE SENTENCE REVIEW BOARD with the Clerk of the Court using the electronic filing system which will serve the following filing participant:

ELIZABETH MOUNT PENNER
NEWTON & HALL
610 CENTRAL AVENUE S
KENT WA 98032-6111
elizabeth@newtonandhall.com

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

EXECUTED this 23rd day of July, 2018, at Olympia, Washington.

s/ Cherrie Melby
CHERRIE MELBY
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Exhibit 1

PHELAN

FILED

S1

OCT 23 2007

Sherry W. Parker, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v.

DON WESLEY WINTON,

Defendant.

SID:

DOB: [REDACTED]

No. 06-1-02237-8

**FELONY JUDGMENT AND SENTENCE
(JS)**

**PRISON - COMMUNITY
PLACEMENT/COMMUNITY CUSTODY**

**NON PERSISTENT OFFENDER -
RCW 9.94A.712**

Clerk's Action Required; Paragraph 4.5
(SDOSA), 4.2, 5.3, 5.6 and 5.8

I. HEARING

07-9-06913-4

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 July 5, 2007
by plea jury-verdict bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
01	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083	1/1/1999 to 8/31/2001
02	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083	9/1/2001 to 8/7/2004
03	CHILD MOLESTATION IN THE THIRD DEGREE	9A.44.089	7/2/2000 to 7/1/2002

as charged in the Amended Information.

Additional current offenses are attached in Appendix 2.1.

The Court finds that the defendant is subject to sentencing under RCW 9.94A.712 as to Count 2.

74
XXX

- A special verdict/finding that the offense was **predatory** was returned on Count(s) _____. RCW 9.94A.____.
- A special verdict/finding that the **victim was under 15 years of age** at the time of the offense was returned on Count(s) _____ RCW 9.94A.____.
- A special verdict/finding that the **victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult** at the time of the offense was returned on Count(s) _____ RCW 9.94A.____, 9A.44.010.
- A special verdict/finding of **sexual motivation** was returned on Count(s) _____ 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.
- A special verdict/finding for use of **firearm** was returned on Count(s) _____ RCW 9.94A.602, 510
- A special verdict/finding for use of **deadly weapon** other than a firearm was returned on Count(s) _____ RCW 9.94A.602
- A special verdict/finding for **Violation of the Uniform Controlled Substances Act (VUCSA)** was returned on Count(s) _____, RCW 69.50.401 and RCW 69.50.435, taking 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.
- A special verdict/finding that 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** was returned on Count(s) _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- The court finds that the offender has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- The crimes charged in Count(s) _____ is/are **Domestic Violence** offense(s) as that term is defined in RCW 10.99.020:
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are Count(s) _____. RCW 9.94A.589
- Additional misdemeanor crime(s) pertaining to this cause number are contained in a separate Judgment and Sentence.
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____.

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
No known felony convictions					

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525
- The court finds that the following prior convictions are one offense for purposes of determining the offender score RCW 9.94A.525: _____
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520: _____
- The State has moved to dismiss count(s) _____.
- The defendant is found NOT GUILTY of Counts _____.

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
01	6	X	98 MONTHS to 130 MONTHS		98 MONTHS to 130 MONTHS	LIFE \$50,000
02	6	X	98 MONTHS to 130 MONTHS		98 MONTHS to 130 MONTHS	LIFE \$50,000
03	6	V	41 MONTHS to 54 MONTHS		41 MONTHS to 54 MONTHS	5 YEARS \$10,000

* (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(B).

- Additional current offense sentencing data is attached in Appendix 2.3.
- 2.4 EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence above within below the standard range for Count(s) _____.
- The defendant and the 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 to by the defendant, admitted by the defendant in the guilty plea, found by the court after the defendant waived jury trial, found by jury by special interrogatory.
- The defendant stipulates and waives his right to have a jury determine any issues regarding the imposition of an exceptional sentence upward. *Apprendi v. New Jersey*, 530 U.S. 466, 120 S. Ct 2348, 147 L. Ed 2d 435 (2000), *Blakely v. Washington*, ___ U.S. ___, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004).
- 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 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.750/753.
- The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): _____
- 2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are attached as follows: Appendix A

If no formal written plea agreement exists, the agreement is as set forth in the Defendant's Statement on Plea of Guilty.

III. JUDGMENT

- 3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.
- 3.2 The Court DISMISSES Counts _____.
- The defendant is found NOT GUILTY of Counts _____.
- 3.3 There do do not exist substantial and compelling reasons justifying an exceptional sentence outside the presumptive sentencing range.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

RTN/RJN	\$5,196.00 \$1,110.00 539 5196 -	Restitution to be paid to: CVCP \$550.84; Danielle Winton \$405.16 \$5455.16 <input type="checkbox"/> Victim(s) and amounts to be set by separate court order	RCW 9.94A.750/.753
PCV	\$ 500.00	Victim Assessment	RCW 7.68.035
	\$ _____	DV Penalty Assessment	RCW 10.99.080
CRC		Court Costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
FRC	\$ 200.00	Criminal filing fee	RCW 9.94A.505
WFR	\$ _____	Witness costs	RCW 10.01.160 and RCW 2.40.010
SFR/SFS/SFW/WRF	\$ _____	Sheriff Service Fees	RCW 10.01.160 and 36.18.040
JFR	\$ _____	Jury Demand Fee \$ 250.00	RCW 10.01.160 and 10.46.190
EXT	\$ _____	Extradition costs	RCW 9.94A.505
	\$ _____	Other Costs _____	RCW 9.94A.760
PUB	\$ _____ \$ _____	Fees for court appointed attorney Trial per diem if applicable	RCW 9.94A.505/.760/.030
WFR	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.505, .760, 9.94A.030
FCM/MTH	\$ 500.00	Fine	RCW 9A.20.021

CDF/LDI/FCD/ NTF/SAD/SDI	\$ _____	Drug fund contribution to be paid within two (2) years Fund # <input type="checkbox"/> 1015 <input type="checkbox"/> 1017 (TF)	RCW 9.94A.760
CLF	\$ _____	Crime lab fee - <input type="checkbox"/> Suspended due to Indigency	RCW 43.43.690
	\$ 100.00	Felony DNA Collection fee (for crimes committed on or after July 1, 2002)	RCW 43.43.7541
RTN/RJN	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum) To: _____ (List Law Enforcement Agency)	RCW 38.52.430
	\$ _____	Other Costs for: _____	RCW 9.94A.760

The above financial obligations do not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.750/753. A restitution hearing:

shall be set by the prosecutor

is scheduled for _____

The defendant has stipulated that restitution shall include loss of wages, costs of counseling, and other related expenses for the victim and their immediate family as a result of the criminal acts.

Restitution ordered above shall be joint and several with the co-defendants listed in the Information or identified below: _____

The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$100.00 per month commencing immediately. RCW 9.94A.760

The defendant shall report as directed by the Superior Court Clerk and provide financial information as requested. RCW 9.94A.760(7)(b). The defendant shall report in person no later than the close of business on the next working day after the date of sentencing or release from custody. A map has been provided to the defendant showing the location of the Superior Court Clerk Collections Unit, 500 West 8th Street, Suite 50, Vancouver, Washington. The defendant must report any changes in address and phone numbers to the Collections Unit within 72 hours of moving.

In addition to the other costs imposed herein, the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate of \$ _____. (JRL) 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. The defendant shall pay the cost of services to collect unpaid legal financial obligations. This is an annual fee which will be automatically renewed until financial obligations are completed. RCW 9.94A.780 and RCW 36.18.190

4.2 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,

the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

- HIV TESTING. The defendant shall be tested and counseled for HIV as soon as possible and the defendant shall fully cooperate in the testing and counseling. RCW 70.24.340.

Failure to provide the DNA/HIV testing sample is a violation of the Judgment and Sentence and a warrant may be issued to compel compliance.

4.3 The defendant shall not have contact with G L D (female, [REDACTED], A L W (female, [REDACTED]) including, but not limited to, personal, verbal, telephonic, electronic, written or contact through a third party for 6-10 ~~Life~~ years (not to exceed the maximum statutory sentence). Any modifications of this order must occur by further order of the court after an appropriately scheduled hearing with notice to all parties and only after the defendant has secured a recommendation of approval, in writing, from the community corrections officer and the therapist. This condition applies during any period of incarceration.

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

- 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 OTHER:

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

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

98 days/months on Count 01

44 days/months on Count 03

Actual number of months of total confinement ordered is: 98
(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm, other deadly weapon, or sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

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:

Confinement shall commence immediately unless otherwise set forth here: _____

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

COUNT	Minimum Term	Maximum Term
02	FS	CL PE

(c) The defendant shall receive credit for time served of 110 days, that confinement being solely under this cause number. RCW 9.94A.505.

Credit for 110 days time served prior to this date is given, said confinement being solely related to the crimes for which the defendant is being sentenced.

4.6 COMMUNITY PLACEMENT is ordered on Counts _____ for _____ months

COMMUNITY CUSTODY for count 2 sentenced under RCW 9.94A.712 is ordered for any period of time the Defendant is released from total confinement before the expiration of the maximum sentence.

COMMUNITY CUSTODY is ordered on Counts 1 and 2 for a range from 36 to 16 months months or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700 and .705 for community placement offenses, which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and Chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 committed before July 1, 2000. See RCW 9.94A.715 for community custody range offenses, which include sex offenses not sentenced under RCW 9.94A.712 and violent offenses committed on or after July 1, 2000. Use paragraph 4.7 to impose community custody following work ethic camp.] *Life Court TP*

On or after July 1, 2003, DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories; or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

a) the defendant committed a current or prior:		
i) Sex offense	ii) Violent offense	iii) Crime against a person (RCW 9.94A.411)
iv) Domestic violence offense (RCW 10.99.020)		v) Residential burglary offense
vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine		
vii) Offense for delivery of a controlled substance to a minor; or attempt, solicitation or conspiracy (vi, vii)		
b) the conditions of community placement or community custody include chemical dependency treatment.		
c) the defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745.		

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at Department of Corrections-approved education, employment and/or community service; (3) 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 in community custody; (6) pay supervision fees as determined by the Department of Corrections; (7) perform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections and (8) for sex offenses, submit to electronic monitoring if imposed by Department of Corrections. 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 not sentenced under RCW 9.94A.712 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's conditions of Community Placement/Community Custody include the following:

- The defendant shall not consume any alcohol.
- Defendant shall have no contact with

- Defendant shall remain within the prescribed geographical boundary specified by his community corrections officer.
- 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
- For Sentences imposed under RCW 9.94A.712, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by the Department of Corrections. Emergency conditions shall not remain in effect longer than seven working days unless approved by the Indeterminate Sentence Review Board pursuant to law. RCW 9.94A.713.
- Other conditions may be imposed by the court or Department during community custody, or are set forth here:

The conditions of community supervision/community custody shall begin immediately or upon the defendant's release from confinement unless otherwise set forth here:

- Defendant shall not violate any federal, state or local criminal laws, and shall not be in the company of any person known by him/her to be violating such laws.
- Defendant shall not commit any like offenses.
- Defendant shall notify his/her community corrections officer within forty-eight (48) hours of any arrest or citation.
- Defendant shall not initiate or permit communication or contact with persons known to him/her to be convicted felons, or presently on probation, community supervision/community custody or parole for any offense, juvenile or adult, except immediate family or as authorized by his/her community corrections officer for treatment/housing purposes. Additionally, the defendant shall not initiate or permit communication or contact with the following persons:

-
- Defendant shall not have any contact with other participants in the crime, either directly or indirectly.
 - Defendant shall not initiate or permit communication or contact with persons known to him/her to be substance abusers.

NO Defendant shall not possess, use or deliver drugs prohibited by the Uniform Controlled Substances Act, or any legend drugs, except by lawful prescription. The defendant shall notify his/her community corrections officer on the next working day when a controlled substance or legend drug has been medically prescribed.

- Defendant shall not possess or use any paraphernalia that can be used for the ingestion or processing of controlled substances or that can be used to facilitate the sale or transfer of controlled substances including scales, pagers, police scanners, and hand held electronic scheduling and data storage devices.
- Defendant shall not frequent known drug activity areas or residences.
- Defendant shall not use or possess alcoholic beverages at all to excess.
The defendant will will not be required to take monitored antabuse per his/her community corrections officer's direction, at his/her own expense, as prescribed by a physician.
- Defendant shall not be in any place where alcoholic beverages are sold by the drink for consumption or are the primary sale item.

- Defendant shall undergo an evaluation for treatment for substance abuse mental health anger management treatment parenting program and fully comply with all recommended treatment.
- Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a substance abuse mental health anger management treatment parenting program as established by the community corrections officer and/or the treatment facility.
- Defendant shall participate in a **domestic violence perpetrator program** as approved under RCW 26.50.150 and fully comply with all recommended treatment. RCW 9.94A.505 (11).
- Based upon the Pre-Sentence Report, the court finds reasonable grounds to exist to believe the defendant is a mentally ill person, and this condition was likely to have influenced the offense. Accordingly, the court orders the defendant to undergo a mental status evaluation and participate in outpatient mental health treatment. Further, the court may order additional evaluations at a later date, if deemed appropriate.
- Treatment shall be at the defendant's expense and he/she shall keep his/her account current if it is determined that the defendant is financially able to afford it.
- Defendant shall submit to urine, breath or other screening whenever requested to do so by the treatment program staff and/or the community corrections officer.
- Defendant shall not associate with any persons known by him/her to be gang members or associated with gangs.
- Defendant shall not wear or display any clothing, apparel, insignia or emblems that he/she knows are associated with or represent gang affiliation or membership as determined by the community corrections officer.
- Defendant shall not possess any gang paraphernalia as determined by the community corrections officer.
- Defendant shall not use or display any names, nicknames or monikers that are associated with gangs.
- Defendant shall comply with a curfew, the hours of which are established by the community corrections officer.
- Defendant shall attend and successfully complete a shoplifting awareness educational program as directed by the community corrections officer.
- Defendant shall attend and successfully complete the Victim Awareness Educational Program as directed by the community corrections officer.
- Defendant shall not accept employment in the following field(s):

- Defendant shall not possess burglary tools.
- Defendant shall not possess ammunition or deadly weapons. The community corrections officer shall determine what meets the definition of a deadly weapon for supervision purposes.
- Defendant's privilege to operate a motor vehicle is suspended/revoked for a period of one year; two years if the defendant is being sentenced for a vehicular homicide.
- Defendant shall not operate a motor vehicle without a valid driver's license and proof of liability insurance in his/her possession.
- Defendant shall not possess a checkbook or checking account.

- Defendant shall not possess any type of access device or P.I.N. used to withdraw funds from an automated teller machine.
- Defendant shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections.
- Defendant shall not be eligible for a Certificate of Discharge until all financial obligations are paid in full and all conditions/requirements of sentence have been completed including no contact provisions.
- Defendant 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.
- Defendant shall not have any contact with minors. Minors mean persons under the age of 18 years. 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.
- Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a Washington State certified sexual deviancy treatment program as established by the community corrections officer and/or the treatment facility. Defendant 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 or community corrections officer object to the change. "Cooperate with" means the defendant shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity.
- The sex offender therapist shall submit quarterly reports on your progress in treatment to the court, Department of Corrections, and prosecutor and the defendant shall execute a release of information to the community corrections officer, Prosecuting Attorney 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, the defendant's compliance with requirements, treatment activities, and relative progress in treatment.
- Defendant shall, at his/her own expense, submit to periodic polygraph examinations at the direction of his/her community corrections officer and/or Prosecuting Attorney to ensure compliance with the conditions of community placement/custody. This shall occur no less than twice yearly. Copies of the examination results 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.
- Defendant shall, at his own expense, submit to periodic plethysmograph examinations at the direction of his/her community corrections officer to ensure compliance with the conditions of community placement/custody. Copies of the examination results shall be provided to the Prosecuting Attorney's office upon request.
- Defendant shall not possess or use any pornographic material, defined as any pictorial material displaying direct physical stimulation of unclothed genitals, masturbation, sodomy (i.e. bestiality or oral or anal intercourse), flagellation or torture in the context of a sexual relationship, or emphasizing the depiction of adult or child human genitals: provided however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition as defined in RCW 9.68.130(2), or any equipment of any kind used for sexual gratification and defendant shall not frequent establishments that provide such materials or equipment for view or sale.
- Defendant shall sign necessary release of information documents as required by the Department of Corrections.

- Defendant shall adhere to the following additional crime-related prohibitions or conditions of community placement/community custody: **As listed in the attached Department of Corrections "Appendix F" and the Prosecutor's Pretrial Offer Appendix "A" and as determined by the Department of Corrections.**

- 4.7 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limit to the defendant while under the supervision of the County Jail or Department of Corrections:
-
- 4.8 The Bail or release conditions previously imposed are hereby exonerated and the clerk shall disburse it to the appropriate person(s).
- 4.9 This case shall not be placed on inactive or mail-in status until all financial obligations are paid in full.
- 4.10 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 can conduct searches of the defendant's person, residence, automobiles 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 and possessed by the defendant.
- 4.11 Other:
-
-

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion 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, must be filed 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** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten (10) years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 5.3 **NOTICE OF INCOME-WITHOLDING 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 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 may be taken without further notice. RCW 9.94A.7606
- 5.4 **RESTITUTION HEARING.**
 Defendant waives any right to be present at any restitution hearing (sign initials): _____
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634
- 5.6 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk 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, 9.41.047

Cross off if not applicable:

5.7 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, 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. (Effective September 1, 2006) 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. If you are enrolled on September 1, 2006, you must notify the sheriff immediately. 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 5 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).

5.8 The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The court clerk is directed to immediately punch the defendant's Washington Driver's license or permit to drive with a "C" as directed by the Department of Licensing pursuant to RCW 46.20.270. The clerk of the court is further directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.

5.9 If the defendant is or becomes subject to a court-ordered mental health or chemical dependency treatment, the defendant must notify the Department of Corrections and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

5.10 Persistent Offense

The crime(s) in count(s) 01, 02is/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 (28 & 32(a)), 9.94A.505

The crime(s) in count(s) _____ is/are one of the listed offenses in RCW 9.94A.030 (32)(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.

5.11 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: 23 Oct 2007


JUDGE OF THE SUPERIOR COURT

Print Name: Robert A. Harris


Kimberly R. Farr, WSBA #08728
Deputy Prosecuting Attorney


Thomas C. Phelan, WSBA #11373
Attorney for Defendant


DON WESLEY WINTON
Defendant

SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v.

DON WESLEY WINTON,

Defendant.

SID:

DOB: [REDACTED]

NO. 06-1-02237-8

**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	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083	1/1/1999 to 8/31/2001
02	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083	9/1/2001 to 8/7/2004
03	CHILD MOLESTATION IN THE THIRD DEGREE	9A.44.089	7/2/2000 to 7/1/2002

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	Minimum Term	Maximum Term

01	CHILD MOLESTATION IN THE FIRST DEGREE		98
02	CHILD MOLESTATION IN THE FIRST DEGREE	98	LIFE
03	CHILD MOLESTATION IN THE THIRD DEGREE		44

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

The defendant has credit for 100 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.

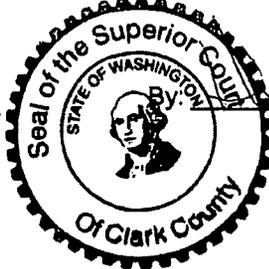
HEREIN FAIL NOT.

WITNESS, Honorable

Robert H. ...

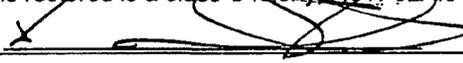
JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE: Oct 23, 2007

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



Sherry W. Parker
Deputy

VOTING RIGHTS STATEMENT: I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: 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 9A.84.660.

Defendant's signature: 

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.

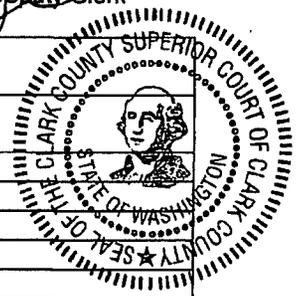
Interpreter signature/Print name: _____

I, SHERRY W. 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: October 25, 2007

Clerk of said County and State, by: Marlene S. Dodge Deputy Clerk

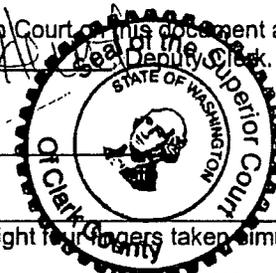
IDENTIFICATION OF DEFENDANT DON WESLEY WINTON	
SID No. (If no SID take fingerprint card for State Patrol)	Date of Birth [REDACTED]
Race: W	Sex: M
Driver License No. [REDACTED]	Driver License State: WA
FBI No.	Local ID No. (CFN):
Alias name, SSN, DOB:	Corrections No.
Other	



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: Marlene S. Dodge Deputy Clerk

Dated: Oct 23, 2007

DEFENDANT'S SIGNATURE: 



Left four fingers taken simultaneously		Left Thumb	Right Thumb	Right four fingers taken simultaneously	
					

06/14/2007 15:20

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**APPENDIX "A"
(9.94A.712)**

For the following crimes which occurred after September 1, 2001: Rape I, Rape II, Rape Child I, Rape Child II, Child Molest I, Indecent Liberties (w/force) and the following crimes if charged with Sexual Motivation: Kidnap I, Kidnap II, Assault I, Assault II, Assault Child I or an attempt to commit any of the above.

STATE v. DON WESLEY WINTON
CAUSE NUMBER: 06-1-02237-8
DATE: 6-14-07
PROSECUTOR: Kimberly R. Farr, WSBA# 08728

The state makes the following Offer of Settlement. In accepting this offer, the defendant is agreeing to stipulate to its terms, unless otherwise noted. It is based on the attached State of Washington Declaration of Criminal History which the defendant stipulates is accurate, true and complete. It may be withdrawn at any time prior to the entry of a guilty plea, or it otherwise expires on: 7-3-07 It supersedes any previous offer made in this case. Failure of the defendant to declare disputed criminal history or to disclose additional criminal history renders this offer null and void.

Should the defendant wish to accept the following offer, this form shall be attached to the Statement of the Defendant of Plea of Guilty and Judgment and Sentence:

THE FOLLOWING IS THE STIPULATION OF PROSECUTION AND DEFENSE ATTORNEY:

PRETRIAL OFFER - 1

Revised: June 14, 2007

(1)

Should the Defendant plead guilty to: Amended Information

CT I: Child Molest I (MULTIPLE OCCASIONS) - VICT: G.L.D.
1-1-99 to 8-31-01

CT II: Child Molest I (MULTIPLE OCCASIONS) - VICT: G.L.D.
9-1-01 to 8-7-04

CT III: Child Molest II (MULTIPLE OCCASIONS) - VICT: ALD.
7-2-00 to 7-1-02

	OFFENDER SCORE	SERIOUSNESS LEVEL	MINIMUM STANDARD RANGE SENTENCE	MAXIMUM TERM SENTENCE
Count 1:	<u>6</u>	<u>X</u>	<u>98-130</u>	<u>LIFE</u>
Count 2:	<u>6</u>	<u>X</u>	<u>98-130</u>	<u>LIFE</u>
Count 3:	<u>6</u>	<u>V</u>	<u>41-54</u>	<u>FIVE YEARS</u>
Count 4:	<u> </u>	<u> </u>	<u> </u>	<u> </u>

The defendant shall also be sentenced to Community Custody under the supervision of the Department of Corrections and the ISRB for any period of time the person is released from confinement before the expiration of the maximum sentence.

(2) then the State and the defense stipulate that the sentence shall be:

- sentencing within the standard range
- remain free to recommend any sentence
- that sentence shall be _____

The State shall remain free to recommend any sentence, but the Defense may argue for SSOSA with the following stipulated preconditions:

- A) The Court finds the defendant amenable to treatment and safe to be at large after a state licensed sexual offender treatment evaluation, which shall include in addition to the requirements of RCW 9.94A.670(3), the full polygraph report (on the issue of full disclosure and other child victims). A plethysmograph may be included if requested by the evaluator. Failure to provide a full disclosure polygraph will result in the State exercising its right pursuant to RCW 9.94A.670(4) to demand a second evaluation.
- B) Defense shall provide to the Prosecutor's Office, no later than 7 days prior to sentencing:
 - a complete SSOSA evaluation

PRETRIAL OFFER - 2

Revised: June 14, 2007

- the full polygraph report
- pre- and post-test polygraph interview
- the sexual history questionnaire and responses
- any and all other documents as requested by the State.

C) The defendant shall sign the attached Waiver of Confidentiality Regarding Sex Offender Evaluation at the time of plea of guilty.

D) If the SSOSA option is used, the parties stipulate to 130 months of the above-listed standard range in prison suspended upon successful entry and completion of all phases of a state licensed sex offender treatment program, to be entered into by the sentencing date if out of custody, or within 30 days of release from custody.

E) 180 days of local jail to be served: **STIPULATED**

- straight time
- work release (if qualified and accepted)

F) The State reserves the right pursuant to RCW 9.94A.670(4) to request a second SSOSA evaluation. If the State makes such a request, the defense stipulates such evaluation shall include a full disclosure polygraph.

G) Filing Fee	\$ 200.00 (unless case filed prior to 7/24/05, then \$110.00)
Victim's Comp. Fee:	\$ 500.00
Court Appointed Attorney Fee:	\$ TO BE SET
Court Appointed Investigator Fee:	\$ TO BE SET
Restitution for Victim:	\$ TO BE SET
Rape Exam (if applicable)	\$ TO BE SET
SSOSA Evaluation Fee:	\$ TO BE SET
Fine	\$ 500.00
Sheriff's Office Service Fee:	\$ TO BE SET
DNA Sample Fee:	\$100.00
Other: _____	\$
_____	\$

H) The Defendant shall follow all conditions as set by the Pre-Sentence Investigator and the SSOSA evaluator, that do not conflict with conditions of supervision/community custody as set forth herein.

1) Should additional criminal history be discovered prior to sentencing, the Defendant stipulates to the higher standard ranges and the alteration to this recommendation.

(3) Should the defendant be placed on any release conditions prior to sentencing and violate any of those conditions then the State's above offer is null and void, and the State shall be free to make any recommendation.

(4) Defense stipulates to a waiver of RCW 9.94A.753 for the setting of restitution and waives the defendant's presence at a restitution hearing. This stipulation of restitution shall include loss of wages, costs of counseling, and other related expenses for the victim and their immediate family as a result of this criminal act. The hearing shall consist of documents, affidavits, and argument only, pursuant to ER 1101.

(5) By accepting this offer, the defendant stipulates to the conditions as set forth herein of the conditions of sentence/community custody and/or supervision.

(6) This stipulated agreement and recommendation is binding on the Prosecuting Attorney, the Defense Attorney, and the defendant only, and shall not bind any investigating officer.

(7) The defense shall only use the Statement of Defendant on Plea of Guilty form as indicated by the Child Abuse Intervention Center. (If you need a copy of this form, please contact the Child Abuse Intervention Center at (360) 397-8002).

8) THE DEFENDANT SHALL PAY RESTITUTION FOR ANY COUNSELING OF G.L.D., A.L.D. (VICTIMS) AND ALSO FOR SON A.W. AND DANIELLE WINTON, BASED UPON THE DEFENDANT'S ACTION IN THESE CHARGES

9) THERE SHALL BE AN ALLEGED NO-CONTACT ORDER BETWEEN THE DEFENDANT AND VICTIMS, THE COURT SHALL DETERMINE IF THE NO-CONTACT SHOULD EXTEND TO OTHERS

10) THE DEFENDANT SHALL ADMIT TO FACTS AMOUNTING TO RAPE OF G.L.D. and A.L.D. THOUGH THE CHARGES SHALL REMAIN INDIST.

PRETRIAL OFFER - 4

Revised: June 14, 2007

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**"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 years, 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, ~~recreation~~ 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 - 5

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- 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, ammunition, or deadly weapon. Your community corrections officer shall determine what those deadly weapons are.

KCF ~~14. You shall not possess or consume alcohol.~~

KCF ~~15. You shall submit to urine, breath, or other screening whenever requested to do so by the program staff or your community corrections officer.~~

KCF ~~16. You shall not possess any paraphernalia for the use of controlled substances.~~

KCF ~~17. You shall not be in any place where alcoholic beverages are the primary sale item.~~

KCF ~~18. You shall take antabuse per community corrections officer's direction.~~

KCF ~~19. You shall attend an evaluation for abuse of drugs, alcohol, mental health, anger management, or parenting and shall attend and successfully complete all phases of any recommended treatment as established by the community corrections officers and/or treatment facility.~~

20. 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

PRETRIAL OFFER - 6

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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.

21. 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.
22. 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 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.
23. 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.
24. 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.
25. You shall not use/possess sexually explicit material; meaning any pictorial material displaying direct physical stimulation of unclothed genitals, masturbation, sodomy (i.e. bestiality or oral or anal intercourse), flagellation or torture in the context of a sexual relationship, or emphasizing the depiction of adult or child human genitals: provided however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition as defined in RCW 9.68.130(2).
26. 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.

PRETRIAL OFFER - 7

Revised: June 14, 2007

- 27. You shall have no association with persons known to be on probation, parole or community placement.
- 28. 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
- 29. If you are in the SSOSA program you shall enter into sex offender treatment with a State certified provider within thirty (30) days of sentencing or release from custody, whichever comes first.
- 30. If you are in the SSOSA program, your treatment plan shall include polygraph exams as set forth in condition number 19. Your treatment provider and/or the defendant will be required to provide quarterly reports on March 1, June 1, September 1, and December 1 (including the polygraph results) of your compliance with the conditions of treatment. These reports shall go to the community corrections officer and the prosecuting attorney's office. Failure to comply with this provision shall be grounds for the court to mandate transfer of the patient to a different treatment provider.

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: 7/5/07

Signed:  (Defendant)

Print name: Day Winton (Defendant)

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

STATE OF WASHINGTON)

Cause No.: 06-1-02237-8

Plaintiff)

JUDGEMENT AND SENTENCE (FELONY)

v.)

APPENDIX F

WINTON, Don Wesley)

ADDITIONAL CONDITIONS OF SENTENCE

Defendant)

DOC No. 308321)

CRIME RELATED PROHIBITIONS

1. No contact with minor children under the age of 18.
2. Do not frequent areas where children congregate.
3. Polygraph monitoring, to include a full disclosure polygraph.
4. Obtain an Abel Assessment to determine sexual interest.
5. Do not frequent nude beaches or other areas where nudity is practiced

DATE

JUDGE, CLARK COUNTY SUPERIOR COURT

SF/dc

Exhibit 2



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

DECISION AND REASONS

NAME:	WINTON, Don
NUMBER:	308321
FACILITY:	ISRB
TYPE OF HEARING:	Administrative Release <input checked="" type="checkbox"/> CCB <input type="checkbox"/> Pre-84
HEARING DATE:	August 21, 2014
PANEL MEMBERS:	KR & LD

BOARD DECISION:

The Indeterminate Sentence Review Board authorizes release for Don Winton #308321 as outlined in the ORP dated August 12, 2014.

Mr. Winton will reside in King County at: 27740 10th Avenue S. Des Moines, WA 98198

Within 24 hours of release, the offender will report to CCO Lauren Knoblauch at the DOC office located at 15111 8th Avenue S.W., Suite #202, Seattle, WA 98166. The CCO's phone number is (206)835-7460. The Board expects compliance with all conditions and full cooperation with the CCO. The CCO shall immediately report any violation to the Board at isrb@doc1.wa.gov or (360) 407-2400.

ADDITIONAL COMMENTS:

Mr. Winton will Release ASAP (+35 day notification)/Approve time cut of minimum term.

HISTORY:

Don Winton is under the jurisdiction of the Board on a 2007 conviction of Child Molestation in the First Degree Count II in Clark County; Cause #06-1-02237-8. His time start is November 2,

WINTON, Don – DOC # 308321

Page 2 of 2

2007. His maximum term is Life. He has served approximately 79 months plus 120 days of jail time credit.

KR & LD: ts

Date

CC: MCC-TRU
Don WINTON
File

Indeterminate Sentence Review Board
Parole and Release Decision Sheet

Offender: Winton, Don W.

DOC#:308321

Date: August 18, 2014

PRE CCB

Parole / Release APPROVED

Parole / Release NOT Approved

Release ASAP (+35 day notification)/Approve time cut of minimum term*

*Please include time cut in Decision and Reasons.

CONDITIONS:

Approve HI recommended conditions.

- A. You must enter into, successfully participate in, and complete the community phase of the Sex Offender Treatment Program. Sign all releases necessary to ensure that the CCO can consult with the treatment provider to monitor progress and compliance.
- B. You must not date individuals nor form relationships with families who have minor children, unless you receive prior approval from your CCO.
- C. You must not enter the City of Seattle, Clark or Clallam County without prior written approval of your CCO and the ISRB.
- D. You must submit to a polygraph examination to be conducted by a polygraph operator certified by the American Polygraph Association at the discretion of your CCO to verify compliance with your release conditions and sign a full release of information allowing the treatment or monitoring agency to release information to your CCO and the Indeterminate Sentence Review Board (ISRB) for the entire period of your supervision until you are granted a final discharge or this condition is removed by the Board. IN AGREEING TO RELEASE UNDER THIS CONDITION, BOTH THE STATE AND THE OFFENDER STIPULATE THAT THE RESULTS OF ANY POLYGRAPH EXAMINATION SHALL BE ADMISSIBLE IN ANY VIOLATION HEARINGS HELD BEFORE THE ISRB.
- E. Have NO Contact with: Debra, Russell, Cassandra & Cameron Cahoon and Christina Sparker.

REASONS FOR DECISION:

The Indeterminate Sentence Review Board authorizes release for Don Winton #308321 as outlined in the ORP dated August 12, 2014. Mr. Winton will reside in King County at:
27740 10th Avenue S.
Des Moines, WA 98198

Within 24 hours of release, the offender will report to CCO Lauren Knoblauch at the DOC office located at 15111 8th Avenue S.W., Suite #202, Seattle, WA 98166. The CCO's phone number is (206)835-7460. The Board expects compliance with all conditions and full cooperation with the CCO. The CCO shall immediately report any violation to the Board at isrb@doc1.wa.gov or (360) 407-2400.

ADDITIONAL COMMENTS:

APPROVE (initial and date)	NOT APPROVE (initial and date)
KLR 8/20/14	
LD 8-21-14	

ORP Work-up

Offender LAST, First Name: Winton, Don W.	DOC#: 308321	CCB <input checked="" type="checkbox"/> PAR <input type="checkbox"/>
(P)ERD: 04/19/2015	Max Expiration Date: Life	
Hearings Investigator: Monika Fields	CRT: Teresa Schmidt	Report Date: August 18, 2014

Prior Release History:

None

Infraction Behavior Since Last Hearing

Yes – Summary, if yes. No

Outstanding Warrants: Yes No

Community Concerns:

- The Victim Liaison is aware of this release and **Community Concerns exist** for this offender. Community Concerns exist for the **City of Seattle, and Clark and Clallam Counties.**
- The Victim Liaison is aware of this release. We are unaware of any community concerns at this time.

Recommended Plan for Offender:

The recommended address for Mr. Winton is 27740 10th Avenue South, Des Moines, WA 98198. This is an address that Mr. Winton owns outright. Mr. Winton will be returning to work with his business partner in real estate, and has completed a therapeutic disclosure with him, as well as the CPA that they work with. This address appears to be an appropriate address and the community concerns can be mitigated with geographical boundaries put in place.

The ORP was investigated by CCO VanDeWalle for CCO Knoblauch. It is noted that it is a 4000 square foot home set back from the road down a long drive way with no direct access from neighbors. He would be living alone. It is not near any schools or daycares. CCO recommends that the Board approve the residence for release.

Hearing Investigator Recommendation:

In review of Mr. Winton's release plan and the Community Concerns, I would concur with the Department of Corrections and recommend that the Board approve the placement. The Board will be able to mitigate risk and community concerns with added conditions.

Recommended Conditions:

After a review of the J&S, The ESRC report and the Board's D&R I have recommended the following conditions that are not duplicative, but represent area of high risk or need:

- You must enter into, successfully participate in, and complete the community phase of the Sex Offender Treatment Program. Sign all releases necessary to ensure that the CCO can consult with the treatment provider to monitor progress and compliance.
- You must not date individuals nor form relationships with families who have minor children, unless you receive prior approval from your CCO.
- You must not enter **The City of Seattle, Clark or Clallam County** without prior written approval of your CCO and the ISRB.
- You must submit to a polygraph examination to be conducted by a polygraph operator certified by the American Polygraph Association at the discretion of your CCO to verify compliance with your release conditions and sign a full release of information allowing the treatment or monitoring agency to release

ORP Work-up

information to your CCO and the Indeterminate Sentence Review Board (ISRB) for the entire period of your supervision until you are granted a final discharge or this condition is removed by the Board. IN AGREEING TO RELEASE UNDER THIS CONDITION, BOTH THE STATE AND THE OFFENDER STIPULATE THAT THE RESULTS OF ANY POLYGRAPH EXAMINATION SHALL BE ADMISSIBLE IN ANY VIOLATION HEARINGS HELD BEFORE THE ISRB.

- Have **NO Contact with: Debra, Russell, Cassandra & Cameron Cahoon and Christina Sparker**

Inmate: WINTON, Don Wesley (308321)

Gender: Male DOB: ██████████ Age: 60 Category: Regular Inmate Body Status: Active Inmate
 RLC: LOW Wrap-Around: No Comm. Concern: Yes Custody Level: Minimum 3 - Long Term Minimum Location: MCC-TRU -- A / A2031
 ERD: 04/19/2015 CC/CCO: Watts, Nancy E

Offender Release Plan

Status: In-Effect Last Updated: 08/12/2014 Updated By: Harper, Donta S

Offender Release Plan Type

- | | |
|--|---|
| <p>Notification(Select All That Apply)</p> <p><input type="checkbox"/> Release On Max Expiration Date To Supervision On The Current Commitment</p> <p><input type="checkbox"/> Tolled Causes</p> <p><input type="checkbox"/> Detainer</p> <p><input type="checkbox"/> Release Without Approved Address</p> <p><input type="checkbox"/> Release With No Supervision Requirement For Current Commitment</p> <p><input type="checkbox"/> Other</p> | <p>Investigation(Select All That Apply)</p> <p><input type="checkbox"/> Assign For Transition Plan Investigation</p> <p><input type="checkbox"/> Assign For ISRB Transition Plan Investigation (Pre-1984 Indeterminate Sentence)</p> <p><input checked="" type="checkbox"/> Assign For ISRB Transition Plan Investigation (Community Custody Board)</p> <p><input type="checkbox"/> Assign For Extraordinary Medical Placement</p> <p><input type="checkbox"/> Assign For Interstate Compact Transition Plan Investigation</p> <p><input type="checkbox"/> Other</p> |
|--|---|

Offender Information

Cause Information:

AA-061022378-Clark-CCP	Child Molestation 1	(1) Counts	Pending Field
AB-061022378-Clark-CCB	Child Molestation 1	(1) Counts	Active
AC-061022378-Clark-CCP	Child Molestation 3	(1) Counts	Pending Field

End Of Sentence Review: Referral

Current Sex Offense Or Other Current Offense With A Finding Of Sexual Motivation Enhancement: Yes

ESR Sex Offender Level: Level 1
 Date: 09/04/2013

Any Offense Requires Registration: Yes

Civil Commitment - Sexually Violent Predator (SVP) Consideration: No

Offender Re-Entry Community Safety Program (ORCS): No

Is Current Incarceration A DOSA Sentence: No

Victim Services Community Victim Liaison Assigned: Yes Assigned CVL: Hanegan-Cruse, Ellen R

Housing Voucher Benefits Applied For: No

Treatment Needs And Availability: Yes

Community Concerns: Yes

Child Protective Services/Adult Protective Services Concerns: No

Community Support Resources: Yes

Employment: Yes

Additional Information: No

Comments:

Winton has been found releasable by the ISRB and the address being submitted is a home he purchased himself. According to him, he owns it outright. Winton's friend, Rob Murnen, cell (253) 670-2984 is a business partner in real estate investments. Business name is Murnen Realty Advisors, 909 S. 336th Street, Suite 101, Federal Way, WA 98003. The office is also shared with a CPA, Russell Wolf. Both Mr. Murnen and Mr. Wolf have been involved in a therapeutic disclosure with Mr. Winton, and they have also attended an SOTP Support Seminar event at MCC. ISRB CVL Hanegan-Cruse has verified that any concerns with this address can be mitigated, so it is being submitted for investigation.

Offender Release Address Information

1	Address Number	Sponsor First Name	Sponsor Last Name	Address Line 1
	Homeless/Address Unknown	Don	Winton	27740 10th Avenue S.
	Proposed Address	County: King		Address Line 2
	Release Sponsor Orientation Checklist Completed?	Sponsor Phone No.	Phone Type	*City
	Yes <input checked="" type="radio"/> No	(206) 651-7206	Wired	Des Moines
	County Of Origin: Clark			*State:
				Washington
				*Country
				United States
				Zip Code:
				98198

Outside Of County Of Origin? : Yes

Counselor Outside Of Origin Comments

Mr. Winton committed his offense in Clark county, WA. He purchased a home in King county, which he owns free and clear. He also has employment with his business partner, Rob Murnen, in a real estate investment office, Murnen Realty Advisors. There are community concerns in Mr. Winton's county of origin. Any concerns there may be in King county can be mitigated, per ISRB CVL Hanegan-Cruse.

Outside of County of Origin Approval

Approver Name: Bustanoby,
David P

	Approve	Deny	Approval Reason
Address 1	<input checked="" type="radio"/>		The location of family or other sponsoring persons or organizations willing to support the offender

Approver Outside Of County Of Origin Comments:

Approved for release to King County instead of Clark County (county of origin).

Counselor

Comments:

Winton successfully completed SOTP and is eligible to participate in the community phase of treatment. He has his own home and his own business to return to, and has prosocial contacts who have visited him in prison, participated in a therapeutic disclosure and attended an SOTP Support Seminar. He completed his MBA through Southwest University while incarcerated. He also completed Stress/Anger Management and MRT.

Assignment Officer

Comments:

ORP received at the Burien Field office on 08/06/14 and assigned to CCO L. Knoblauch/Burien/232.

Community Corrections Officer

Assigned CCO Name: Knoblauch, Lauren R

Housing Voucher Approved: No

Comments:

ORP investigation with CCO VanDeWalle. P's sponsor, Rob Murnen, presents himself as a long-time friend in the real estate business, who believes P will want to work with him upon release. The house is a new, vacant, approx 4,000 sq foot single-family residence, sitting on a large property, away from the road and with no easy, direct access to or from any nearby residence. Asked sponsor about who would be residing here, and am told that P will live here alone. This is a residential community on Puget Sound with no schools or day care's nearby. Sponsor states that P now owns it free-and-clear, no mortgage. This is an approvable residence. NOTE for ISRB: This cause will require an imposed condition for "Home Visits."

Reviewer: Liulamaga, Misi-Nimese I

- Approve
- Deny

Offender Reporting Instructions

Upon release, offender should be directed to report to the Department of Corrections located at:

Street Address 1	15111-8TH AVENUE S.W, Suite #202 MS:TB-36	Location Phone	(206) 835-7460
Street Address 2			
City	Seattle	Reporting Notes:	Report In Person To Burien Field Office Within 1 Business Day Of Release.
State	Washington		
Zip Code	981662248		
Report In Person To	Knoblauch, Lauren R		

Community Corrections Supervisor

Supervisor Name: Liulamaga, Misi-Nimese I

Comments:
ORP approved.

Reviewer: Donta S
Harper,

- Approve
- Deny

Field Administrator

Field Administrator Name: Harper, Donta S

Comments:
Plan is approved forward to the ISRB for final approval.

- Approve
- Deny

ORP History

Action Date	Staff Name	Position	Action	Status	Approve/ Complete Deny
08/12/2014	Harper, Donta S	Field Administrator	Approve Pending ISRB Action	In-Effect	Approve
08/12/2014	Liulamaga, Misi-Nimese I	Community Corrections Supervisor	Forward Address#1 for Approval	In-Review	

Action Date	Staff Name	Position	Action	Status	Approve/ Complete Deny
08/12/2014	Knoblauch, Lauren R	Community Corrections Officer 2	Forward Address#1 for Approval	In-Review	
08/07/2014	Angel, Maria	Office Assistant 3	Caseload Re-Assigned	In-Work	
08/06/2014	Cox, Ursula	Office Assistant 3	Submit Address#1 for Notification or Investigation	In-Work	
08/05/2014	Watts, Nancy E	Classification Counselor 2	Submit address#1 for Assignment	In-Work	
08/05/2014	Bustanoby, David P	Associate Superintendent - MCC/TRU	Approve Address#1 Out of County	In-Work	
08/05/2014	Watts, Nancy E	Classification Counselor 2	Submit Out of County Approval	In-Work	
07/31/2014	Watts, Nancy E	Classification Counselor 2	Create ORP	In-Work	

Exhibit 3



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

DECISION AND REASONS

NAME:	WINTON, Don
DOC #:	308321
FACILITY:	MCC-TRU
TYPE OF HEARING:	.420 Hearing
HEARING DATE:	February 5, 2014
PANEL MEMBERS:	DT & KR
FINAL DECISION DATE:	March 20, 2014

This matter came before Dennis Thaut and Kecia Rongen who are members of the Indeterminate Sentence Review Board (ISRB or the Board) on the above date for a release hearing in accordance with the provisions of RCW 9.95.420. Mr. Winton appeared in person. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) M.L. McBride DOC Sex Offender Treatment Program (SOTP) therapist Urszula Gaweda and Mr. Winton.

BOARD DECISION:

This was a Deferred Decision. Based on the burden of proof set out in RCW 9.95.420 and the totality of evidence and information provided to the Board, the Board does find by a preponderance of the evidence that Mr. Winton is more likely than not to commit a sex offense if released on conditions. Consequently, the Board finds Mr. Winton not releasable and adds 12 months to his minimum term to allow for the completion of SOTP.

NEXT ACTION:

Upon receipt of SOTP treatment summary the Board members will conduct an administrative

review to determine whether to schedule a .420 hearing or request an Offender Release Plan (ORP).

JURISDICTION:

Don Winton is under the jurisdiction of the Board on a 2007 conviction of Child Molestation in the First Degree Count II in Clark County; Cause #06-1-02237-8. His time start is November 2, 2007. His minimum term was set at 98 months from a Sentencing Reform Act (SRA) range of 98 to 130 months. His maximum term is Life. He has served approximately 76 months plus 120 days of jail time credit.

The Board notes that there is a companion SRA sentence under the same cause for Count I Child Molestation in the First Degree (OAA) and Count III for Child Molestation in the Third Degree. Mr. Winton was sentenced to 98 months of confinement on Count I and 44 months on Count III, to be served concurrently with each other as well as concurrent to Count II.

NATURE OF INDEX OFFENSE(S):

File materials describe the underlying offense as occurring between January 1999 and August 2004 where Mr. Winton at age 45-51 sexually abused his niece between her ages of 7-12 years old. Mr. Winton and his wife were legal guardians of the victim. In November 2006 Mr. Winton's wife was contacted by the victim's school after a note that had been written by the victim was turned into the school office. School officials asked the victim about the note; however she was uncomfortable speaking about the contents and instead wrote out a statement describing Mr. Winton's sexual abuse of her. Mr. Winton's wife then contacted the police.

The victim stated that the sexual abuse consisted of Mr. Winton touching her breasts and fondling her vaginal area. She also described incidents of Mr. Winton placing his mouth on her vaginal area and having the victim touch his penis. She stated that he would walk around the house with little or no clothing on and would order pornographic movies for them to watch. The victim also described going out on Mr. Winton's boat with him when he would take her near

nude beaches and locations where people swam in the nude. He would then remove his clothing and have the victim also remove her clothing.

It should be noted that after Mr. Winton's conviction, he filed an appeal asserting that he should have been granted a SOSSA sentence. He argued that he was not granted the sentencing alternative because the court considered information regarding un-adjudicated victims and gave undue weight to the victim's sentencing preferences. He also cited he was not given due process regarding the victim's statements. The court of appeals affirmed the conviction and the appeal was denied.

PRIOR CRIMINAL CONDUCT:

On October 23, 2007 Mr. Winton was convicted of Count I Child Molestation in the First Degree (OAA) and Count III Child Molestation in the Third Degree (OAA). A description of count I has been provided above. With regard to count III, upon hearing the current victim's disclosures Mr. Winton's wife became concerned that he may have also sexually abused her daughter who is now an adult. Mr. Winton's step-daughter, cousin of the current victim, then came forward and disclosed that Mr. Winton at age 46 began sexually abusing her at the age of 9. She stated that the abuse began with Mr. Winton rubbing lotion all over her body including her vaginal area. In addition, she recalled an incident where he requested she rub lotion on his buttocks. She refused and remembered getting into trouble. The victim stated the abuse became less frequent until her ages of 14-16. During that period Mr. Winton would come into her bedroom to say goodnight and would fondle and rub her bare vaginal area. She advised that the sexual abuse stopped at about the time Mr. Winton and her mother were attempting to gain custody of her cousin (the current victim). Mr. Winton was sentenced to 44 months confinement on this count to run concurrently with counts I and II.

During the adjudication of this offense Mr. Winton's 12 year old son wrote a letter to the court alleging that Mr. Winton had sexually abused his older brother between the ages of 5-15. In addition, the 12 year old son described an incident during which he and a friend were on a boat

with Mr. Winton and he took them to a nude beach. The son stated Mr. Winton drove the boat close enough to the beach that they could see nude adults and children. The 12 year old stated that the incident was uncomfortable for both he and his friend. It should be noted that Mr. Winton took a polygraph exam regarding the allegation of his eldest son and passed with no deception indicated regarding sexually touching any minor males.

Mr. Winton has no other criminal record.

HISTORY/COMMENTS:

This is the Board's first meeting with Mr. Winton.

EVIDENCE CONSIDERED:

In preparation for Mr. Winton's hearing and its decision in this case, the Board completed a review of his Department of Corrections (DOC) and ISRB files. The Board considered all information contained in those files, including but not limited to: the End of Sentence Review Committee's Report dated December 9, 2013 wherein he was determined to be a Level I for notification purposes. Actuarial scoring places him with groups of offenders who scored in the Low range for both general and sexual re-offense; the most recent DOC facility plan; information regarding institutional behavior and programming; any letters of support and/or concerns sent to the Board and the Pre-Sentence Investigation report. The Board also considered the testimony of the witnesses listed above.

REASONS:

Mr. Winton has made good use of his time during his incarceration. He has completed Basic Skills programming, Standardized Stress and Anger Management, Moral Reconation Therapy and the Redemption program. It appears that Mr. Winton has also obtained his Masters in Business Administration while incarcerated.

Most significantly Mr. Winton entered the SOTP in May 2013. The Board notes that he had been evaluated for the SOSSA prior to sentencing and actually participated in approximately six

months of treatment prior to sentencing. The court did not grant Mr. Winton a SOSSA sentence which is likely due to the combination of negative recommendation by the DOC and opposition by the victim and her family.

Mr. Winton is obviously an intelligent man and has done well in treatment. He readily admits to the offending behavior resulting in convictions. He vehemently denies any allegations that he offended against his son and cites non-deceptive polygraph examinations to support his position.

Mr. Winton can readily identify his high risk behaviors which include deviant attraction to minor females, depression/rejection, use of pornography, sexual entitlement and sexual preoccupation and boredom. Mr. Winton stated that he developed a significant problem with pornography beginning in 1998 wherein he was viewing pornography mostly of young girls on almost a daily basis.

Mr. Winton's therapist indicates he has done a good job of addressing his deviance and that she has confronted him significantly about disclosures of other sexual behavior. Mr. Winton did admit to having sex with an adult female who was passed out when he was in his late 20's, but has not disclosed any other victims. His therapist indicates that she has not detected any signs of manipulation. She further indicated that initially he demonstrated a significant lack of empathy for his victim; however he has worked on improving that during his treatment. He has done therapeutic disclosures with friends and business partners, and the therapist is satisfied that he is making significant progress in treatment.

The Board will review his treatment summary prior to making a release decision, and although we have concerns about Mr. Winton's disclosure or lack of as indicated by his family, at this

WINTON, Don – DOC # 308321

Page 6 of 6

time we are unaware of any evidence which would likely overcome a presumption of release.

DT: ch

March 7, 2014

cc: Institution
Don Winton
File

Exhibit 4

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
PO BOX 40907 • Olympia, Washington 98504-0907

DATE: July 3, 2014

TO: MCC – Twin Rivers Unit
Attn: Records

FROM: Jody Swails, CRT

SUBJECT: Administrative Board Decision

RE: WINTON, Don
#308321

An administrative decision of the Board in regard to the above-named individual has been made and is as follows:

Next Action is:

The Board requests an ORP (Offender Release Plan) be submitted for Board approval.

Reasons:

Mr. Winton is described as making 'significant progress' in his SOTP Treatment Summary.

File/jas

Exhibit 5



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
PO BOX 40907 • Olympia, Washington 98504-0907

IN THE MATTER OF:

Name: WINTON, Don
DOC#: 308321 Date of Birth: [REDACTED]
Time Start: 11-02-2007
Date of Sentence: 10-23-2007
Max Expiration: LIFE
Statutory Maximum Term: LIFE
County: Clark Cause #:06-1-02237-8

**ORDER OF RELEASE AND
SUPERVISION CONDITIONS**

CCB Offenders

RCW 9.94A.507
(Formerly RCW 9.94A.712)

Release Date: 09-29-2014

After a careful review of all available information, the Indeterminate Sentence Review Board (ISRB) hereby orders the Secretary of the Department of Corrections (DOC) to release to community custody supervision Don WINTON, DOC #308321, an inmate of a Washington State Correctional Facility.

You will be on community custody supervision for the length of your statutory maximum term. The ISRB expects compliance with all conditions and your full cooperation with your DOC Community Corrections Officer (CCO).

You must comply with the court ordered conditions for your Clark County, 06-1-02237-8 Judgment and Sentence. Those conditions are incorporated in this document and are enforceable by the ISRB. In addition, you must comply with the conditions ordered by your CCO. You must also comply with the following conditions. To request a change to any of the conditions of your release, you must write and have the approval of the Clark County Superior Court for Court ordered conditions or the ISRB for all other conditions.

If you violate any condition of your release, either the ISRB or your CCO may issue an order for your arrest and detention. Pending a review of the alleged violation, the ISRB may revoke this release to community custody.

RELEASE TO COMMUNITY CUSTODY IS HEREBY GRANTED SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. **As required by RCW 9A.44.130-140, within 3 business days of release, you must register as a sex offender with the Sheriff of the county where you reside.**
2. Upon release from the Correctional Facility, you must report within one business day to your CCO or any other person designated by DOC. Thereafter, you must report as directed.
3. You may not leave the state of Washington without prior written permission from your supervising CCO.
4. You must obey all laws and court orders, including any conditions set forth in your Judgment and Sentence, and abide by all conditions imposed by the ISRB.
5. You are prohibited from owning, possessing, receiving, shipping, or transporting a firearm, deadly weapon, ammunition or explosives.
6. You must submit to a search of your person, residence, vehicle and/or possessions when requested by a CCO. This includes the search of your computer, cell phone and any other electronic devices.
7. You must consent to DOC home visits to monitor compliance with supervision. Home visits include access for the purpose of visual inspection of all areas of residence in which the offender lives or has exclusive or joint control or access.
8. You must reside at a location and under living arrangements that have been approved in advance by the CCO, and you must not change such arrangements/location without the prior approval of your CCO.

ADDITIONAL CONDITIONS
CCB, RCW 9.94A.507

RECEIVED
SEP 29 2014

WINTON, Don
Offender Name:

308321
DOC#:

INDETERMINATE SENTENCE
REVIEW BOARD

Additional Specific Condition(s):

- A. You must enter into, successfully participate in, and complete the community phase of the Sex Offender Treatment Program. Sign all releases necessary to ensure that the CCO can consult with the treatment provider to monitor progress and compliance.
- B. You must not date individuals nor form relationships with families who have minor children, unless you receive prior approval from your CCO.
- C. You must not enter the City of Seattle, Clark or Clallam County without prior written approval of your CCO and the ISRB.
- D. You must submit to a polygraph examination to be conducted by a polygraph operator certified by the American Polygraph Association at the discretion of your CCO to verify compliance with your release conditions and sign a full release of information allowing the treatment or monitoring agency to release information to your CCO and the Indeterminate Sentence Review Board (ISRB) for the entire period of your supervision until you are granted a final discharge or this condition is removed by the Board. IN AGREEING TO RELEASE UNDER THIS CONDITION, BOTH THE STATE AND THE OFFENDER STIPULATE THAT THE RESULTS OF ANY POLYGRAPH EXAMINATION SHALL BE ADMISSIBLE IN ANY VIOLATION HEARINGS HELD BEFORE THE ISRB.
- E. Have NO Contact with: Debra, Russell, Cassandra & Cameron Cahoon and Christina Sparker.

INDETERMINATE SENTENCE REVIEW BOARD

09-29-2014
Date:

DocuSigned by:
Kecia Rongen
Member's signature

6501598D711C496...
Lynne DeLano
Member's signature

I have read, or have had read to me, the foregoing conditions of my community custody and have been given a copy; I fully understand and I agree, in consideration of granting of community custody, to observe and abide by such conditions. I **FURTHER UNDERSTAND THAT I AM ALSO ON SUPERVISION FOR THE FOLLOWING CONVICTION(S) for** _____ **County Cause #** _____

9/19/14
Date:

[Signature]
Offender's signature:
Don WINTON
Offender's name:

[Signature]
Witness's signature:



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
PO BOX 40907 • Olympia, Washington 98504-0907

RECEIVED
JUN 11 2014
INDETERMINATE SENTENCE REVIEW BOARD

IN THE MATTER OF:

CCB Offender: WINTON, Don
DOC #: 308321

The conditions of your release must reasonably relate to at least one of the following:

1. The crime of conviction;
2. Your risk to reoffend;
3. The safety of the community.

If you feel the conditions are not related to the list above, you may file an appeal with ISRB under RCW 9.94A.704 (10) (c). To file an appeal, contact the ISRB with a written request that clearly states which condition(s) does not relate to the list above. Explain why you believe it is unrelated. Mail your appeal to the ISRB at PO Box 40907, Olympia, WA 98504-0907. Appeals must be postmarked no later than one business day from the day you sign the Release Order and Conditions. ISRB business days are Monday through Friday.

The ISRB will hold an Administrative Review of your appeal. The ISRB will notify you in writing with the results of the review.

IMPORTANT NOTE:

All conditions including the condition(s) in question will remain in effect until the ISRB rules that the condition does not correlate to an item above.

I have read, or have had read to me, this notice of my right to appeal a condition or conditions of my release. I understand that I have the right to appeal and that my appeal must be postmarked no more than one business day from today. I understand that I must comply with all conditions until the Board makes a decision regarding my appeal.

9/12/14

Date:

Offender's Signature:

Exhibit 6

ISRB - ADMINISTRATIVE DECISION SHEET

Offender Name: Winton, Don W.	DOC#: 308321	CCB <input checked="" type="checkbox"/> JUVBRD <input type="checkbox"/> Pre-84 <input type="checkbox"/>
Hearing Investigator: Matt Frank	CRT: Irene	DATE: 5/11/2017
PERTINENT INFORMATION AND RELEVANT DOCUMENTS CONSIDERED: Email correspondence from CCO Jermaine Castillo Judgement and Sentence Order of Release and Supervision Conditions		
DESCRIPTION OF ISSUE(S): Asd is under the ISRB jurisdiction for Clark County Cause # 06-1-0223-78 Child Molestation in the First Degree. Asd has a court ordered prohibition prohibiting him from consuming controlled substances without a valid prescription however he does not have a Court ordered or ISRB ordered condition requiring him to submit to urinalysis testing. This omission was brought to the Board's attention by CCO Castillo via email correspondence.		
RECOMMENDATIONS: Approve special conditions submitted by CCO/Issue Addendum		
RECOMMENDATIONS continued: It is recommended that the Board approve/issue an addendum to his Order of Release and Supervision Conditions to state: <ul style="list-style-type: none"> You must submit to periodic and random drug and/or alcohol monitoring through an agency approved by your CCO and sign a full release of information allowing the treatment or monitoring agency to release information to your CCO and the Indeterminate Sentence Review Board (ISRB). 		
COMMENTS/ANALYSIS: Imposition of the noted condition would allow DOC to monitor asd for compliance with his Court ordered conditions.		
DECISION: Agree with with HI recommendations		
REASONS: Condition is risk related and supports a J&S condition.		
AGREE: INITIAL/DATE	DISAGREE: INITIAL/DATE	
JP 5/11/2017		

Exhibit 7



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

July 7, 2017

Winton, Don #308321
27740 10th Ave S.
Des Moines, WA 98198

Mr. Winton,

The Indeterminate Sentence Review Board (ISRB) is in receipt of your letter dated May 24, 2017 wherein you note objection to the ISRB Order of Release and Conditions Addendum #a dated May 11, 2017 which states:

- a. You must submit to periodic and random drug and/or alcohol monitoring through an agency approved by your CCO and sign a full release of information allowing the treatment or monitoring agency to release information to your CCO and the Indeterminate Sentence Review Board (ISRB).

You further state that the restriction is "...totally without merit, overrules the sentencing judge, and is therefore outside of the parameters of the ISRB's authority."

Please note that pursuant to your Judgement and Sentence #06-1-02237-8 the Sentencing Court, (Section 4.6 (4)) orders you to not consume controlled substances except pursuant to lawfully issued prescriptions. Section 4.6 also notes that the "Defendant shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections".

Additionally, the ISRB Order of Release and Conditions Addendum as noted above is allowed, supported, and required by RCW 9.94A.704. Be advised that the above noted condition of supervision as well as any other conditions as ordered by the Courts and/or ISRB are in full effect.

It is further emphasized that subsequent to your release to parole on September 29, 2014 the Board found you releasable with conditions. As noted in your Order of Release and Supervision Conditions, the ISRB expects compliance with all conditions and your full cooperation with your DOC Community Corrections Officer (CCO). Failure to comply with your conditions of release may jeopardize your ability to remain in the community.

You are encouraged to continue to work with your CCO in hopes that you maintain and achieve successful adjustment to community supervision and integration.

Sincerely

Matt Frank
Hearing Investigator
Indeterminate Sentence Review Board
P.O. Box 40907
Olympia, WA 98504-0907

Cc: file

DON WINTON
27740 10TH AVE S.
DES, MOINES, WA 98198
DOC #308321, Tel: 253-670-9193

RECEIVED
MAY 31 2017
Indeterminate Sentence
Review Board

May 24, 2017

Department of Corrections
Indeterminate Sentence Review Board
P.O. Box 40907
Olympia, WA 98504-0907

RE: Order of Release and Conditions Addendum# (Note: The form has no # on it)

Today, May 24, 2017, I was asked to sign the attached Order of Release and Conditions Addendum. I did not sign the order. Instead I wrote an objection on the form.

That addendum attempts to add a new condition to my release as follows: "a. You must submit to periodic and random drug and/or alcohol monitoring through an agency approved by your CCO and sign a full release of information allowing the treatment or monitoring agency to release information to your CCO and the Indeterminate Sentence Review Board (ISRB)"

I object on the basis that the sentencing judge ruled specifically regarding this matter when he executed my Judgement and Sentence. I call your attention to Page 3, Paragraph 2.6 of the Judgement and Sentence (attached hereto) which indicates that Appendix A is added to the Judgement and Sentence. On Appendix A, Page 6, please note that the item regarding UA's was specifically deleted. This was a negotiated item with the sentencing judge and the district attorney. It was not done by accident nor without great consideration by all parties involved. Your action is in direct conflict with the order signed by the sentencing judge and agreed to by the district attorney. Although the power and authority of the ISRB is extensive, the authority to directly overrule the sentencing judge falls outside those boundaries.

Additionally, I object on the basis that said condition does not reasonably relate to any of the following:

1. "The Crime of Conviction". The judge and district attorney, prior to striking this item, determined that neither alcohol nor drug use had any bearing on my crime. Thus, they deleted the requirement to submit to UA's.
2. "Your risk to reoffend". I have no history of drug or alcohol abuse. They were not a part of my crime and thus are not a factor regarding the likelihood of reoffending.
3. "The safety of the community". Again, I have no history of drug or alcohol abuse and have no history of harming the community other than in relationship to the crime of conviction.

In addition to the above, the ISRB, in 2015, confirmed to my CCO, Jermaine Castillo, and subsequently to my CCO, Amber Siedle, that I had no restrictions requiring that I submit to periodic UA's. The ISRB is now reversing itself and is doing so even though I have had a perfect track record during my community custody time period.

The addition of this new restriction is totally without merit, overrules the sentencing judge, and is, therefore, outside the parameters of the ISRB's authority.

For all of the above reasons, this restriction does not meet any of the conditions that must be met in order to be placed in effect. I, therefore, am appealing the restriction and ask that it be immediately revoked in its entirety.

Sincerely,

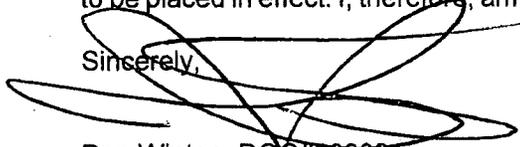

Don Winton, DOC#308321
CC: CCO Jermaine Castillo, w/o enclosures, via email

Exhibit 8

Exhibit 9



STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD

4317 Sixth Ave., S.E. • P.O. Box 40907 • Olympia, Washington 98504-0907 • (360) 493-9266
(TDD Relay 1-800-833-6388)

June 29, 2009

Mr. Don Winton #308321
SCCC, MS: WA-39
191 Constantine Way
Aberdeen, WA 98520

Dear Mr. Winton,

Thank you for your letter dated 6/18/09. I have reviewed your file, and was unable to locate any of the polygraph exams that you refer. Please feel free to submit copies of those exams for the Board Members to review prior to your hearing.

Sincerely,


JIM GETTY
Hearing Investigator

cc: file



RECEIVED

JKG

JUN 25 2009

June 18, 2009

Indeterminate Sentencing Review Board
4317 6th Ave. S.E.
Olympia, WA 98504-0907

INDETERMINATE SENTENCE
REVIEW BOARD

RE: Don Winton
DOC# 308321
ERD 6/20/2014

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Dear IRSB:

I plead guilty to and was convicted of three felony counts. Due to the nature of my crimes, I fall under your review. First, I would like to say, I am guilty of the crimes I was convicted of. However, as my case was processed and also at my sentencing hearing, claims were made that there were additional victims. These claims are not true.

While awaiting sentencing, I volunteered for and passed three polygraphs regarding the false statements made as my case was processed. While at Shelton, I volunteered for and passed two additional polygraphs regarding false statements made at the sentencing hearing.

While at Shelton, I signed release forms authorizing all of these polygraphs to be released to the Department of Corrections. Because these false statements are on record and there may be questions in the minds of the IRSB board members as to whether or not there are additional victims beyond the two I plead guilty to, I want to determine whether or not my five polygraphs have been placed in my file.

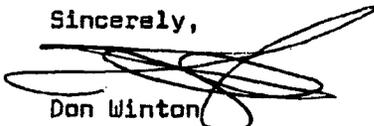
Therefore, I ask you to please review my file to determine whether or not these five polygraphs are in my file. Please, after completing your review, write back to me acknowledging whether or not you have my polygraphs on file. If you don't have them, I will take appropriate steps to get them sent to you.

I want to address this issue now so there will be no issue on this matter when I have a release hearing in the future. It is important to me to make it clear beyond a shadow of a doubt that there are no other victims.

I am very sorry for the crimes I committed and the people I hurt. I accept punishment for my actions. But I don't want to be further punished by untrue statements that were made during my sentencing process.

Please write back and tell me whether or not you have the five polygraphs in my file. Please note, all of the polygraphs were done by a DOC authorized polygrapher.

Sincerely,



Don Winton
DOC #308321
Unit H-2, Cell A-6
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

JKG
161-09

RECEIVED

JUN 22 2009

INDETERMINATE SENTENCE
REVIEW BOARD

June 18, 2009

Indeterminate Sentencing Review Board
4317 6th Ave. S.E.
Olympia, WA 98504-0907

RE: Don Winton
DOC# 308321
Dear IRSB: ^{FRD 6/20/2014}

I plead guilty to and was convicted of three felony counts. Due to the nature of my crimes, I fall under your review. First, I would like to say, I am guilty of the crimes I was convicted of. However, as my case was processed and also at my sentencing hearing, claims were made that there were additional victims. These claims are not true.

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Please write back and tell me whether or not you have the five polygraphs in my file. Please note, all of the polygraphs were done by a DOC authorized polygrapher.

Sincerely,



Don Winton
DOC #308321
Unit H-2, Cell A-6
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

Exhibit 10



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

January 14, 2014

Don Winton
DOC # 308321
MCC-TRU- A-203-1
P.O. Box 888
Monroe, WA 98272

Dear Mr. Winton,

I have been asked to respond to your recent correspondence to the Indeterminate Sentence Review Board (ISRB) regarding your Offender Release Plan.

Thank you for taking the time to bring your plan to our attention. Your letter and a copy of my response will be placed in your file for further consideration by the Board.

Sincerely,

Monika Fields
Investigator 3
Indeterminate Sentence Review Board

"Working Together for SAFE Communities"

DON WINTON DOC #308321
MCC-TRU, A-203-1
P.O. BOX 898
MONROE, WA 98272

RECEIVED

DEC 24 2013

INDETERMINATE SENTENCE
REVIEW BOARD

December 23, 2013

Indeterminate Sentence Review Board
P.O. Box 40907
Olympia, WA 98504

RE: Don Winton #308321
Release Plan

To All Esteemed Board Members:

Enclosed is my personal Release Plan. I understand that I have not yet had my .420 hearing and, therefore, have not yet been found releasable. However, I wanted the board to have received and had an opportunity to read my Release Plan prior to the .420 hearing.

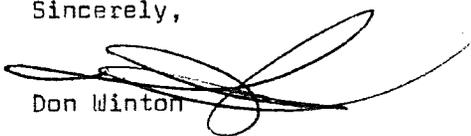
I believe my Release Plan will show you that I have given a great deal of thought to my pending release and that many of the key elements that will help me to succeed after release have been addressed. Some of those key elements are as follows:

1. I have a strong community support group of friends and family.
2. I own my own home.
3. I have an office to go to work at and my two primary support people work at that office
4. I have an adults only church to attend (Pastor Bob Faulk - House of Mercy).
5. I have the financial ability to take care of myself.

I hope my Release Plan will be of use to you in formulating your .420 release decision.

Thank you for taking the time to read this letter and the attached Release Plan.

Sincerely,


Don Winton

OFFENDER
RELEASE PLAN
FOR RE-ENTRY INTO THE
COMMUNITY

NAME: DON WINTON
DOC#: 308321
ERD: 6/12/14
RELEASE COUNTY: KING

1. **INTRODUCTION:** My name is Don Winton, age 60. My ERD is 6/12/14. I have been in prison since 7/5/07. I have used my time in prison to better myself. My biggest accomplishment in prison was obtaining a Master's in Business Administration degree (MBA) from Southwest University. I graduated in August 2012 with a GPA of 3.85. I also completed Moral Reconciliation Therapy in April 2010 and Stress and Anger Management in August 2008. Currently, I am enrolled in the Sex Offender Treatment Program (SOTP) which I will complete in May 2014.

I have also been actively involved in church and music ministry programs while in prison. I received Certificates of Appreciation from Chaplain Sendawula at Stafford Creek in 2011 and 2012 for my participation in these programs.

2. **SUPPORT SYSTEM/SOCIAL NETWORK:** I have a strong support network of friends as follows:

Rob Murnen - Rob is my real estate investment business partner and closest friend. I've known him since 1982. I will be sub-leasing an office in Federal Way within the suite of offices that he works out of. I have completed a therapeutic disclosure with him (in front of my SOTP therapist). Rob will be my primary sponsor.

Russell Wolf - Russ is a CPA with offices in Federal Way. Rob Murnen (see above) sub-leases an office from him. So, Rob, Russ, and I will be working out of the same offices. All workers in the office are over 18 and are aware of the crimes I committed. I also completed a therapeutic disclosure with Russ (in front of my SOTP therapist). I will see both Rob and Russ on a daily basis in the office. Russ will also be a primary sponsor for me.

Ron Strayer - Ron is a long time friend. He lives in Salem, Oregon. He is a support person that I will call and talk to regularly. He intends to spend the first few days with me after my release (therapeutic disclosure to be completed). After which, he will periodically visit me.

Pastor Bob Faulk - House of Mercy - I've known Pastor Bob for nearly six years through his prison ministry. I will attend his Sunday night adults only service at his Federal Way church. I hope to be actively involved in music ministry in his church. I also hope to eventually be involved in a leadership position in his ministry.

Steve Zevenbergen, Bruce Peart, and Carolyn Davidson - These three are business associates I have known for approximately 30 years each. They all live in King or Pierce County. I will keep in touch with each of them by telephone and e-

mail. I will also see each of them on a regular basis.

I have several other friends and business associates who I will be in contact with on a regular basis.

3. Release Address:

27740 10th Ave. S.
Des Moines, WA 98198
Tel: 206-651-7206
Cell: 253-670-9193

I own this home. I will be the only person living there. The home is on a 1 3/4 acre lot. Neighboring homes are at a distance and are separated by numerous trees from my home. All parks, schools, churches, day care centers, retirement homes, etc. are well beyond the 880 foot statutory distance away from my home.

My COO can visit the home before my release by contacting Rob Murnen at 253-874-8262 (office) or 253-670-2984 (cell)

4. FAMILY: I have three older siblings, Jerry Williams, Russel Williams, and Carrie Peterson. Jerry lives in Snohomish County, Russ in New Mexico, and Carrie in Utah. All three are very supportive and will keep in contact with me by telephone and e-mail. Jerry will visit me regularly. None of my siblings have minor children or grand children living in their homes.

My daughter, Stephanie Joelle Budinich, will keep in touch with me by telephone and e-mail and will periodically visit me. She lives in Portland, Oregon and has no children.

I have three other adult children who currently are not in contact with me. I hope that reconciliation can be accomplished. My mom and dad are deceased.

5. EMPLOYMENT: I have been self-employed for most of my adult life. I will continue to be self-employed. I will be sub-leasing an office as follows:

Landlord: Russell Wolf (see "Support System" above)
Address: 909 South 336th Street, Suite 101
Federal Way, WA 98003
Telephone: 253-838-6708

The office is less than 10 minutes drive from my home. I will work Monday through Friday (excluding holidays) with a typical schedule of 9:30 AM - 5:30 PM. My schedule could vary from day to day as I may have appointments outside of the

office.

My work duties will include co-managing my real estate investments (along with Rob Murnen) and management of my stock portfolio. I currently have rental and dividend income from these investments in excess of \$400,000 per year. I plan on expanding my real estate holdings after release (see "Personal Goals" below).

6. **EDUCATION:** I do not plan on completing any further education. I already have a Bachelor's in Business Administration degree from Seattle University and the MBA mentioned in the "Introduction" section above.

7. **FINANCES/SUPPORT:** My income from my current investments will fully support all of my needs. I anticipate no financial difficulties. Additionally, I have no debt on my home.

8. **BUDGET:** My current income substantially exceeds my expenses. I anticipate no financial difficulties upon release.

9. **TRANSPORTATION:** My driver's license number is [REDACTED]. It expired in November 2009. I have no unpaid tickets or citations. I plan to renew my license immediately upon release.

I will purchase a vehicle (with funds currently in my account) promptly upon renewal of my license.

My friend Ron Strayer (see "Support System" above) will stay with me at my home for a few days upon my release. He will transport me to the DMV and to auto dealers until I buy a vehicle. This should be completed within 3 to 4 days of my release.

10. **STIPULATIONS OF JUDGMENT AND SENTENCE:** I will complete SOTP prior to release and will be enrolled in Phase III treatment upon release. My Phase III treatment provider is:

Name: _____

Address: _____

Telephone: _____

My J & S stipulates no contact with minors. Additionally, I anticipate the ISRB and my ECO will add additional restrictions. I will comply with any and all

restrictions of my J & S, the ISRB, and my CCO.

11. LEGAL FINANCIAL OBLIGATIONS: I have paid in full all legal financial obligations that were imposed by my J & S.

12. PERSONAL GOALS:

Six Months:

- A. To be fully settled in my home.
- B. To be fully settled in at work.
- C. To be active in my church (House of Mercy).
- D. To be active in music ministry at church.
- E. To have begun a social network with my friends.
- F. To have a new driveway installed at my home.
- G. To have joined a gym and begun an exercise program.

One Year:

- A. To have added one or two new real estate acquisitions to my holdings.
- B. To have applied for building permits to build a medical office building on land I own in Issaquah.
- C. To have remodeled the kitchen in my Oregon beach house.
- D. To have built a work shop at my home.
- E. To have landscaping installed at my home.
- F. To have set-up the non-profit foundation I plan to start.
- G. To have begun an age appropriate relationship with a female partner.
- H. To be a leader (elder) in the House of Mercy church.

Five Years:

- A. To have grown my real estate investment business into an office with other employees.
- B. To have built and sold the Issaquah property.
- C. To have sold the Oregon beach house and replaced it with one in a warm, sunny location.
- D. To possibly be married.
- E. To be a pastor in House of Mercy church.
- F. To have my non-profit foundation fully operating and funding start-up businesses run by ex-felons.

G. To have expanded my personal antique collection.

H. To be able to travel to Europe and/or other countries.

13. INFORMATION LISTS: See Exhibit "A" attached.

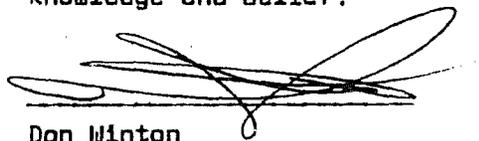
14. PERSONAL STATEMENT: During my incarceration, I have had a lot of time to think about the type of person I was and the type of person I want to be. A primary focus I have worked on is the importance of my word. My word must be impeccable. Everything I say must be the complete and total truth. There can be no "white lies", no deception, no manipulation. I have worked hard on making these changes in my life and I am now very focused on making my word my bond. If I continue to act in this manner, I will not return to my old ways. There will be no lying and no secret keeping. When I am struggling, I will seek help. I will talk to my close friends and/or my therapist. This is something I never did in the past. I will seek healthy solutions. I believe I am a much better man than I was seven years ago and I never want to return to being that old man.

Of course, these words are only words until I prove to others that I mean them. My focus will be to prove to others that I am not the typical felon who is about to be released and will tell everyone what they want to hear. I want to prove to everyone that I am sincere. I want to be one of the success stories.

Lastly, I believe my Release Plan includes key elements that will help me to succeed. I own a home to live in, an office to work out of, sufficient income and assets to succeed, a church to belong to, and a great group of friends and family who love and support me. I couldn't ask for more. Now, it's my responsibility to go out and succeed.

Dated this 23rd day of December, 2013.

I represent that everything stated above is true and correct to the best of my knowledge and belief.



Don Winton

EXHIBIT "A" TO RELEASE PLAN OF
DON WINTON - DOC# 308321

INFORMATION LIST:

A. Emergency: Rob Murnen - Office 253-874-8262; Cell 253-670-2984;
Home 253-517-3733

B. Relatives:

- a. Daughter - Stephanie Joelle Budinich
1722 N. Blandena Street
Portland, OR 97217
Phone: 503-548-8250
Email: pdxecochic@gmail.com
- b. Brother - Jerry Williams
5220 176th Street S.W. #13
Lynnwood, WA 98037
Phone: 425-971-7211
Email: jerrywilliams6094@comcast.net
- c. Brother - Russel Williams
P.O. Box 2935
Edgewood, NM 87015
Phone: 505-227-5955
Email: russwoodworking@aol.com
- d. Sister - Carrie Peterson
1365 N. 1100 W.
St. George, UT 84770
Phone: 435-673-5569
Email: peterson@infowest.com

C. Friends:

- a. Rob Murnen
909 South 336th Street, Suite 101
Federal Way, WA 98003
Phone: See "Emergency" contact info
Email: murnenrealty49@msn.com
- b. Russell Wolf
909 South 336th Street, Suite 101
Federal Way, WA 98003
Phone: 253-838-6708
Email: russ@wolfcpa.biz
- c. Ron Strayer
6786 Waconda Rd N.E.
Salem, OR 97305
Phone: 503-792-4630 or 415-290-1555
Email: bygoner@earthlink.net

d. Pastor Bob Faulk - House of Mercy
22604 16th Ave S.
Des Moines, WA 98198
Phone: 206-841-4117
Email: pastorbob@houseofmercyministries.net

e. Steve Zevenbergen
9709 3rd Ave. N.E., Suite 203
Seattle, WA 98115
Phone: 206-682-8060
Email: stephenz@webcpa.com

f. Bruce Peart
C/O GVA Kidder Mathews
500- 108th NE, Suite 2400
Bellevue, WA 98004
Phone: 425-450-1142 or 206-595-1666
Email: bpeart@kiddermathews.com

D. Attorney: Thomas Phelan
904 Esther Street
Vancouver, WA 98660
Phone: 360-750-8750

E. Work Address (self-employed):
909 South 336th Street, Suite 101
Federal Way, WA 98003
Phone: 253-874-8262
Email: Not Yet Established

F. AA/NA: Not Applicable

G. Personal Information:

27740 10th Ave S
Des Moines, WA 98198
Home Phone: 206-651-7206
Cell Phone: 853-670-9193
Email: Not Yet Established
Vehicle: Will purchase after release
Landlord: None. I own my own home

Exhibit 11



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

March 12, 2014

Don Winton
DOC # 308321
MCC-TRU- A-203-1
P.O. Box 888
Monroe, WA 98272

Dear Mr. Winton,

I have been asked to respond to your recent correspondence to the Indeterminate Sentence Review Board (ISRB) regarding your request to live in King County.

There are many steps that go into the investigation of an Offender Release Plan (ORP). Once you have been found releasable and your Classification Counselor submits your requested address, a Community Correction Officer from the area will investigate the home to determine if it is appropriate. They will make a recommendation and submit it to the Indeterminate Sentence Review Board (ISRB) for final approval or denial. Once the ISRB has the ORP it will again be reviewed to determine if the ISRB agrees with the Department of Corrections' recommendations or not, and what conditions need to be added to maintain safety and compliance. I hope this information is helpful to you.

Thank you for taking the time to bring your plans and concerns to our attention. Your letter and a copy of my response will be placed in your file for further consideration by the Board.

Sincerely,

Monika Fields
Investigator 3
Indeterminate Sentence Review Board

"Working Together for SAFE Communities"

DON WINTON, DOC #308321
MCC - TRU, A-203-1
P.O. BOX 888
MONROE, WA 98272

RECEIVED

February 6, 2014

FEB 10 2014

LETTER 1: MY REQUEST TO LIVE IN KING COUNTY

INDETERMINATE SENTENCE
REVIEW BOARD

Dear ISRB Board Members:

Thank you for my board hearing yesterday (February 5).

After I left the hearing, I thought about all that was discussed and I believe I did not do a very good job of discussing the importance of my request to live in King County. I believe the board understands and recognizes the positive benefits to a releasing offender when that offender has a strong support system in place. In South King County, I have that strong support system.

I have an office to go to work at every day in Federal Way. Both Rob Murnen and Russell Wolfe work in that office. They are both well aware of all aspects of my crimes. They have spent more than two hours meeting with Ms. Ula and I at the prison. A therapeutic disclosure has been completed, and as Ms. Ula stated at the hearing, these two asked numerous questions and will hold me accountable. All workers in that office (4 total, including Rob and Russ) are fully aware of my crimes and support me working in that office.

I also have strong support from Pastor Bob Faulk (House of Mercy). I have attended his church services for six years while in prison. He wants me to be an active member of his adults only service in Federal Way and I want to do so. He has written a support letter to the board supporting my release.

I have other friends that live in the area that also support my release and are part of my support system. Three of these friends (Bruce Peart, Steve Zevenbergen, and Carolyn Davidson) have sent support letters to the board.

I own a home in Des Moines that will be a positive and happy place for me to live. Rob Murnen spent countless hours searching for a home that would meet all of DOC's requirements regarding distance from schools, parks, churches, day care centers, etc. and that also does not have children living next door. He tells me he is convinced that this home will meet all such DOC requirements for approval as my release address.

Rob and I also own, through a limited liability company, a medical office building in Issaquah that has additional land zoned for medical office use. Construction of a new building on this land will be a significant part of my job duties during the next two years.

If I am not allowed to live in King County, all of this support system and employment will be lost. I have no support in other counties.

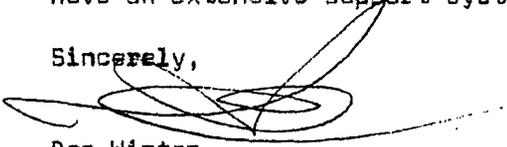
As to the concerns of my daughter, Christina Sparker, yes, I wrote several letters to her from 2007 through 2012. She responded to at least two or three of those letters telling me she supported me and to stay encouraged.

As part of my correspondence to her every Christmas, through 2012, I sent my Christmas card and letter to Rob and he inserted a \$500 check as a Christmas gift from me to Christina. She cashed every check. Neither Rob nor I ever received any indication that she no longer wanted to receive correspondence from me until early in 2013. At that time, Rob received a call from Christina's step-father, Russ Cahoon. Russ told Rob that Christina no longer wanted to receive any correspondence from me. As confirmed by Debra Cahoon in her recent letter to the board, I have honored that request and have sent no correspondence of any kind to Christina since Russ called Rob. I will not contact her by any method in the future. If I am released from prison, I will not go anywhere near her home. I have caused her enough pain.

I ask the board to not require me to live in another county if the board finds me releasable. Please allow me to live in my home in Des Moines. If it would make the board and Christina feel more comfortable, reasonable restrictions could be placed in my release conditions such as not going within a certain distance of her home. I would ask that that distance not prohibit me from traveling north and south on Interstate 5. I anticipate needing to travel to and from downtown Seattle to visit bankers, mortgage lenders, attorneys, real estate brokers, etc. I will comply with any such restriction. My prison history of no infractions of any kind should give you some comfort of my intent to follow rules.

I am asking for you to consider a reasonable solution that will reduce Christina's concerns and still allow me to live in my home in the county where I have an extensive support system. Thank you in advance for your consideration.

Sincerely,



Don Winton

cc: Rob Murnen
Thomas Phelan

DON WINTON #308321
MCC - TRU, A-203-1
P.O. BOX 888
MONROE, WA 98272

RECEIVED

FEB 11 2014

February 6, 2014

LETTER 2: RESPONSE TO "VICTIMS" STATEMENTS

INDETERMINATE SENTENCE
REVIEW BOARD

Dear Board Members:

Thank you for my board hearing yesterday (February 5). The purpose of this letter is to further discuss allegations recently presented to the board by Danielle Ireland and others. All allegations that were made about the possibility of other victims was presented to Judge Harris at my sentencing hearing in 2007. Please note that all dates on all of the declarations, personal notebook entries, etc. that Danielle recently sent you were dated prior to my sentencing hearing. I have previously taken and passed polygraphs regarding all such allegations. My Sinka packet includes polygraphs confirming "no other female victims" and "no male victims". I have also delivered to the board two polygraphs I passed regarding [REDACTED]. Again, all of these allegations have been previously addressed.

Danielle was represented at my sentencing hearing by her own private attorney, a Mr. W. Todd Pascoe. Mr. Pascoe presented ten declarations to Judge Harris along with a "Victim Impact Statement List" (see copy attached). Mr. Pascoe attempted to have each one of these ten individuals read their declarations to the court at the sentencing hearing. Judge Harris reviewed the list and the declarations and ruled that the six of those individuals did not meet the statutory definition of a "victim" and therefore, refused to allow them to speak to the court or to enter their declarations into evidence. These six individuals were Rene Platt, [REDACTED], [REDACTED] Stephanie Budinich, Debra Cahoon, Christina Sparker, and Sharon Ensley.

Since Judge Harris has already ruled on this matter and determined that none of these individuals meet the statutory definition of a "victim" in this matter, then Danielle and others are "Collaterally Estopped" from reintroducing the same declarations at this time. Yet, what Danielle is attempting to do is to circumvent the decision Judge Harris is already issued. She is resubmitting the exact same declarations to the board. Also note that the declarations of [REDACTED] Christina Sparker, and Stephanie Budinich that Danielle recently submitted to the board are unsigned documents.

Since Judge Harris gave me a sentence at the low end of the range (a 98 month sentence with a range of 98 to 130 months), it would appear that he was unmoved by all of these allegations.

I am also enclosing a letter dated January 30, 2014 from my attorney, Thomas Phelan. I asked him to review the statutes regarding the definition of "victim" specifically as it relates to making statements to the ISRB. In that letter, he discusses RCW 7.69.020 and RCW 7.69.032. You will, on page two of his letter, see that, in his opinion, neither Christina Sparker nor Debra Cahoon meet the statutory definition. This is consistent with the 2007 decision by Judge Harris. Thus, the requests they are currently making should not be given any weight by the board.

The board members present at my hearing yesterday, stated that if it were not

for all of these allegations, the decision to find me releasable would be easy. I believe that Danielle Ireland, Debra Cahoon, and Christina Sparker fully understand this and are attempting to get the board members focus away from the facts and onto these false allegations. I trust that the board will see through this ploy and focus on the facts of the case as follows:

1. I am doing very well in SOTP treatment. My therapist stated multiple times that she believes I have been "open, honest, and fully transparent in treatment". SOTP graduates have a recitivism rate near 5%.

2. My STATIC-99R score is a -3, the lowest possible score. This places me at "Low Risk" to reoffend with a recitivism rate of 2.2% to 4.2% over 5 and 10 years, respectively.

3. My MnSOST-R score is -1 putting me in the "Low Risk" to reoffend category and a 16% recitivism rate.

4. DOC has assigned me a "Level 1" sex offender rating; lowest level to reoffend.

5. I have a clean discipline record in prison.

6. I have a great support system.

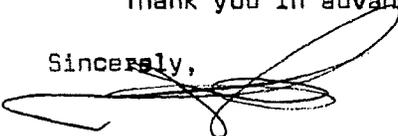
7. I own my own home to release to.

8. I have employment and financial stability.

I ask that the board give no consideration to the statements of any of the six individuals that Judge Harris already ruled to not meet the statutory definition of "victims" including the most recent letters from Christina Sparker and Debra Cahoon, and, instead focus on the proven facts as stated above including the strong positive input of my SOTP therapist. I believe Ms. Ula's positive statements are strong indicators of my progress over the last nine months. I believe the preponderance of the evidence is clear that I am low risk to reoffend.

Thank you in advance for reading this letter and the attachments.

Sincerely,



Don Winton

cc: Rob Murnen w/o encl.
Thomas Phelan w/o encl.

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RECEIVED

FEB 11 2014

INDETERMINATE SENTENCE
REVIEW BOARD

FILED

OCT 23 2007

Sherry W. Parker, Clerk, Clark Co.

**SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK**

STATE OF WASHINGTON,
Plaintiff,

vs.

DON WESLEY WINTON,
Defendant.

NO. 06-1-02237-8

VICTIM IMPACT STATEMENT
LIST

VICTIM *

RELATION TO DEFENDANT

██████████ <i>(read by her mother or daughter)</i>	Uncharged rape victim (1982)
██████████	Son, and uncharged rape victim (circa. 1989-1998)
██████████ <i>(read by Sharon Ensley)</i>	Victim in Count III (circa. 1996-2002)
██████████	Victim in Count I & II (circa. 1998-2006)
Stephanie Budinich,	Daughter to Defendant and ██████████
Debra Cahoon	Ex-wife, and mother of Cameron
Christina Sparker	Oldest child

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Unassigned

Unassigned

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██████████
(read by Sharon Ensley)

Youngest child

Danielle Winton

Mother of ██████, guardian of ██████

Sharon Ensley

Former employee, long-time family friend

* Each individual qualifies as a victim by SSOSA definition "'Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense." RCW 91.94A.070(1)(c).



W. TODD PASCOE, WSBA #28887
Attorney for Victim

January 30, 2014

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FEB 11 2014

LEGAL MAIL

INDETERMINATE SENTENCE
REVIEW BOARD

Don W. Winton
DOC# 308321
MCC-TRU - A-203-1
P.O. Box 888
Monroe, WA 98272

RE: State of Washington v. Don Winton

Dear Don:

Following up our telephone conversation on January 27, 2014, you asked that I follow up and do some research as to who would be allowed to present any type of witness evidence against you at the RCW 9.95.420 hearing. Pursuant to that statute, the board "shall provide opportunities for the victims of any crimes for which the offender is being convicted to present statements" as set forth in RCW 7.69.032. Under the terms of the statute, the ISRB has a right to implement by rule the presentation of victims and survivors. I enclose herewith WAC 381-10-170 in its entirety for your review. Specifically, you had questions as to whether Christina, your daughter by Deborah Cahoon, had a right to submit, either through her mother or on her own, a "victim" statement to the ISRB.

RCW 7.69.020 provides that a victim of a crime means "a spouse, child, parent, legal guardian, sibling, or grandparent". RCW 7.69.020(3) provides that a victim means a "person against whom a crime has been committed or the representative of a person against whom a crime has been committed.

LEGAL MAIL

Don W. Winton, DOC# 308321

January 30, 2014

Page -2-

RCW 7.69.032 provides in pertinent part as follows:

Right to make a statement before post-sentence release of offender:

- (1) The legislature recognizes the significance there is of many victims, survivors of victims, and witnesses of crime when offenders are considered for post-sentence release from confinement. Therefore, it is the intent of the legislature to ensure that victims, survivors of victims, and witnesses of a crime are afforded the opportunity to make a statement that would be considered prior to the granting of post-sentence release from confinement for any offender under the jurisdiction of the Indeterminate Sentence Review Board...
- (2) Victims, survivors of victims...have the following rights:
 - (a) With respect to victims, survivors of victims...to present a statement to the Indeterminate Sentence Review Board...in person or by representation, and via video or videotape or other electronic means, or in writing, prior to the granting of parole or community custody release for any offender under the Board's jurisdiction.

It is my opinion, clearly, under the statutory scheme that victims mean someone against whom a crime has been committed or a representative of that person and survivors of victims are statutorily limited to a spouse or domestic partner, child, parent, legal guardian, sibling, or grandparent. Hence, it does not appear that Christina or her mother would qualify as a victim or a survivor of a victim.

After our phone conversation, I again checked with Dr. Brewer and Dr. McGovern by e-mail, and left Dr. McGovern a telephone message, and I have not heard back from them. If that changes, I will contact you.

Don, as we discussed on January 29, 2014, I enclose herewith a copy of the Sinka opinion. The Sinka decision appears to basically be a pre ISRB case that talks about the old Board of Prison terms and parole and what is required in the way of due process. That decision finds that someone such as you is entitled to minimal due process. I have highlighted some of the portions that you might want to consider reading. It appears that they are providing this to you because one of the holdings of Sinka is that minimal due process requires that "an inmate be advised of adverse

LEGAL MAIL

Don W. Winton, DOC# 308321
January 30, 2014
Page -3-

information in his or her parole file". If you do not believe that you will have adequate time to review this, and under the Sinka decision, don't feel that you have the "opportunity to rebut or explain adverse file information", I believe that you are entitled to request a continuance under the rules.

You can also review the applicable regulations enclosed that talk about how the release determination should be made and what other information the Board may consider. It appears that RCW 72.09.340(2) provides that the Department of Corrections policy regarding release plans for sex offenders includes, "at a minimum, a formal process by which victims, witnesses, **and other interested people** may provide information and comments to the department on potential safety risks to specific individuals...posed by a specific sex offender".

I think it is inherent in the rules and in the case that is enclosed that you are entitled to minimal due process, which means that you are provided an opportunity to respond, in writing, to any allegations made in the materials submitted to you.

Don, I also enclose herewith other statutes and regulations that might be helpful to you when you meet with the Board.

As I indicated, I am out of town on Thursday and Friday, and will be available to discuss this matter further with you on Monday or Tuesday of next week. Feel free to contact me on Monday or Tuesday so that I can tell you what, if anything, I have heard from them. I will be at lunch at 12:00 p.m. on Tuesday, but will be back about 1:00 p.m.

Very truly yours,

Thomas C. Phelan /SRH

Thomas C. Phelan
Attorney at Law

TCP/srh
Enclosures

Exhibit 12



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

November 24, 2014

Mr. Don Winton
27740 10th Ave S
Des Moines, WA 98198

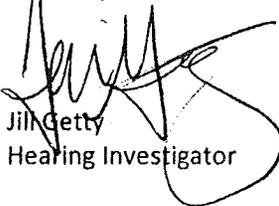
Mr. Winton:

I am in receipt of your letters dated October 27, 2014 and November 5, 2014. The Board has reviewed your request and appeal, and at this time will not be making any changes to your current conditions of supervision. I am unable to provide you with specific information with concerned citizens in your case pursuant to RCW 42.56.240. However, the Indeterminate Sentence Review Board (ISRB) is aware of credible concerns necessitating your current conditions of supervision. In addition, the ISRB believes the conditions are related to community safety.

Your current geographic boundaries permit for travel to/through Clark County, Skamania County, and the state of Oregon north of Highway 20 provided that you have an appropriate reason and prior approval from your CCO and the ISRB. I understand your frustrations regarding the situation with your biological daughter, Ms. Budinich. While the ISRB will continue to notify concerned parties in the area when you have been approved for travel, we will make every attempt to limit information provided regarding the specific location and reason for your travel as much as possible. However, you may want to consider the idea of having in-person contact with support people who reside in southwest Washington and/or Oregon in unrestricted portions of Washington State for the time being.

Please be aware, the ISRB has some concerns with the sense entitlement demonstrated by your request and appeal. Should you refuse to fully cooperate with your conditions, your community supervision may be placed in jeopardy.

Sincerely,


Jill Getty
Hearing Investigator

cc: file

"Working Together for SAFE Communities"

Exhibit 12

ISRB - ADMINISTRATIVE DECISION SHEET

Offender Name: WINTON, Don	DOC#: 308321	<input checked="" type="checkbox"/> CCB or <input type="checkbox"/> Pre-84
Hearing Officer: Jill Getty	CRT: Irene	DATE: November 21, 2014
PERTINENT INFORMATION AND RELEVANT DOCUMENTS CONSIDERED: Admin Decision – Addendum issued dated 10/24/14, Letters from offender dated 10/27/14 and 11/5/14		
DESCRIPTION OF ISSUE(S): Mr. Winton released to community supervision on September 29, 2014. Since that time, he’s not had any reported violations of supervision. However, during the course of investigation a travel request of Mr. Winton to Portland, Oregon on October 2014, it was discovered that the established community concerns in Clark County actually also extended into Skamania County and the western side of Oregon down to Albany. As a result, Mr. Winton’s travel request was denied. In addition, and Addendum was issued on October 24, 2014 restricting his travel into Skamania County or into the state of Oregon north of Highway 20 without the prior approval of DOC and the ISRB. The ISRB received a letter from Mr. Winton on October 29, 2014 regarding the denial of his travel request to Portland Oregon in October 2014. Mr. Winton had concerns that his victim’s mother had been made aware of his travel request, and plans while in Portland Oregon. Mr. Winton felt this placed his victim’s mother in a position of power over him that she would be able to use to manipulate Mr. Winton’s situation. Therefore, he asked that in the future he be permitted to go through Clark County on his way to Portland, OR without the victim/victim’s mother being notified. The ISRB then received a subsequent letter from Mr. Winton on November 7, 2014 after he had been served with the Addendum dated October 24, 2014, restricting his travel into Skamania County and certain areas of Oregon. Mr. Winton appealed the condition stating that it was not related to either his crime of conviction, risk of re-offense, or community safety. Again, Mr. Winton noted concerns with the “undo power” the condition gave to his victim’s mother. In addition, he advised that he owns a beach home in Oregon that he would not be able to access. Mr. Winton further stated that he currently has a delicate relationship with a biological daughter living in the Portland, Oregon area that could be damaged as a result of the condition.		
RECOMMENDATIONS: Continue on Present Status		
COMMENTS/ANALYSIS: The ISRB has been aware of the significant community concerns for Mr. Winton in Clark County for some time. The condition that was added in October 2014 is to protect the victim in Mr. Winton’s case who currently travels throughout the west side of Oregon for her job – not for her mother. The condition does not inhibit Mr. Winton from meeting his basic needs such as housing, employment, treatment, DOC reporting, grocery/clothing shopping, etc. Nor does it inhibit Mr. Winton from entering Clark or Skamania County, or the state of Oregon provided that he has an appropriate reason and prior approval from his CCO and the ISRB to be there. Mr. Winton having access to his beach house does not seem to be a good enough reason to jeopardize the victim’s sense of well-being. In addition, Mr. Winton can continue having contact		

with his community supports who reside in Oregon via telephone and letter, and they can have contact in unrestricted portions of Washington State for the time being.

DECISION:

Continue on Present Status

REASONS:

Mr. Winton's refusal to sign and/or comply with conditions of community custody that directly relate to expressed community concerns and safety; coupled with his apparent sense of entitlement to travel wherever he chooses are of particular concern to the Board regarding his amenability to supervision. If he continues to refuse to agree to cooperate fully with all conditions, his community custody may be jeopardized.

As soon as this Administrative Action is presented to Mr. Winton, the Board requests immediate notification from the CCO about whether he intends to comply and cooperate.

AGREE: INITIAL/DATE	DISAGREE: INITIAL/DATE
TNS 11/21/14	

DON WINTON
27740 10TH AVE S.
DES, MOINES, WA 98198
DOC #308321, Tel: 253-670-9193

RECEIVED
NOV 07 2014

November 5, 2014

Department of Corrections
Indeterminate Sentence Review Board
P.O. Box 40907
Olympia, WA 98504-0907

INDETERMINATE SENTENCE
REVIEW BOARD

RE: Order of Release and Conditions Addendum# (Note: The form has no # on it)

Today, November 5, 2014, I was asked to sign the attached Order of Release and Conditions Addendum. I signed the addendum under duress and am hereby filing my appeal of that order.

That decision added a new condition to my release as follows: "a. You must not enter Skamania County or the state of Oregon north of Highway 20 without prior written approval of your CCO and the ISRB."

I object on the basis that said condition does not reasonably relate to any of the following:

1. "The Crime of Conviction". This geographical region is unrelated to my crime of conviction.
2. "Your risk to reoffend". There is no relationship between this geographic region and my risk to reoffend.
3. "The safety of the community". The victims do not live in this geographical region. There is no risk to the community in that geographical region that is different from the risk to the community in any other geographical region.

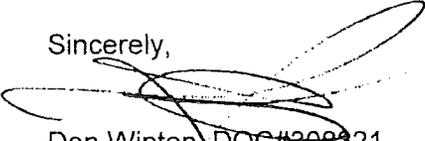
In addition to the above, I own a beach home in Arch Cape, Oregon. This restriction would prohibit me from visiting my beach home without ISRB approval and, therefore, without notice from the ISRB to my ex-wife, Danielle Ireland. She is fully aware that I own this home as it was awarded to me in our divorce. I believe that she is using this new restriction to further punish me for the crime I committed and that this new condition is fully based on her desire to continue to add to my punishment. Such a restriction gives her undo power. I have no desire to have any contact with her and do not see a reason for her to have knowledge as to when I visit my beach home.

I have a friend, Ronald Strayer, who lives in Salem, Oregon. Ron has been a very strong supporter for me during my time in prison and since my release. This restriction also prohibits me from visiting him either at his home in Oregon or at the Portland antique show without the same concerns as stated above.

Also, in my letter, dated October 27 and which is also attached hereto, such a restriction places my daughter, who is not biologically related to my ex-wife, who lives in Portland, in great stress. She will be unable to see me in Portland or at the beach home without my ex-wife knowing about this. This places great concern on her.

For all of the above reasons, this restriction does not meet any of the three conditions. I, therefore, am appealing the restriction and ask that it be immediately revoked in its entirety.

Sincerely,


Don Winton, DOC#308321
CC: CCO Lauren Knoblauch, w/o enclosures

DON WINTON
27740 10TH AVE S.
DES, MOINES, WA 98198
DOC #308321, Tel: 253-670-9193

October 27, 2014

Department of Corrections
Indeterminate Sentence Review Board
P.O. Box 40907
Olympia, WA 98504-0907

RE: My Recent Request to go to Portland

I am writing because I believe it is very important for me to discuss with you information regarding my recent request to go to the Palmer Wirfs Antique show at the Portland Expo center in Portland, Oregon. First, I want to say that I have learned in the SOTP therapy program at TRU that it is imperative that I be open, honest, and transparent in all of my dealings with DOC, with my friends, and with my family. That is exactly what I did in preparing and submitting my Safety Plan for this requested trip. I am enclosing a copy of my Safety Plan. You will see that I described in my plan that my primary purpose was to attend the antique show and to assist my close friend and supporter, Ron Strayer. As part of the trip, I was also planning on spending time with my daughter, Joelle Budinich. Although visiting with Joelle was not the primary purpose of my trip, it was definitely a part of the overall plan.

Apparently, because I was to travel through Clark County, my ex-wife, Danielle Ireland was sent a copy of the approved travel plan. Neither I, nor my daughter, were aware that Ms. Ireland would be given a detailed copy of the plan. Nor were we aware that Ms. Ireland would be informed that I would be seeing Joelle. This was a significant surprise to both of us.

Joelle received a telephone call from Ms. Ireland (Joelle's step-mother) on Thursday, October 23. Joelle tells me that this was the first communication between her and Ms. Ireland in the last four years. Joelle tells me that Ms. Ireland was verbally aggressive and demanded to know if "Don was coming to Portland to see Joelle". Joelle says she stated "no". Joelle tells me that the call ended at that time because Ms. Ireland received another call. Joelle called me immediately and told me what she had told Ms. Ireland. Joelle was in tears when she called me. I asked Joelle why she said "no" to the question. She stated that she was unwilling to suffer the negative consequences and the repercussions of going against Ms. Ireland's wishes. Joelle had previously told me that Ms. Ireland had told her a few years ago that if she ever found out the Joelle was communicating with her father that Ms. Ireland would make certain that Joelle would never have any communication with any of her three siblings ever again (Alexandre Ireland, Christina Sparker, and Cameron Cahoon).

In order to show you that I was open, honest, and transparent in my representation of seeing Joelle in Portland, I'm including the following text thread between Joelle and I. I have saved the text thread on my cell phone and am willing to show it to my CCO or any other DOC representative at any time:

Text from Joelle dated 10/22 7:25pm: "(1/2) Been trying to get a sec to call the last two days. Would like to try and align schedules for this wknd and discuss house stuffs."

Text from Joelle dated 10/22 7:25pm: "(2/2) When are you heading down here? Jah (*Note: Jah is Joelle's boyfriend*) and I have tom afternoon avail to walk the expo if that's an opt. Otherwise my next few days are pretty booked :-/"

Text from me to Joelle dated 10/22, 7:28pm: "I still don't know if I'll be allowed to come down. If they do let me, it will be only one day – Sunday. It's frustrating to me."

Text from me to Joelle dated 10/23, 11:35am: "I will be in Portland Sunday."

Text from Joelle dated 10/23 11:53am: "(1/2) Oh yah! That's fabulous news! Congratulations! I have the day avail to meet up and Jah said he will plan to come as well so u can meet him too! I saved u"

Text from Joelle dated 10/23 11:53am: "(2/2) the last few pcs of my raw superfood chocolate from the last batch in hopes I'd get to share with you!"

Joelle is very stressed over this unexpected conversation with Ms. Ireland. Joelle and I have worked hard over the last eighteen months to paste together our relationship which was broken due to my abuse of my step-daughter and niece. Joelle attended an SOTP family conference at TRU earlier this year and, on that same day, she met in the visit room with my therapist, Ursula Gaweda and I. I completed a therapeutic disclosure to her during that meeting. After that meeting, my relationship with my daughter improved. Joelle states that she has forgiven me and desires to repair the relationship. However, she had not previously communicated any of this to her step-mom nor to her siblings. She knows that none of them have forgiven me and she was trying not to damage her relationships with her siblings.

My CCO has told me that the ISRB intends to modify my release conditions to prohibit me from going to Portland without board approval. This is of great concern to both Joelle and I. This means that I will never be allowed to visit my own daughter without Ms. Ireland having full knowledge of this. I do not believe this will be healthy for either Joelle or myself. It will damage a relationship that Joelle and I are attempting to repair. Further, I believe that such an action by the ISRB places Ms. Ireland in a position of power and authority that she can use to manipulate Joelle into breaking off any contact with me. I believe that, although Ms. Ireland would tell you that she needs this protection from me, that what she is really seeking is a way to control Joelle and to make certain that I do not have any contact with the only child I have who is currently attempting to have a relationship with me. It also puts Ms. Ireland in a position to continue to punish me for the crimes I committed. She should not have the right to control or interfere with my relationship with my daughter. I urge the ISRB to not put such a restriction in place. It could be very disruptive to my relationship with my daughter.

Additionally, I ask the board to modify the existing condition that requires board approval for me to enter Clark County. My request is that I could be allowed to "travel through Clark County in order to get to Oregon with the approval of my CCO" (not the board). Naturally, the condition should make it clear that under no circumstances am I allowed to make any stops for any purpose as I travel through Clark County. This would allow me to further my relationship with my daughter without Ms. Ireland being notified.

In closing I want to say that I have completed the SOTP therapy at TRU and did well in that treatment program. I also had over seven years in confinement without a single infraction, not even a minor. This should help the board to see that I have learned to follow the rules. I hold no grudges against Ms. Ireland, any of my family members, any of Ms. Ireland's family members, or the victims. I have no desire to communicate with or see any of them. I will do everything possible to avoid contact with them. I represent no danger to any of them. In fact, I thank them for making certain that I was prosecuted for my crimes. I am a much better person today than I ever would have been had I not gone to prison and received treatment.

I simply ask that I be allowed the possibility of going to Oregon and passing (non-stop) through Clark County without Ms. Ireland being notified. This will significantly reduce the chances of there being any contact with Ms. Ireland and will improve the chances of Joelle and I being able to continue to mend our relationship. Thank you for your consideration of this request.

Sincerely,



Don Winton, DOC#308321

CC: CCO Lauren Knoblauch, w/o enclosures



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
PO BOX 40907 • Olympia Washington 98504-0907

IN THE MATTER OF:

Name: WINTON, Don
DOC#: 308321
County: Clark Cause #: 06-1-02237-8
Sentence Date/ Time Start: 10-23-07 TS 11-2-07
Maximum Expiration Date: Life

**ORDER OF
RELEASE AND CONDITIONS**

ADDENDUM #:

CCB Offenders
RCW 9.94A.507
(Formerly RCW 9.94A.712)

Additional conditions:

- a. You must not enter Skamania County or the state of Oregon north of Highway 20 without prior written approval of your CCO and the ISRB.

INDETERMINATE SENTENCE REVIEW BOARD

DocuSigned by:
Thomas N. Sahlberg

Member's signature:

10-24-2014

Date of Decision:

I have read, or have had read to me, the foregoing conditions of my community custody and have been given a copy; I fully understand and I agree, in consideration of granting of community custody, to observe and abide by such conditions. I FURTHER UNDERSTAND THAT I AM ALSO ON SUPERVISION FOR THE FOLLOWING CONVICTION(S) under: County: Cause #:

11/5/14
Date Served on Offender:

[Handwritten Signature]
Offender's signature:

Witness's signature:

**NOTICE OF RIGHT TO APPEAL A CONDITION OR CONDITIONS
RCW 9.94A.704 (10) (c)**

IN THE MATTER OF:

Offender: WINTON, Don
DOC #: 308321

The conditions of your release must reasonably relate to at least one of the following:

1. The crime of conviction;
2. Your risk to reoffend;
3. The safety of the community.

If you feel the conditions do not relate to the list above, you may file an appeal with ISRB under RCW 9.94A.704 (10) (c). To file an appeal, contact the ISRB with a written request that clearly states which condition(s) does not relate to the list above. Explain why you believe it is unrelated. Mail your appeal to the ISRB at PO Box 40907, Olympia, WA 98504-0907. **Appeals must be postmarked no later than one business day from the day you sign the Release Order and Conditions.** ISRB business days are Monday through Friday.

The ISRB will hold an Administrative Review of your appeal. The ISRB will notify you in writing with the results of the review.

IMPORTANT NOTE:

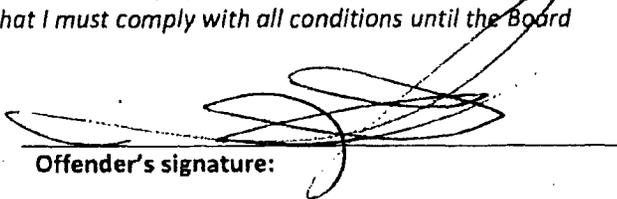
All conditions on the Release Order, including the condition(s) in question, will remain in effect until the ISRB rules on the Appeal request.

I have read, or have had read to me, this notice of my right to appeal a condition or conditions of my release. I understand that I have the right to appeal and that my appeal must be postmarked no more than one business day from today. I understand that I must comply with all conditions until the Board makes a decision regarding my appeal.

Date:

11/5/14

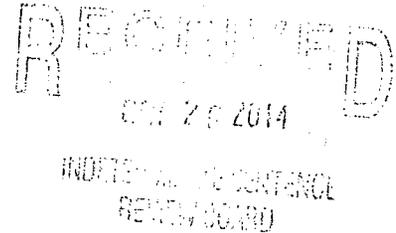
Offender's signature:



Don WINTON

Offender's Name

DON WINTON
27740 10TH AVE S.
DES, MOINES, WA 98198
DOC #308321, Tel: 253-670-9193



October 27, 2014

Department of Corrections
Indeterminate Sentence Review Board
P.O. Box 40907
Olympia, WA 98504-0907

RE: My Recent Request to go to Portland

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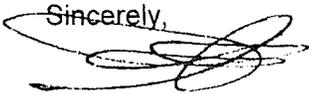
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Sincerely,


Don Winton, DOC#308321

CC: CCO Lauren Knoblauch, w/o enclosures

SAFETY PLAN

Name Dan Winton DOC# 308321 Request Date 10/16/14

Destination Address See Attached

Telephone Contact # 253-670-9193 (My Cell)

Departure Date 10/24/14 Time 1:00 PM

Return Date 10/26/14 Time 11:30 PM

Traveling Companion See Attached Official Sponsor? Yes No (circle)

Does this violate your Judgment & Sentence? No Yes If yes, STOP .. The plan will not be considered.

Others Attending (list age & gender of any minors):

See Attached

CCO's Name: Lauren Knoblauch CCO's Phone # 206-835-7480

Discussed plan with your CCO? Yes No (circle one) on 9/29/14 (date)

My next report date to my CCO is:

11/12/14

CCO's response:

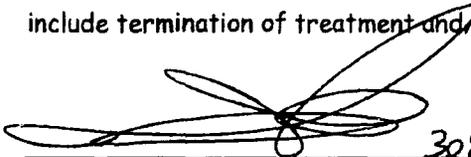
Talk to my therapist and submit Safety Plan

1. What do you want to do?
Attend the Palmer Wirts Antigue show and sale at the Portland Expo Center in Portland, Oregon. (More details in the attachment)

2. When do you want to do it and for how long?
Depart after group on Friday, October 24 and return after the show closes on Sunday, October 26. (More details in the attachment)

3. What are you risks associated with the activity?
See the attachment.

I understand by signing my name below, if I do not follow this Safety Plan as written, I can be sanctioned for failing to comply with Sex Offender Treatment Program as directed, which can include termination of treatment and/or confinement time.


_____ 308321 10/10/14

Client Signature & DOC #

Date

Therapist Signature

Date

CCO Signature

Date

Christine Palmer & ASSOCIATES

From the desk of Christine Palmer

Dear Don —

This is such great news.
It would be wonderful to
see you at the Oct. Show.
I updated your address
and phone for the day we
can send you a contract.

You must be so ready for
this!

— Chris

Exhibit 13



STATE OF WASHINGTON

**DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD**

P.O. BOX 40907, OLYMPIA, WA 98504-0907

July 21, 2016

Don Winton # 308321
27740 10th Ave S.
Des Moines, WA 98198

Mr. Winton,

I am in receipt of your letter dated June 29, 2016 in which you request that your condition that prohibits you from entering the city limits of Seattle, Washington be removed. In your letter you cite that the prohibition hinders your ability to purchase investment properties in the Seattle area and does not allow you to enjoy your personal interests of attending sporting events and experiencing other entertainment venues and restaurants in the city of Seattle.

The Board would like you to take notice that this same request was denied by the Board on July 29, 2015 and that the Board takes the same stance in regards to this request. Your release condition that prohibits your from entering the city limits of Seattle, Washington will remain as written.

You are encouraged to pursue investment properties, personal interest, entertainment, and restaurants in neighboring cities other than that of Seattle, Washington. Furthermore the Board will not continue to entertain future requests to change this prohibition unless there are significant changes in regards to the community concerns that exist in the city of Seattle.

You are encouraged to remain in compliance of the conditions of your supervision and to work with your Community Corrections Officer to continue to have a successful adjustment to community supervision.

Sincerely

Matt Frank
Hearing Investigator
Indeterminate Sentence Review Board
P.O. Box 40907
Olympia, WA 98504-0907

Cc: file

DON WINTON
27740 10TH AVE S.
DES, MOINES, WA 98198
DOC #308321, Tel: 253-670-9193

June 29, 2016

Department of Corrections
Indeterminate Sentence Review Board
P.O. Box 40907
Olympia, WA 98504-0907

RECEIVED

JUL 19 2016

Indeterminate Sentence
Review Board

308321

RE: Request for Modification of Order of Release and Conditions Addendum (Note: The form has no # on it)

I am writing to request a modification of the Order of Release and Conditions Addendum which modified my release conditions regarding entering the city limits of Seattle.

That order prohibits my entering the city of Seattle, King County, Washington without ISRB approval. My request is that this prohibition be deleted so that entering the city of Seattle is not prohibited.

I am not requesting any modification of the restrictions regarding contact with any of the individuals on the ISRB issued conditions regarding no contact with the listed people. I respect the decisions each of the people on the no contact list have made regarding wanting no contact with me. Their decisions were made due to my crimes and prior actions. I accept full responsibility for my actions and the decisions they have made. The people on my no contact list include the two victims [REDACTED] & [REDACTED], my two ex-wives (Debra Cahoon & Danielle Ireland), three of my adult children (Cameron Cahoon, Christina Sparker, & Alexandre Ireland), Russell Cahoon (husband of Debra), and Cassandra Cahoon (wife of Cameron).

If you approve my request, the following are actions I will take to assure that no contact is made with any of the individuals on the list: 1. I will make no attempt of any kind, either direct or indirect, to determine the address or location of any of the people on the list, 2. I will make no attempt, either direct or indirect, to make any contact with anyone on the no contact list, 3. I have not retained the address of any of these people, 4. My trips into the city of Seattle will be for specific purposes including specific locations (I will not be randomly cruising the streets), 5. If I am in any location where I see any of the people on the list, I will immediately leave that place and will not make contact, 6. In the event of any contact, I will promptly notify my CCO and disclose the contact.

The purpose of my request is two-fold. It involves both business purposes and personal interests. The business purposes involve my real estate investment business. I purchase investment properties. The city limits of Seattle contain some of the best real estate investment opportunities in King County. Areas such as Downtown Seattle, Ballard, Queen Anne, Capitol Hill, First Hill, Green Lake, West Seattle, Northgate, North Seattle, and the University District are areas where there is the best opportunity to invest in quality property. When these investments come up for sale, it is critical to tour them immediately and make an offer. Even waiting two or three days can be the difference between an opportunity to make a purchase and them already being in escrow with someone else. Additionally, my CPA that I have used for nearly 40 years has offices in North Seattle near Northgate. The real estate attorneys I have used for most of this same time period have offices in downtown Seattle. Lastly, the bankers and mortgage brokers I have historically used have offices in downtown Seattle. The inability to go to their offices on short notice has caused some difficulties for me.

As to personal interests, I am a sports fan and have historically attended numerous sporting events. I have a desire to attend Seahawk games, Mariners games, Sounders games, and University of Washington football games. I understand that I would need to have approved Safety Plans in place with my CCO before

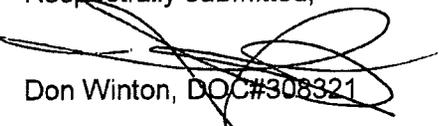
I could attend any of these games. I am willing to prepare such plans. There are also other community resources in Seattle that I would like to attend such as off Broadway plays and concerts at the Paramount, eating in quality restaurants in downtown Seattle, taking the Fauntleroy Ferry to Vashon Island, etc. I miss all of these social outings very much and would like to participate in them again. The City of Seattle is a beautiful city with so many things to do.

I have worked hard since participating in SOTP at TRU and during my community custody time to follow all restrictions and to have a successful return to society. My conditional freedom is very important to me and I take it very seriously. In this respect, it is my intent to fully comply with all of the terms and conditions of my release. I value my freedom very much. If you are willing to eliminate this restriction, you will find that I will fully comply with all terms of the modified plan just as I have complied with all of the conditions and restrictions of my release. I have been released for more than 21 months now and have a 100% compliance record. I am working very hard to be an example of full compliance and this is very important to me.

I can also assure you that I have not and will not, under any circumstances, make any attempt to contact either victim or any of the people on the no-contact list. I have caused enough pain in their lives by my prior offenses and actions. I understand that they have chosen to have no contact with me and I accept and respect their decisions. I caused them to make their decisions by my prior actions.

Having said all of the above, I respectfully request that you modify the Request for Modification of Order of Release and Conditions to drop the requirement of ISRB approval for me to enter the city limits of Seattle.

Respectfully submitted,



Don Winton, DOC#308321

Cc: CCO Amber Siedle

Exhibit 14

DON WINTON
27740 10TH AVE S.
DES, MOINES, WA 98198
DOC #308321, Tel: 253-670-9193

RECEIVED
MAY 31 2017
Indeterminate Sentence
Review Board

May 24, 2017

Department of Corrections
Indeterminate Sentence Review Board
P.O. Box 40907
Olympia, WA 98504-0907

RE: Order of Release and Conditions Addendum# (Note: The form has no # on it)

Today, May 24, 2017, I was asked to sign the attached Order of Release and Conditions Addendum. I did not sign the order. Instead I wrote an objection on the form.

That addendum attempts to add a new condition to my release as follows: "a. You must submit to periodic and random drug and/or alcohol monitoring through an agency approved by your CCO and sign a full release of information allowing the treatment or monitoring agency to release information to your CCO and the Indeterminate Sentence Review Board (ISRB)"

I object on the basis that the sentencing judge ruled specifically regarding this matter when he executed my Judgement and Sentence. I call your attention to Page 3, Paragraph 2.6 of the Judgement and Sentence (attached hereto) which indicates that Appendix A is added to the Judgement and Sentence. On Appendix A, Page 6, please note that the item regarding UA's was specifically deleted. This was a negotiated item with the sentencing judge and the district attorney. It was not done by accident nor without great consideration by all parties involved. Your action is in direct conflict with the order signed by the sentencing judge and agreed to by the district attorney. Although the power and authority of the ISRB is extensive, the authority to directly overrule the sentencing judge falls outside those boundaries.

Additionally, I object on the basis that said condition does not reasonably relate to any of the following:

1. "The Crime of Conviction". The judge and district attorney, prior to striking this item, determined that neither alcohol nor drug use had any bearing on my crime. Thus, they deleted the requirement to submit to UA's.
2. "Your risk to reoffend". I have no history of drug or alcohol abuse. They were not a part of my crime and thus are not a factor regarding the likelihood of reoffending.
3. "The safety of the community". Again, I have no history of drug or alcohol abuse and have no history of harming the community other than in relationship to the crime of conviction.

In addition to the above, the ISRB, in 2015, confirmed to my CCO, Jermaine Castillo, and subsequently to my CCO, Amber Siedle, that I had no restrictions requiring that I submit to periodic UA's. The ISRB is now reversing itself and is doing so even though I have had a perfect track record during my community custody time period.

The addition of this new restriction is totally without merit, overrules the sentencing judge, and is, therefore, outside the parameters of the ISRB's authority.

For all of the above reasons, this restriction does not meet any of the conditions that must be met in order to be placed in effect. I, therefore, am appealing the restriction and ask that it be immediately revoked in its entirety.

Sincerely,

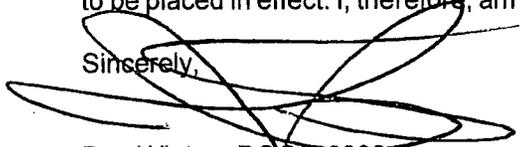

Don Winton, DOC#308321
CC: CCO Jermaine Castillo, w/o enclosures, via email

Exhibit 14



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

July 7, 2017

Winton, Don #308321
27740 10th Ave S.
Des Moines, WA 98198

Mr. Winton,

The Indeterminate Sentence Review Board (ISRB) is in receipt of your letter dated May 24, 2017 wherein you note objection to the ISRB Order of Release and Conditions Addendum #a dated May 11, 2017 which states:

- a. You must submit to periodic and random drug and/or alcohol monitoring through an agency approved by your CCO and sign a full release of information allowing the treatment or monitoring agency to release information to your CCO and the Indeterminate Sentence Review Board (ISRB).

You further state that the restriction is "...totally without merit, overrules the sentencing judge, and is therefore outside of the parameters of the ISRB's authority."

Please note that pursuant to your Judgment and Sentence #06-1-02237-8 the Sentencing Court, (Section 4.6 (4)) orders you to not consume controlled substances except pursuant to lawfully issued prescriptions. Section 4.6 also notes that the "Defendant shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections".

Additionally, the ISRB Order of Release and Conditions Addendum as noted above is allowed, supported, and required by RCW 9.94A.704. Be advised that the above noted condition of supervision as well as any other conditions as ordered by the Courts and/or ISRB are in full effect.

It is further emphasized that subsequent to your release to parole on September 29, 2014 the Board found you releasable with conditions. As noted in your Order of Release and Supervision Conditions, the ISRB expects compliance with all conditions and your full cooperation with your DOC Community Corrections Officer (CCO). Failure to comply with your conditions of release may jeopardize your ability to remain in the community.

You are encouraged to continue to work with your CCO in hopes that you maintain and achieve successful adjustment to community supervision and integration.

Sincerely

Matt Frank
Hearing Investigator
Indeterminate Sentence Review Board
P.O. Box 40907
Olympia, WA 98504-0907

Cc: file



STATE OF WASHINGTON
 DEPARTMENT OF CORRECTIONS
 INDETERMINATE SENTENCE REVIEW BOARD
 PO BOX 40307 • Olympia, Washington 98504-0307

IN THE MATTER OF:

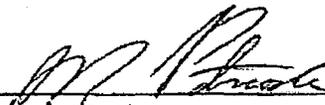
Name: WINTON, Don
 DOC#: 308321
 County: Clark Cause #: 06-1-02237-8
 Sentence Date/ Time Start: 10-23-07 TS 11-2-07
 Maximum Expiration Date: Life

ORDER OF
 RELEASE AND CONDITIONS
 ADDENDUM #:
 CCB Offenders
 RCW 9.94A.507
 (Formerly RCW 9.94A.712)

Additional conditions:

- a. You must submit to periodic and random drug and/or alcohol monitoring through an agency approved by your CCO and sign a full release of information allowing the treatment or monitoring agency to release information to your CCO and the Indeterminate Sentence Review Board (ISRB).

INDETERMINATE SENTENCE REVIEW BOARD


 Member's signature:

5-11-2017

Date of Decision:

I have read, or have had read to me, the foregoing conditions of my community custody and have been given a copy; I fully understand and I agree, in consideration of granting of community custody, to observe and abide by such conditions. I FURTHER UNDERSTAND THAT I AM ALSO ON SUPERVISION FOR THE FOLLOWING CONVICTION(S) under: County: Cause #:

This order overrules and conflicts directly with the terms & conditions of my J&S
 Offender's signature:

Date Served on Offender:

Witness's signature:

** The board is acting outside of its authority by overruling the sentencing judge*

PHELAN

FILED

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OCT 23 2007

Sherry W. Parker, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v.

DON WESLEY WINTON,

Defendant.

SID:

DOB: [REDACTED]

No. 06-1-02237-8

**FELONY JUDGMENT AND SENTENCE
(JS)**

**PRISON - COMMUNITY
PLACEMENT/COMMUNITY CUSTODY**

**NON PERSISTENT OFFENDER -
RCW 9.94A.712**

Clerk's Action Required; Paragraph 4.5
(SDOSA), 4.2, 5.3, 5.6 and 5.8

I. HEARING

07-9-06913-4

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 July 5, 2007
by plea jury-verdict bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
01	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083	1/1/1999 to 8/31/2001
02	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083	9/1/2001 to 8/7/2004
03	CHILD MOLESTATION IN THE THIRD DEGREE	9A.44.089	7/2/2000 to 7/1/2002

as charged in the Amended Information.

Additional current offenses are attached in Appendix 2.1.

The Court finds that the defendant is subject to sentencing under **RCW 9.94A.712** as to Count 2.

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H

- A special verdict/finding that the offense was **predatory** was returned on Count(s) _____. RCW 9.94A.____.
- A special verdict/finding that the **victim was under 15 years of age** at the time of the offense was returned on Count(s) _____ RCW 9.94A.____.
- A special verdict/finding that the **victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult** at the time of the offense was returned on Count(s) _____ RCW 9.94A.____, 9A.44.010.
- A special verdict/finding of **sexual motivation** was returned on Count(s) _____ 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.
- A special verdict/finding for **use of firearm** was returned on Count(s) _____ RCW 9.94A.602, 510
- A special verdict/finding for **use of deadly weapon other than a firearm** was returned on Count(s) _____ RCW 9.94A.602
- A special verdict/finding for **Violation of the Uniform Controlled Substances Act (VUCSA)** was returned on Count(s) _____, RCW 69.50.401 and RCW 69.50.435, taking 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.
- A special verdict/finding that 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** was returned on Count(s) _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- The court finds that the offender has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- The crimes charged in Count(s) _____ is/are **Domestic Violence** offense(s) as that term is defined in RCW 10.99.020:
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are Count(s) _____. RCW 9.94A.589
- Additional misdemeanor crime(s) pertaining to this cause number are contained in a separate Judgment and Sentence.
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____.

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	Ad. J. Adult, Juv.	TYPE OF CRIME
No known felony convictions					

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525
- The court finds that the following prior convictions are one offense for purposes of determining the offender score RCW 9.94A.525: _____
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520: _____
- The State has moved to dismiss count(s) _____.
- The defendant is found NOT GUILTY of Counts _____.

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
01	6	X	98 MONTHS to 130 MONTHS		98 MONTHS to 130 MONTHS	LIFE \$50,000
02	6	X	98 MONTHS to 130 MONTHS		98 MONTHS to 130 MONTHS	LIFE \$50,000
03	6	V	41 MONTHS to 54 MONTHS		41 MONTHS to 54 MONTHS	5 YEARS \$10,000

* (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).

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

- 2.4 **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence above within below the standard range for Count(s) _____.
- The defendant and the 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 to by the defendant, admitted by the defendant in the guilty plea, found by the court after the defendant waived jury trial, found by jury by special Interrogatory.
 - The defendant stipulates and waives his right to have a jury determine any issues regarding the imposition of an exceptional sentence upward. *Apprendi v. New Jersey*, 530 U.S. 466, 120 S. Ct 2348, 147 L. Ed 2d 435 (2000), *Blakely v. Washington*, ___ U.S. ___, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004).
 - 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 **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.750/753.

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

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

Appendix A

If no formal written plea agreement exists, the agreement is as set forth in the Defendant's Statement on Plea of Guilty.

III. JUDGMENT

- 3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.
- 3.2 The Court DISMISSES Counts _____
 The defendant is found NOT GUILTY of Counts _____
- 3.3 There do do not exist substantial and compelling reasons justifying an exceptional sentence outside the presumptive sentencing range.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

RTN/RJN	\$ 5,198.00 \$4,116.50 529 5196 -	Restitution to be paid to: CVCP \$550.84; Danielle Winton \$ 4,045.16 \$5455.16 <input type="checkbox"/> Victim(s) and amounts to be set by separate court order	RCW 9.94A.750/.753
PCV	\$ 500.00	Victim Assessment	RCW 7.68.035
	\$ _____	DV Penalty Assessment	RCW 10.99.080
CRC		Court Costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
FRC	\$ 200.00	Criminal filing fee	RCW 9.94A.505
WFR	\$ _____	Witness costs	RCW 10.01.160 and RCW 2.40.010
SFR/SFS/SFW/WRF	\$ _____	Sheriff Service Fees	RCW 10.01.160 and 36.18.040
JFR	\$ _____	Jury Demand Fee \$ 250.00	RCW 10.01.160 and 10.46.190
EXT	\$ _____	Extradition costs	RCW 9.94A.505
	\$ _____	Other Costs _____	RCW 9.94A.760
PUB	\$ _____ \$ _____	Fees for court appointed attorney Trial per diem if applicable	RCW 9.94A.505/.760/.030
WFR	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.505, .760, 9.94A.030
FCM/MTH	\$ 500.00	Fine	RCW 9A.20.021

CDF/LDI/FCD/ NTF/SAD/SDI	\$ _____	Drug fund contribution to be paid within two (2) years Fund # <input type="checkbox"/> 1015 <input type="checkbox"/> 1017 (TF)	RCW 9.94A.760
CLF	\$ _____	Crime lab fee - <input type="checkbox"/> Suspended due to Indigency	RCW 43.43.690
	\$ 100.00	Felony DNA Collection fee (for crimes committed on or after July 1, 2002)	RCW 43.43.7541
RTN/RJN	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum) To: _____ (List Law Enforcement Agency)	RCW 38.52.430
	\$ _____	Other Costs for: _____	RCW 9.94A.760

- The above financial obligations do not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.750/753. A restitution hearing:
 - shall be set by the prosecutor
 - is scheduled for _____
 - The defendant has stipulated that restitution shall include loss of wages, costs of counseling, and other related expenses for the victim and their immediate family as a result of the criminal acts.
 - Restitution ordered above shall be joint and several with the co-defendants listed in the Information or identified below: _____
 - The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602
 - All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$100.00 per month commencing immediately. RCW 9.94A.760
 - The defendant shall report as directed by the Superior Court Clerk and provide financial information as requested. RCW 9.94A.760(7)(b). The defendant shall report in person no later than the close of business on the next working day after the date of sentencing or release from custody. A map has been provided to the defendant showing the location of the Superior Court Clerk Collections Unit, 500 West 8th Street, Suite 50, Vancouver, Washington. The defendant must report any changes in address and phone numbers to the Collections Unit within 72 hours of moving.
 - In addition to the other costs imposed herein, the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate of \$ _____. (JRL) 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. The defendant shall pay the cost of services to collect unpaid legal financial obligations. This is an annual fee which will be automatically renewed until financial obligations are completed. RCW 9.94A.780 and RCW 36.18.190
- 4.2 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,

the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

- HIV TESTING. The defendant shall be tested and counseled for HIV as soon as possible and the defendant shall fully cooperate in the testing and counseling. RCW 70.24.340.

Failure to provide the DNA/HIV testing sample is a violation of the Judgment and Sentence and a warrant may be issued to compel compliance.

4.3 The defendant shall not have contact with G L D (female, [redacted]), A L W (female, [redacted]) including, but not limited to, personal, verbal, telephonic, electronic, written or contact through a third party for **GLD - LIFE** years (not to exceed the maximum statutory sentence). Any modifications of this order must occur by further order of the court after an appropriately scheduled hearing with notice to all parties and only after the defendant has secured a recommendation of approval, in writing, from the community corrections officer and the therapist. This condition applies during any period of incarceration.

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

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 OTHER:

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

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

98 days/months on Count 01

44 days/months on Count 03

Actual number of months of total confinement ordered is: 98
(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm, other deadly weapon, or sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

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:

Confinement shall commence immediately unless otherwise set forth here: _____

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

COUNT	Minimum Term	Maximum Term
02	90	4.90

(c) The defendant shall receive credit for time served of 110 days, that confinement being solely under this cause number. RCW 9.94A.505.

Credit for 110 days time served prior to this date is given, said confinement being solely related to the crimes for which the defendant is being sentenced.

4.6 COMMUNITY PLACEMENT is ordered on Counts _____ for _____ months

COMMUNITY CUSTODY for count 2 sentenced under RCW 9.94A.712 is ordered for any period of time the Defendant is released from total confinement before the expiration of the maximum sentence.

COMMUNITY CUSTODY is ordered on Counts 1 and 2 for a range from 36 to 16 months months or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and Count II (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700 and .705 for community placement offenses, which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and Chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 committed before July 1, 2000. See RCW 9.94A.715 for community custody range offenses, which include sex offenses not sentenced under RCW 9.94A.712 and violent offenses committed on or after July 1, 2000. Use paragraph 4.7 to impose community custody following work ethic camp.] Life Court TP

On or after July 1, 2003, DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories; or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

a) the defendant committed a current or prior:		
i) Sex offense	ii) Violent offense	iii) Crime against a person (RCW 9.94A.411)
iv) Domestic violence offense (RCW 10.99.020)		v) Residential burglary offense
vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine		
vii) Offense for delivery of a controlled substance to a minor; or attempt, solicitation or conspiracy (vi, vii)		
b) the conditions of community placement or community custody include chemical dependency treatment.		
c) the defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745.		

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at Department of Corrections-approved education, employment and/or community service; (3) 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 in community custody; (6) pay supervision fees as determined by the Department of Corrections; (7) perform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections and (8) for sex offenses, submit to electronic monitoring if imposed by Department of Corrections. 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 not sentenced under RCW 9.94A.712 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's conditions of Community Placement/Community Custody include the following:

- The defendant shall not consume any alcohol.
- Defendant shall have no contact with _____

- Defendant shall remain within the prescribed geographical boundary specified by his community corrections officer.
- 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
- For Sentences imposed under RCW 9.94A.712, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by the Department of Corrections. Emergency conditions shall not remain in effect longer than seven working days unless approved by the Indeterminate Sentence Review Board pursuant to law. RCW 9.94A.713.
- Other conditions may be imposed by the court or Department during community custody, or are set forth here:
-
- The conditions of community supervision/community custody shall begin immediately or upon the defendant's release from confinement unless otherwise set forth here:
-
- Defendant shall not violate any federal, state or local criminal laws, and shall not be in the company of any person known by him/her to be violating such laws.
- Defendant shall not commit any like offenses.
- Defendant shall notify his/her community corrections officer within forty-eight (48) hours of any arrest or citation.
- Defendant shall not initiate or permit communication or contact with persons known to him/her to be convicted felons, or presently on probation, community supervision/community custody or parole for any offense, juvenile or adult, except immediate family or as authorized by his/her community corrections officer for treatment/housing purposes. Additionally, the defendant shall not initiate or permit communication or contact with the following persons:
-
- Defendant shall not have any contact with other participants in the crime, either directly or indirectly.
- Defendant shall not initiate or permit communication or contact with persons known to him/her to be substance abusers.
- Defendant shall not possess, use or deliver drugs prohibited by the Uniform Controlled Substances Act, or any legend drugs, except by lawful prescription. The defendant shall notify his/her community corrections officer on the next working day when a controlled substance or legend drug has been medically prescribed.
- Defendant shall not possess or use any paraphernalia that can be used for the ingestion or processing of controlled substances or that can be used to facilitate the sale or transfer of controlled substances including scales, pagers, police scanners, and hand held electronic scheduling and data storage devices.
- Defendant shall not frequent known drug activity areas or residences.
- Defendant shall not use or possess alcoholic beverages at all to excess.
- The defendant will will not be required to take monitored antabuse per his/her community corrections officer's direction, at his/her own expense, as prescribed by a physician.
- Defendant shall not be in any place where alcoholic beverages are sold by the drink for consumption or are the primary sale item.

- Defendant shall undergo an evaluation for treatment for substance abuse mental health anger management treatment parenting program and fully comply with all recommended treatment.
- Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a substance abuse mental health anger management treatment parenting program as established by the community corrections officer and/or the treatment facility.
- Defendant shall participate in a domestic violence perpetrator program as approved under RCW 26.50.150 and fully comply with all recommended treatment. RCW 9.94A.505 (11).
- Based upon the Pre-Sentence Report, the court finds reasonable grounds to exist to believe the defendant is a mentally ill person, and this condition was likely to have influenced the offense. Accordingly, the court orders the defendant to undergo a mental status evaluation and participate in outpatient mental health treatment. Further, the court may order additional evaluations at a later date, if deemed appropriate.
- Treatment shall be at the defendant's expense and he/she shall keep his/her account current if it is determined that the defendant is financially able to afford it.
- Defendant shall submit to urine, breath or other screening whenever requested to do so by the treatment program staff and/or the community corrections officer.
- Defendant shall not associate with any persons known by him/her to be gang members or associated with gangs.
- Defendant shall not wear or display any clothing, apparel, insignia or emblems that he/she knows are associated with or represent gang affiliation or membership as determined by the community corrections officer.
- Defendant shall not possess any gang paraphernalia as determined by the community corrections officer.
- Defendant shall not use or display any names, nicknames or monikers that are associated with gangs.
- Defendant shall comply with a curfew, the hours of which are established by the community corrections officer.
- Defendant shall attend and successfully complete a shoplifting awareness educational program as directed by the community corrections officer.
- Defendant shall attend and successfully complete the Victim Awareness Educational Program as directed by the community corrections officer.
- Defendant shall not accept employment in the following field(s):
-
- Defendant shall not possess burglary tools.
- Defendant shall not possess ammunition or deadly weapons. The community corrections officer shall determine what meets the definition of a deadly weapon for supervision purposes.
- Defendant's privilege to operate a motor vehicle is suspended/revoked for a period of one year; two years if the defendant is being sentenced for a vehicular homicide.
- Defendant shall not operate a motor vehicle without a valid driver's license and proof of liability insurance in his/her possession.
- Defendant shall not possess a checkbook or checking account.

- Defendant shall not possess any type of access device or P.I.N. used to withdraw funds from an automated teller machine.
- Defendant shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections.
- Defendant shall not be eligible for a Certificate of Discharge until all financial obligations are paid in full and all conditions/requirements of sentence have been completed including no contact provisions.
- Defendant 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.
- Defendant shall not have any contact with minors. Minors mean persons under the age of 18 years. 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.
- Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a Washington State certified sexual deviancy treatment program as established by the community corrections officer and/or the treatment facility. Defendant 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 or community corrections officer object to the change. "Cooperate with" means the defendant shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity. The sex offender therapist shall submit quarterly reports on your progress in treatment to the court, Department of Corrections, and prosecutor and the defendant shall execute a release of information to the community corrections officer, Prosecuting Attorney 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, the defendant's compliance with requirements, treatment activities, and relative progress in treatment.
- Defendant shall, at his/her own expense, submit to periodic polygraph examinations at the direction of his/her community corrections officer and/or Prosecuting Attorney to ensure compliance with the conditions of community placement/custody. This shall occur no less than twice yearly. Copies of the examination results 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.
- Defendant shall, at his own expense, submit to periodic plethysmograph examinations at the direction of his/her community corrections officer to ensure compliance with the conditions of community placement/custody. Copies of the examination results shall be provided to the Prosecuting Attorney's office upon request.
- Defendant shall not possess or use any pornographic material, defined as any pictorial material displaying direct physical stimulation of unclothed genitals, masturbation, sodomy (i.e. bestiality or oral or anal intercourse), flagellation or torture in the context of a sexual relationship, or emphasizing the depiction of adult or child human genitals: provided however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition as defined in RCW 9.68.130(2). or any equipment of any kind used for sexual gratification and defendant shall not frequent establishments that provide such materials or equipment for view or sale.
- Defendant shall sign necessary release of information documents as required by the Department of Corrections.

- Defendant shall adhere to the following additional crime-related prohibitions or conditions of community placement/community custody: As listed in the attached Department of Corrections "Appendix F" and the Prosecutor's Pretrial Offer Appendix "A" and as determined by the Department of Corrections.

- 4.7 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limit to the defendant while under the supervision of the County Jail or Department of Corrections:
-
- 4.8 The Bail or release conditions previously imposed are hereby exonerated and the clerk shall disburse it to the appropriate person(s).
- 4.9 This case shall not be placed on inactive or mail-in status until all financial obligations are paid in full.
- 4.10 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 can conduct searches of the defendant's person, residence, automobiles 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 and possessed by the defendant.
- 4.11 Other:
-

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion 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, must be filed 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** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten (10) years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her 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 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 may be taken without further notice. RCW 9.94A.7606
- 5.4 **RESTITUTION HEARING.**
 Defendant waives any right to be present at any restitution hearing (sign initials): _____
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634
- 5.6 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk 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, 9.41.047

Cross off if not applicable:

5.7 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, 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. (Effective September 1, 2006) 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. If you are enrolled on September 1, 2006, you must notify the sheriff immediately. 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 5 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).

5.8 The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The court clerk is directed to immediately punch the defendant's Washington Driver's license or permit to drive with a "C" as directed by the Department of Licensing pursuant to RCW 46.20.270. The clerk of the court is further directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.

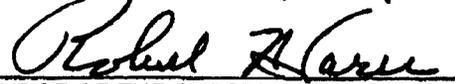
5.9 If the defendant is or becomes subject to a court-ordered mental health or chemical dependency treatment, the defendant must notify the Department of Corrections and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

5.10 Persistent Offense

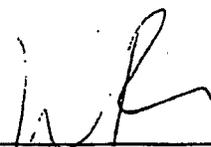
- The crime(s) in count(s) 01, 02 is/are "most serious offense(s)." Upon a third conviction of a "most serious offense", the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.030 (28 & 32(a)), 9.94A.505
- The crime(s) in count(s) _____ is/are one of the listed offenses in RCW 9.94A.030 (32)(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.

5.11 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: 23 Oct 2007


JUDGE OF THE SUPERIOR COURT

Print Name: Robert A. Hanes


Kimberly R. Farr, WSBA #08728
Deputy Prosecuting Attorney


Thomas C. Phelan, WSBA #11373
Attorney for Defendant


DON WESLEY WINTON
Defendant

SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK
STATE OF WASHINGTON, Plaintiff,

v.
DON WESLEY WINTON,
Defendant.

SID:
DOB: [REDACTED]

NO. 06-1-02237-8

**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	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083	1/1/1999 to 8/31/2001
02	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083	9/1/2001 to 8/7/2004
03	CHILD MOLESTATION IN THE THIRD DEGREE	9A.44.089	7/2/2000 to 7/1/2002

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	Minimum Term	Maximum Term
-------	-------	--------------	--------------

01	CHILD MOLESTATION IN THE FIRST DEGREE		28
02	CHILD MOLESTATION IN THE FIRST DEGREE	28	LIFE
03	CHILD MOLESTATION IN THE THIRD DEGREE		44

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

The defendant has credit for 110 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.

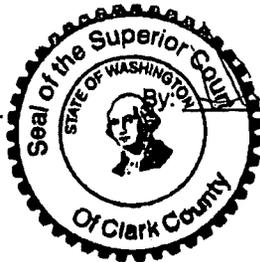
WITNESS, Honorable

Robert H. ...

JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE:

Oct 23 2007

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



Robert H. ...
Deputy

VOTING RIGHTS STATEMENT: I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: 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 9A.84.660.

Defendant's signature: [Signature]

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 W. 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.

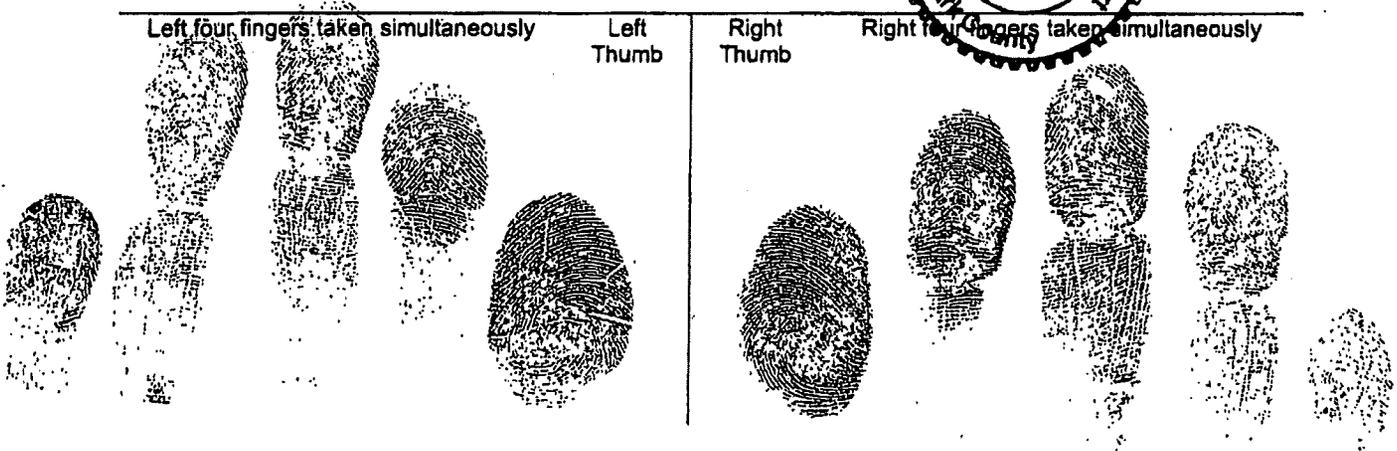
WITNESS my hand and seal of the said Superior Court affixed this date: October 25, 2007
 Clerk of said County and State, by: Marlene S. Dodge Deputy Clerk

IDENTIFICATION OF DEFENDANT DON WESLEY WINTON	
SID No. (If no SID take fingerprint card for State Patrol)	Date of Birth [REDACTED]
Race: W	Sex: M
Driver License No. [REDACTED]	Driver License State: WA
FBI No.	Local ID No. (CFN):
Alias name, SSN, DOB:	Corrections No.
Other	



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: [Signature]
 Dated: Oct 23, 2007

DEFENDANT'S SIGNATURE: [Signature]



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**APPENDIX "A"
(9.94A.712)**

For the following crimes which occurred after September 1, 2001: Rape I, Rape II, Rape Child I, Rape Child II, Child Molest I, Indecent Liberties (w/force) and the following crimes if charged with Sexual Motivation: Kidnap I, Kidnap II, Assault I, Assault II, Assault Child I or an attempt to commit any of the above.

STATE v.**DON WESLEY WINTON****CAUSE NUMBER:****06-1-02237-8****DATE:**6-14-07**PROSECUTOR:****Kimberly R. Farr, WSBA# 08728**

The state makes the following Offer of Settlement. In accepting this offer, the defendant is agreeing to stipulate to its terms, unless otherwise noted. It is based on the attached State of Washington Declaration of Criminal History which the defendant stipulates is accurate, true and complete. It may be withdrawn at any time prior to the entry of a guilty plea, or it otherwise expires on: 7-3-07 It supersedes any previous offer made in this case. Failure of the defendant to declare disputed criminal history or to disclose additional criminal history renders this offer null and void.

Should the defendant wish to accept the following offer, this form shall be attached to the Statement of the Defendant of Plea of Guilty and Judgment and Sentence:

THE FOLLOWING IS THE STIPULATION OF PROSECUTION AND DEFENSE ATTORNEY:

PRETRIAL OFFER - 1

Revised: June 14, 2007

(1) Should the Defendant plead guilty to: Amended Information

CT I = Child Molest I (MULTIPLE OCCASIONS) - VICT: G.L.D.

1-1-99 to 8-31-01

CT II = Child Molest I (MULTIPLE OCCASIONS)

VICT: G.L.D.

9-1-01 to 8-7-04

CT III = Child Molest III (MULTIPLE OCCASIONS) - VICT: ALD.

7-2-00 to

7-1-02

	OFFENDER SCORE	SERIOUSNESS LEVEL	MINIMUM STANDARD RANGE SENTENCE	MAXIMUM TERM SENTENCE
Count 1:	<u>6</u>	<u>X</u>	<u>98-130</u>	<u>LIFE</u>
Count 2:	<u>6</u>	<u>X</u>	<u>98-130</u>	<u>LIFE</u>
Count 3:	<u>6</u>	<u>V</u>	<u>41-54</u>	<u>FIVE YEARS</u>
Count 4:				

The defendant shall also be sentenced to Community Custody under the supervision of the Department of Corrections and the ISRB for any period of time the person is released from confinement before the expiration of the maximum sentence.

(2) then the State and the defense stipulate that the sentence shall be:

- sentencing within the standard range
- remain free to recommend any sentence
- that sentence shall be _____
- The State shall remain free to recommend any sentence, but the Defense may argue for SSOSA with the following stipulated preconditions:

- A) The Court finds the defendant amenable to treatment and safe to be at large after a state licensed sexual offender treatment evaluation, which shall include in addition to the requirements of RCW 9.94A.670(3), the full polygraph report (on the issue of full disclosure and other child victims). A plethysmograph may be included if requested by the evaluator. Failure to provide a full disclosure polygraph will result in the State exercising its right pursuant to RCW 9.94A.670(4) to demand a second evaluation.
- B) Defense shall provide to the Prosecutor's Office, no later than 7 days prior to sentencing:
 - a complete SSOSA evaluation

PRETRIAL OFFER - 2

Revised: June 14, 2007

- the full polygraph report
- pre- and post-test polygraph interview
- the sexual history questionnaire and responses
- any and all other documents as requested by the State.

C) The defendant shall sign the attached Waiver of Confidentiality Regarding Sex Offender Evaluation at the time of plea of guilty.

D) If the SSOSA option is used, the parties stipulate to 130 months of the above-listed standard range in prison suspended upon successful entry and completion of all phases of a state licensed sex offender treatment program, to be entered into by the sentencing date if out of custody, or within 30 days of release from custody.

E) 180 days of local jail to be served: **STIPULATED**

- straight time
- work release (if qualified and accepted)

F) The State reserves the right pursuant to RCW 9.94A.670(4) to request a second SSOSA evaluation. If the State makes such a request, the defense stipulates such evaluation shall include a full disclosure polygraph.

G) Filing Fee \$ 200.00 (unless case filed prior to 7/24/05, then \$110.00)

Victim's Comp. Fee:	\$ 500.00
Court Appointed Attorney Fee:	\$ TO BE SET
Court Appointed Investigator Fee:	\$ TO BE SET
Restitution for Victim:	\$ TO BE SET
Rape Exam (if applicable)	\$ TO BE SET
SSOSA Evaluation Fee:	\$ TO BE SET
Fine	\$ 500.00
Sheriff's Office Service Fee:	\$ TO BE SET
DNA Sample Fee:	\$100.00
Other: _____	\$
_____	\$

H) The Defendant shall follow all conditions as set by the Pre-Sentence Investigator and the SSOSA evaluator, that do not conflict with conditions of supervision/community custody as set forth herein.

- 1) Should additional criminal history be discovered prior to sentencing, the Defendant stipulates to the higher standard ranges and the alteration to this recommendation.
- (3) Should the defendant be placed on any release conditions prior to sentencing and violate any of those conditions then the State's above offer is null and void, and the State shall be free to make any recommendation.
- (4) Defense stipulates to a waiver of RCW 9.94A.753 for the setting of restitution and waives the defendant's presence at a restitution hearing. This stipulation of restitution shall include loss of wages, costs of counseling, and other related expenses for the victim and their immediate family as a result of this criminal act. The hearing shall consist of documents, affidavits, and argument only, pursuant to ER 1101.
- (5) By accepting this offer, the defendant stipulates to the conditions as set forth herein of the conditions of sentence/community custody and/or supervision.
- (6) This stipulated agreement and recommendation is binding on the Prosecuting Attorney, the Defense Attorney, and the defendant only, and shall not bind any investigating officer.
- (7) The defense shall only use the Statement of Defendant on Plea of Guilty form as indicated by the Child Abuse Intervention Center. (If you need a copy of this form, please contact the Child Abuse Intervention Center at (360) 397-8002).
- 8) THE DEFENDANT SHALL PAY RESTITUTION FOR ANY COUNSELING OF G.L.D., A.L.D. (VICTIMS) AND ALSO FOR SON A.W. AND DANIELLE WINTON, BASED UPON THE DEFENDANT'S ACTION IN THESE CHARGES
- 9) THERE SHALL BE AN AVERSED NO-CONTACT ORDER BETWEEN THE DEFENDANT AND VICTIMS, THE COURT SHALL DETERMINE IF THE NO-CONTACT SHOULD EXTEND TO OTHERS
- 10) THE DEFENDANT SHALL ADMIT TO FACTS AMOUNTING TO RAPE OF G.L.D. and A.L.D. THOUGH THE CHARGES SHALL REMAIN INDIST.

PRETRIAL OFFER - 4

Revised: June 14, 2007

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"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 years, 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, ~~yards~~ or any areas routinely used by minors as areas of play/recreation. LF
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.

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- 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, ammunition, or deadly weapon. Your community corrections officer shall determine what those deadly weapons are.

- ~~KCF 14. You shall not possess or consume alcohol.~~
- ~~KCF 15. You shall submit to urine, breath, or other screening whenever requested to do so by the program staff or your community corrections officer.~~
- ~~KCF 16. You shall not possess any paraphernalia for the use of controlled substances.~~
- ~~KCF 17. You shall not be in any place where alcoholic beverages are the primary sale item.~~
- ~~KCF 18. You shall take antabuse per community corrections officer's direction.~~
- ~~KCF 19. You shall attend an evaluation for abuse of drugs, alcohol, mental health, anger management, or parenting and shall attend and successfully complete all phases of any recommended treatment as established by the community corrections officers and/or treatment facility.~~

20. 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

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Revised: June 14, 2007

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.

- 21. 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.
- 22. 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 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.
- 23. 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.
- 24. 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.
- 25. You shall not use/possess sexually explicit material; meaning any pictorial material displaying direct physical stimulation of unclothed genitals, masturbation, sodomy (i.e. bestialty or oral or anal intercourse), flagellation or torture in the context of a sexual relationship, or emphasizing the depiction of adult or child human genitals: provided however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition as defined in RCW 9.68.130(2).
- 26. 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.

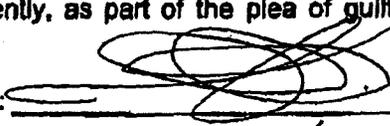
PRETRIAL OFFER - 7

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- 27. You shall have no association with persons known to be on probation, parole or community placement.
- 28. 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
- 29. If you are in the SSOSA program you shall enter into sex offender treatment with a State certified provider within thirty (30) days of sentencing or release from custody, whichever comes first.
- 30. If you are in the SSOSA program, your treatment plan shall include polygraph exams as set forth in condition number 19. Your treatment provider and/or the defendant will be required to provide quarterly reports on March 1, June 1, September 1, and December 1 (including the polygraph results) of your compliance with the conditions of treatment. These reports shall go to the community corrections officer and the prosecuting attorney's office. Failure to comply with this provision shall be grounds for the court to mandate transfer of the patient to a different treatment provider.

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: 7/5/07

Signed:  (Defendant)

Print name: Day Winter (Defendant)

Exhibit 15

Field Offender: WINTON, Don Wesley (308321)

Gender: Male	DOB: [REDACTED]	Age: 64	Body Status: Active Field
RLC: LOW	Wrap-Around: No	Comm. Concern: Yes	Location: Burien Office
SED: Life			CC/CCO: Castillo, Jermaine O (NW56)
	County SO Lvl:	ESR SO Lvl: Level 1 (09/04/2013)	

Details

Text

Date & Time Created: 07/11/2018 10:52 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/11/2018 09:30 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported as instructed on this date. P completed an offender report form, no changes. Checked discis on this date and it appears that there are no new criminal law violations/pending new criminal law violations. P denies contact with law enforcement, denies contact with minors, and denies victim contact. POLY: Due November. P was given a TP to Las Vegas. P will be staying at the ARIA and is going to look at a property that he may purchase. Instructed p to report back on: 08/01/18

Date & Time Created: 05/03/2018 07:47 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 05/03/2018
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P was granted TP to Kennewick for purposes only. Address is identical from the passes previously granted. TP will expire on 05/4/18

Date & Time Created: 04/13/2018 08:10 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/13/2018
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P was granted TP on this date for Kennewick. Valid from 04/17/18 expires on 04/20/18.

Date & Time Created: 04/04/2018 08:44 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/04/2018 08:40 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported as instructed on this date. P completed an offender report form, no changes. Checked discis on this date and it appears that there are no new criminal law violations/pending new criminal law violations. P denies contact with law enforcement, denies contact with minors, and denies victim contact. POLY: Due April. TP was granted for P to go to Kennewick for work purposes. P will be staying at the Quality Inn 7901 W. Quinalt Ave. Kennewick, WA and then his work site located at: 530 N. Edison St. Kennewick, WA. P will gone from 04/4/18 and will return on 04/7/18. Instructed p to report back on: 05/02/18

Date & Time Created: 02/08/2018 11:41 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/07/2018 11:00 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported as instructed. P completed an offender report form, no changes. DISCIS indicates no new criminal law violations. P was granted TP to 530 N. Edison St. Kennewick, WA for work. P will stay at Quality Inn 7901 W. Quinalt Ave. Kennewick, WA. TP is valid from 02/13-02/17. P was instructed to report back on 03/7/18.

Date & Time Created: 11/21/2017 09:50 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/21/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P req travel to: Work Address: 530 N Edison Street, Kennewick, Benton County, WA
 Hotel Address: Quality Inn, 7901 W Quinalt Ave, Kennewick, Benton County, WA for work. P would be leaving on 12/4 and return on 12/5- P was granted TP.

Date & Time Created: 11/02/2017 07:41 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/01/2017 11:00 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley

P reported as instructed on this date. P completed an offender report form, no changes. Checked discis on this date and it appears that there are no new criminal law violations/pending new criminal law violations. P denies contact with law enforcement, denies contact with minors, and denies victim contact. POLY: Due March UA/BA: will give one next month. P was given travel passes for work in pierce

Details

Text

Author Name: Castillo, Jermaine O
 Events: Contact (CN)

county, trip to las vegas from 11/20-11/23 will stay at ARIA hotel, and then was given a tp to WCC for a reentry program. Instructed p to report back on: 12/06/17

Date & Time Created: 10/24/2017 02:34 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/24/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P requested tp to las vegas for his and his gf's birthday's. P was granted tp. information: Aria Resort & Casino, 3730 S. Las Vegas Blvd, Las Vegas, Clark County, NV 89158. P will be leaving on 11/20/17 and will return on 11/23/17.

Date & Time Created: 10/05/2017 04:46 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/04/2017 10:00 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported as instructed. P completed an offender report form, no changes. DISCIS indicates no new criminal law violations. POLY: completed on 09/11-passed, will need to schedule another one. P was granted TP for work purposes to Thurston and Pierce county. NRD: 11/1/17.

Date & Time Created: 09/29/2017 03:25 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/29/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P granted tp to TRU on 10/13 to be a guest speaker and was also given a TP for work to 123 2nd ave s Edmonds, WA and 12121 harbor reach Dr. Mukileteo, WA on 10/3. P has been instructed to abide by all laws and conditions and return home after each visit.

Date & Time Created: 09/20/2017 02:05 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/20/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P requested TP for 2600 Willamette Dr, Lacey, Thurston County, WA to look at some potential property P could buy. P requested to leave on 09/22 and stated he will return on the same day. The TP has been granted. P was reminded of the conditions he is to follow and laws he is to abide by.

Date & Time Created: 09/20/2017 01:58 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/20/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P requested TP for a church service in Cascade Community Church, 14377 Frylands Blvd, SE, Monroe, Snohomish County, WA. P said that he was invited to play music at this event with his worship team. P was granted the pass and was instructed to abide by all laws and imposed conditions on the J&S and ISRB order of release. P will be leaving and returning on 10/7/17.

Date & Time Created: 09/07/2017 01:30 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/06/2017 11:00 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported to the office as instructed on this date. P filled out offender report form, no changes. P denies contact with law enforcement, victim, and minors. **DISCIS: Checked on this date, no new criminal law violations **SOTP: complete **POLY: scheduled in Kent. P was reminded. **UA: none **NRD: 10/4/17

Date & Time Created: 09/05/2017 03:12 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/05/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

p was granted a TP to pierce county for work, exp on 10/4. P was granted a TP to fife for the purpose of car service, valid and expires on 09/8. P was granted a TP to Stafford creek corrections center for a resource fair dated on 09/20.

Date & Time Created: 08/22/2017 05:13 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 08/22/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P was granted TP to TRU for the purpose of being a guest speaker for offenders releasing to the community on 08/25/17.

Details

Date & Time Created: 08/03/2017 12:53 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 08/02/2017 01:00 PM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

Text

P reported to the office as instructed on this date. P filled out offender report form, no changes. P denies contact with law enforcement, victim, and minors. **DISCIS: Checked on this date, no new criminal law violations **SOTP: complete **POLY: Due Sept. P will need to scheduled asap. **UA: P is currently in contact with his attorney to appeal the ISRB's decision in trying to remove the UA condition. P was told that because his appeal was already denied, he will still need to provide a UA. P voiced compliance. P was given a tp to Pierce County for work purposes. The Pierce County tp will expire by his nrd. P was also given a TP to 400 N. State Route 89A, Sedona AZ from 08/9-08/12, then will go to Carrie and Merlin Peterson's address located in 1125 W. 1375 N. St. George, Utah from 08/12-08/14. P will then leave to Las Vegas and will stay at Mandalay Bay from 08/14-08/17. P will return home on 08/17. The trip pass will expire on 08/17/17 P understands he is to abide by all laws and imposed conditions. **NRD:09/06/17, P voiced compliance. OSP signed.

Date & Time Created: 07/14/2017 11:19 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/14/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P was granted a tp to 4216 N. McDonald Rd., Spokane Valley, WA 99216-for work only. He will be staying at Quality Inn Valley Suites, E. 8923 Mission Ave, Spokane, WA 99212. He will be leaving on 07/17 and will return on 07/19.

Date & Time Created: 07/06/2017 05:42 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/05/2017 02:00 PM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported to the office as instructed on this date. P filled out offender report form, no changes. P denies contact with law enforcement, victim, and minors. **DISCIS: Checked on this date, no new criminal law violations **SOTP: complete **POLY: due sept **UA: none. P was given a TP for July 7-4216 N. McDonald Rd. Spokane for work purposes only. P will return on the same day. P was given another TP fo August 8, 2502 S. Tyler St. Tacoma, WA. P will also return on the same day. **NRD: 08/02/17

Date & Time Created: 06/08/2017 02:57 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/07/2017 02:00 PM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported to the office as instructed on this date. P filled out offender report form, no changes. P denies contact with law enforcement, victim, and minors. **DISCIS: Checked on this date, no new criminal law violations **SOTP: complete **POLY: Due Sept **UA: none **07/5/17 P sent an appeals letter to the isrb regarding his ua condition.

Date & Time Created: 06/01/2017 11:15 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/01/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

p requested a tp to 4902 Pacific Hwy E. Fife, WA. for 06/02/17 to purchase a vehicle. P was granted the tp. TP expires on 06/2/17. P was reminded to follow conditions ordered by the court and imposed by the isrb.

Date & Time Created: 05/10/2017 11:05 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 05/10/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Telephone Offender (TP)

I talked to P on this date about scheduling a disclosure with a potential woman he would like to have an intimate relationship with. Her name is Nhu Dang. He informed me that she has a 28 y/o son who does not have any kids. P indicates that her son is gay. He also informed me that there are absolutely no children involved. We scheduled disclosure for 05/16 @ 0830. P was also granted a TP to pierce county for work purposes only. P was reminded of the conditions that he has been ordered to abide by. The pass expires on 06/7/17.

Date & Time Created: 04/13/2017 03:21 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/10/2017 10:30 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p w/ attached safety plan for request to travel to Hawaii from 4/26 -5/3. Emailed p back and let him know that I would review and issued TP at his nrd of 4/18.

Date & Time Created: 04/10/2017 10:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/10/2017 10:20 AM
 DOC No.: 308321

Recv'd email from p requesting permission to travel to Olympia on 4/12 to register his new business. Issued p TP back via email.

Details

Text

Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Date & Time Created: 03/07/2017 09:19 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/07/2017 08:30 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p requesting permission to attend his colleague's funeral on 3/11 @ 19920 1st St. Ct. E.Lake Tapps, WA 98391. Will issue p a TP when he reports in today.

Date & Time Created: 03/03/2017 10:15 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/01/2017 05:13 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p on 3/1 requesting a travel permit to go to dinner w/ his business partner, Rob Murnen, on 3/4 at The Lobster Shop (4015 N. Ruston Way, Tacoma 98402). Approved travel and emailed back a TP.

Date & Time Created: 02/21/2017 10:14 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/17/2017 01:45 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p w/ attached safety plan for request to travel to Las Vegas 3/13-3/16 to visit friends. Reviewed safety plan, and will issue TP to p at his nrd after polygraph.

Date & Time Created: 02/17/2017 01:22 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/15/2017 01:25 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p requesting a travel permit to go register his new limited liability company with the Secretary of State at 801 Capital Way S., Olympia, WA 98501 on 2/22/17. Emailed p back TP.

Date & Time Created: 02/02/2017 09:31 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/02/2017 09:30 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p requesting permission to attend the Palmer Wirfs Antinque Show 2/3-2/5 at 110 9th Ave SW, Puyallup 98371. Emailed p back a TP this date.

Date & Time Created: 12/20/2016 09:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/20/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Offender (LP)

Recv'd email from p w/ attached safety plan requesting permission to travel to Las Vegas w/ Mei on 1/11-1/14. Reviewed safety plan and emailed p back a TP for this travel.

Date & Time Created: 12/19/2016 02:50 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/19/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Offender (LP)

Recv'd the following email from p: I would like to watch (on TV) the Huskies Peach Bowl college playoff football game that is on December 31. If you have the time and are willing, I would greatly appreciate a pass so I can go. Below are the specifics:
 Date: December 31, 2016 Location: Emerald Queen Casino, 2024 E. 29th Street, Tacoma, Pierce County, WA Purpose: To watch the Huskies Peach Bowl football game with friends. Rob Murnen (my business partner and DOC approved sponsor will be there) along with his wife. Method of Transportation: My personal Vehicle My Contact Info: 253-670-9193 The game starts at noon (PST). Emailed p back a TP.

Date & Time Created: 10/31/2016 10:29 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/31/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley

Recv'd the following email from p: I would like to attend the Palmer Wirfs Antique Show this Friday, Saturday, and Sunday (11/4-11/6, 2016). Location: 110 9th Ave S.W., Puyallup, WA 98371 Purpose: To shop for antiques and also to visit with show dealer friends I have that sell at the show. I will travel in my personal vehicle and likely attend alone.



Details

Text

Author Name: Stearns, Amber M
 Events: Letter Offender (LP)

Issued p TP back via email.

Date & Time Created: 10/24/2016 09:16 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/21/2016 04:22 PM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd an email from p requesting a Travel Permit to go to the Pantages Theatre at Broadway Center for the Performing Arts, 901 Broadway, Tacoma, WA 98402 to see a Ballot on 10/28/16. Issued p back a TP via email.

Date & Time Created: 10/13/2016 03:00 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/13/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting permission to go to Stafford Creek Corrections Center on Monday October 17 for a church service and Wednesday, October 26 for the semi-annual resource fair. P has been approved by the prison to attend these functions. Emailed p back TP for both events.

Date & Time Created: 10/03/2016 10:26 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/03/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Office Collateral (OC) ,
 Office Offender (OP)

P reported this date as directed for polygraph exam. Per polygrapher, no deception indicated. P provided MR. P reported no changes/violations/LE contact. P continues working as a self-employed real estate agent and has completed Court ordered TX. No UA taken, as p is not required to provide UA's. Provided p w/ TP's for his work travel today. P reports that he and Christie have ended their relationship b/c Christie refuses to tell her daughter about him, which is upsetting to him b/c he really liked her. Told p unfortunately there is nothing he can do about that and must respect her wishes. P stated he understood. P directed to report back on 11/1/16 by 11am.

Date & Time Created: 09/30/2016 04:46 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/30/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting TP to travel into Kitsap County for work purposes on 10/3. P reports he will travel to 3232 Pine Road NE and 614 Sheridan Road in Bremerton, Kitsap County, Washington to view the properties for potential purchase. Told p I would issue him a TP at his nrd since he is reporting for a polygraph on that date.

Date & Time Created: 09/13/2016 01:34 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/13/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting permission to travel into Thurston County for work purposes as follows: Date: Leave and return on the same day - Thursday, September 15 Destination Address: 2421 Heritage Court SW, Olympia, Thurston County, WA Purpose: To visit a commercial property to determine whether or not to make an offer to purchase. We will be meeting a commercial real estate broker at the site. Method of Travel: Personal Vehicle Persons traveling with me: My business partner and DOC approved sponsor, Robert Murnen. Issued p TP back via email.

Date & Time Created: 09/09/2016 08:02 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/09/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting permission to go visit his girlfriend, Christie, for one night in Moses Lake on 9/12/16. Issued p TP for the following details: Travel Dates: Monday, September 12 and return Tuesday, September 13, 2016. Address: Comfort Suites, 1700 E. Kittleson Road, Moses Lake, Grant County, Washington 98837 Method of travel: Personal Vehicle - 2014 Ford F-150, Gray, Plate C74688B, WA Contact Number: 253-670-9193.

Date & Time Created: 09/06/2016 09:29 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/06/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Office Offender (OP)

P reported this date as directed. P provided MR and a signed copy of his safety plan. P reports no changes/violations/LE contact. P continues working as a self-employed real estate agent and has completed Court ordered TX. No UA taken, as p is not required to provide UA's. Provided p w/ TP's for his upcoming travel. P scheduled for polygraph exam on 10/3/16 @ 9:30am, which will suffice for his nrd.

Date & Time Created: 08/30/2016 09:25 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 08/30/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley

Recv'd email from p w/ attached safety plan and request to travel to Arizona, Utah and Nevada on Sept 19-26. Will review and Issue TP's as necessary.

Details**Text**

Author Name: Stearns, Amber M

Events: Letter Collateral (LC)

Date & Time Created: 08/29/2016 11:56 AM

Offender Location At Occurrence: Not Unique

Date & Time Of Occurrence: 08/29/2016

DOC No.: 308321

Offender Name: WINTON, Don Wesley

Author Name: Stearns, Amber M

Events: Letter Collateral (LC)

Recv'd email from p requesting permission to go visit his girlfriend, Christie, for one night in Moses Lake on 8/31/16. Issued p TP for the following details: Travel Dates: Leave Wednesday, August 31 and return Thursday, September 1, 2016. Address: Comfort Suites, 1700 E. Kittleson Road, Moses Lake, Grant County, Washington 98837 Method of travel: Personal Vehicle - 2014 Ford F-150, Gray, Plate C74688B, WA Contact Number: 253-670-9193

Date & Time Created: 08/16/2016 01:24 PM

Offender Location At Occurrence: Not Unique

Date & Time Of Occurrence: 08/16/2016

DOC No.: 308321

Offender Name: WINTON, Don Wesley

Author Name: Stearns, Amber M

Events: Letter Collateral (LC)

Recv'd email from p requesting permission to travel to Olympia on 8/18 to register his new business, Winton Capital, LLC. Issued p TP back via email.

Date & Time Created: 06/30/2016 11:38 AM

Offender Location At Occurrence: Not Unique

Date & Time Of Occurrence: 06/30/2016

DOC No.: 308321

Offender Name: WINTON, Don Wesley

Author Name: Stearns, Amber M

Events: Letter Collateral (LC)

Recv'd email from p stating that he is working on getting a closing date set for the purchase of the Spokane home. P stated the following: It appears that I will sign documents on July 7 and close on July 8. So, the following is my trip request: Travel Start Date: 7/6/16 (Hotel check in is 4:00 PM) Travel Return Date: 7/9/16 (Hotel check out is 11:00 AM) Destination: Comfort Inn 923 3rd Ave E., Spokane, Spokane County, WA 99202, 509-535-9000. Confirmation# 30468528 Purpose of Trip: To complete the purchase of a home located at 1923 W. Summit Parkway, Spokane, WA 99201 Method of Travel: Personal Vehicle - 2014 Ford F-150, Gray, C74688B, WA Contact# Don Winton 253-670-9193, Christie 509-294-9692 Completed TP and emailed back to p.

Date & Time Created: 06/28/2016 09:51 AM

Offender Location At Occurrence: Not Unique

Date & Time Of Occurrence: 06/28/2016

DOC No.: 308321

Offender Name: WINTON, Don Wesley

Author Name: Stearns, Amber M

Events: Letter Collateral (LC)

Recv'd email from p requesting an open-ended TP to Spokane b/c he and his girlfriend, Christie, bought a home there for her to live in and it is supposed to be closing within the next two weeks, but he does not have the exact dates at this time. Emailed p back and let him know that this is not something I would issue an open-ended TP for and that he will have to let me know the specific date(s) he needs to go and I can issue one then.

Date & Time Created: 06/21/2016 08:40 AM

Offender Location At Occurrence: Not Unique

Date & Time Of Occurrence: 06/21/2016

DOC No.: 308321

Offender Name: WINTON, Don Wesley

Author Name: Stearns, Amber M

Events: Letter Collateral (LC) ,

Telephone Offender (TP)

Recv'd email from p requesting permission to fly to Spokane today and drive back w/ his girlfriend, Christie, the same day. Issued p TP via email w/ the following details: Pass issue date: 6/21 Pass expiration date: 6/21 Address: 1923 W. Summit Parkway, Spokane, Spokane County, WA 99201 Travel to Spokane: Alaska Air Return Travel: 2014 Range Rover Sport, black, BAA3456 Contact number for me: 253-670-9193 Traveling with: To Spokane by myself. Return with Christie Gardner

Date & Time Created: 06/07/2016 09:35 AM

Offender Location At Occurrence: Not Unique

Date & Time Of Occurrence: 06/07/2016

DOC No.: 308321

Offender Name: WINTON, Don Wesley

Author Name: Stearns, Amber M

Events: Letter Offender (LP) ,

Office Offender (OP)

P reported this date as directed. P provided MR. P reports no changes/violations/LE contact. P submitted request to go to his home in Arch Cape, OR 6/27-7/2. Told p since he has already been given permission by myself and the board to travel to this residence numerous times, I am going to issue him an open-ended TP w/ the expectation that he calls to let me know when he plans to travel to & from his residence. P volced compliance. No UA taken, as p is not required to provide UA's. P directed to report back on 7/5/16 by 11am.

Date & Time Created: 05/26/2016 07:39 AM

Offender Location At Occurrence: Not Unique

Date & Time Of Occurrence: 05/25/2016

DOC No.: 308321

Offender Name: WINTON, Don Wesley

Author Name: Stearns, Amber M

Events: Letter Collateral (LC)

Recv'd an email from p requesting permission to go to Spokane to help Christie look for a house to buy on 5/26-5/27. Emailed p back a TP.

Date & Time Created: 05/06/2016 08:58 AM

Offender Location At Occurrence: Not Unique

Date & Time Of Occurrence: 05/06/2016

Recv'd an email from p requesting permission to stand in as a witness at a his friend's daughter's wedding 5/13/16 at 4:00pm at the Pierce County District Court, 2nd Floor, Court Room 2, 930 Tacoma Ave South, Tacoma, WA 98502. P reports that

Details

Text

DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

there will be only four people present; his friend Patty Hale, her daughter Erica Hale (the bride, age 37), the groom (Kevin), and himself. Emailed p back a TP and told him I would approve him attending this event.

Date & Time Created: 03/21/2016 09:57 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/21/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Office Offender (OP)

P reported into the office this date to p/u TP and sign ISRB conditions. P signed and was given a copy of conditions. Signed documents forwarded to ISRB. Reminded p of nrd of 4/4/16 @ 9:30am for polygraph exam.

Date & Time Created: 03/18/2016 12:25 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/18/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Telephone Offender (TP)

Recv'd email from p w/ his request to travel to SCCC on April 6 to attend the Easter Event. P included the email from the Chapln @ SCCC clearing him to attend. Called p to let him know that I got the request and that I also received a copy of his updated conditions from the ISRB that I need to serve him with. Asked p if he could report into the office on 3/21 to that I could serve him w/ the updated conditions and give him his TP. P stated he would be here.

Date & Time Created: 03/03/2016 07:48 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/03/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Telephone Offender (TP)

Recv'd the following email from Jill Getty: "Sorry, the ISRB Victim Liaison has been in contact the concerned citizens and we've been trying to give them an opportunity to provide a response. Mr. Winton has permission to attend the antique show in Portland, OR on March 4, 2016 and travel to his beach house on weekends through April 2016, as outlined in his safety plans. I have also requested that his conditions be amended to allow for travel to Arch Cape, OR with CCO approval only. Unfortunately, there have not been any Board Members in the office to approve the change. I'll have to keep you posted on that piece." Called p to let him know this info and that I would update his TP for Oregon and issue his TP for travel to SCCC on 3/16/16 and email them to him.

Date & Time Created: 03/01/2016 11:14 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/01/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Office Offender (OP)

P reported this date as directed. P provided MR. P reports no changes/violations/LE contact. P asked if he could get an open-ended TP to his doctor in Tacoma, as he can see that he is going to be having to go there a lot. Changed p's TP from the 3/15/16 date to an open-ended TP. P also submitted travel request to attend a resource fair at SCCC on 3/16/16. Told p I would review it and issue him a TP within the next week. P also had questions regarding going to the mall, as the J&S I have states he is not allowed to go there, but p brought all of his legal documents and showed me where that was amended. Told p I would review these documents and get back to him. P also wanted to know if I had heard back from the board regarding safety plans submitted at his last report date. Told p I had not, but would send an email and see if I could get a response. No UA taken, as p is not required to provide UA's. P scheduled for polygraph on 4/4/16 @ 9:30am, which will suffice for his nrd.

Date & Time Created: 02/25/2016 01:35 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/25/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p stating that his doctor appointment has been changed from 3/1 to 3/15. Told p I would update the TP and give it to him at nrd.

Date & Time Created: 02/23/2016 09:00 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/23/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from requesting travel permit to attend a medical appointment in Pierce County on 3/1/16. Emailed p back and told him I would issue him the TP at his nrd.

Date & Time Created: 01/22/2016 09:11 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/22/2016
 DOC No.: 308321

Recv'd the following email from p: Last night I cancelled my San Diego trip. Christie is very ill and is returning to Spokane for a possible surgery. I understand that this is very last minute. But there is an antique show at the Puyallup Fairgrounds (Pierce County) this weekend. I attended this show in November. See trip permit attached

Details

Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Text

(FYI that permit has a typo it has Child Mol. 1 & 2 instead of 1 & 3). If you have time and would let me go to this show, I would very much appreciate it. I would request to attend all three days. The days are today (1/22), 1/23, and 1/24. I used to sell antiques at this show and still know many of the dealers. The show promoter Christine Palmer knows me and is well aware of the nature of my crimes. She communicated with me in prison and wrote a support letter to the ISRB when they were considering my release. If you don't have the time to process this or don't want to do it due to the short notice, I will fully understand. Granted p permission to go and issued him a TP back via email.

Date & Time Created: 01/19/2016 07:49 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/19/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd signed copy of TP from p for his trip to San Diego on 1/22/16. Placed in p's file.

Date & Time Created: 01/14/2016 09:42 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/14/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Comment (CM)

Issued TP via email to p for his request to travel to CA 1/22-1/25. Requested p sign it and email back.

Date & Time Created: 01/14/2016 07:58 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/12/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd the following email from p: Attached is a trip request to go to San Diego Jan 22 - 25 to spend the weekend with Christie, who will be there attending a training course. Hopefully, you will find the Safety Plan attached to be reasonably self explanatory. I have not yet made any reservations. I will do so after you give tentative approval of the trip. If you allow me to go on this trip, then for that week, I will either not go to check on construction at the beach house that week or will go down and back on Thursday, the 21st. Whether I go to the beach house or not on that week will all depend on discussions with the general contractor that week. I would prefer to not go that week. Will review safety plan and issue TP accordingly.

Date & Time Created: 12/22/2015 08:13 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/22/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Telephone Offender (TP)

Called p this date to let him know that his travel request to his beach house in Oregon has been approved by the ISRB, however, the board is still reviewing/gathering info to make a decision on his request to modify his travel restriction condition. Told p I would issue him one travel permit starting 12/31/15 and ending 3/5/16. Told p I will email him TP and he will need to sign it and send it back to me. P voiced compliance.

Date & Time Created: 12/07/2015 09:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/07/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting permission to travel into Snohomish County today to shop at the Seattle Premium Outlets w/ his adult niece, Christie Gardner (age 49), who is in from out of town. Told p I would grant his request and emailed him back a TP.

Date & Time Created: 12/01/2015 09:48 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/01/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Office Offender (OP)

P reported this date as directed. P provided MR. P reports no changes/violations/LE contact. Provided p w/ TP so that he can speak at the SOTP Family Seminar @ MCC on 12/11/15. P provided safety plan proposal for his beach house on the Oregon coast. P states that his home is going to be remodeled and the contractors are requiring that he be there once a week from Dec 31-Mar 5. Told p that this is going to require board approval due to the geographical restrictions the board imposed on p traveling through Oregon. P understood. Told p I would speak w/ the board and get back to him. P also discussed buying a home in Texas for his girlfriend to live in. P states he would only request to travel there once a month. Told p I do not see this being an issue, however, he needs to keep me updated. P voiced compliance. No UA taken, as p is not required to provide UA's. P directed to report back on 1/5/16 by 11am.

Details

Date & Time Created: 11/10/2015 09:47 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/10/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Office Offender (OP) ,
 Testing (TS)

Text

P reported this date as directed. P provided MR and all info for his trip to Texas. Issued p TP for this trip. P reports no changes/violations/LE contact. P also requested an updated TP for work purposes. P reports that he is self-employed in real estate and his work is primarily in Pierce County. Provided p w/ TP for work purposes. Asked p to provided UA. P states the board stated he no longer had to provide UA's, but that he would until I could get verification. Looked in p's file and OMNI, but could not find anything indicating he no longer had to provide UA's. P provided UA, which was negative for controlled substances. Told p I would look into this for him. Sent email to the board. P also informed me that he has sent a request to the board to modify his travel restriction to allow him to enter into Oregon and other restricted parts of WA. Thanked p for letting me and told him if the board grants his request that they would let me know. P is also requesting permission to attend an SOTP seminar at Twin Rivers on 12/11 and provided me w/ a travel pass request worksheet. Told p I would review this and let him know if he can go. P voiced compliance. P directed to report back on 12/1/15 by 11am.

Date & Time Created: 10/23/2015 12:22 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/23/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd a copy of p's Safety Plan via email for requested travel to San Antonio, TX on 11/15-11/23. Emailed p back and told him I would review plan and issue a TP at his nrd. P understood.

Date & Time Created: 10/08/2015 03:49 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/08/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

****10/7/15**** P reported to the office as instructed. P completed offender report form. There are no changes in address or telephone number, Discs indicates no new criminal law violations. P denies contact with anyone that would place him in violation of supervision. UA:NOT NEEDED POLY:Scheduled in Pierce County SOTP: Waiting on completion letter. P was informed that his case is going to be transferred to FW field office. However, we are still waiting on when this will take effect. Signed LA Fitness Safety plan for P. P understands his conditions and was instructed to not violate any of them. P was instructed to avoid minor contact at all cost. P voiced compliance.NRD11/4/15.

Date & Time Created: 09/16/2015 12:46 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/16/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

P reported to the office as instructed. P completed offender report form. UA: Due this month, September. POLY: requested schedule for Pierce County. I had scheduled a poly in Seattle, however, due to victim concerns I had to cancel the poly and am waiting on Scott Harris in Pierce County to inform me when they have and opening so P can complete his poly. SOTP: P is almost done. We are waiting on P to have his exit paperwork typed and signed by his treatment provider. I gave 2 TP to P: 1) Stafford Creek Corrections Center for a resource fair that has been okay'd by the acting superintendent Dan VanOgle. I emailed Dawn Taylor asking her if this was okay, she said it was approved. NRD: 10/07/15.

Date & Time Created: 08/04/2015 10:03 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 08/04/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

P reported to the office as instructed. P completed offender report form. SOTP: P indicates compliance. UA: Due September 9. Gave P a travel pass to texas. he will be gone from 09/06 and will return on 09/11/15. P understands he is to have no contact with any minors under any circumstance. P was also instructed to abide by all doc imposed conditions as well as state, local, and federal laws. P's nrd is 09/16/15

Date & Time Created: 07/31/2015 12:12 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/31/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Telephone Collateral (TC) ,
 Telephone Offender (TP)

I talked with Mary Burttschell, the woman P wants to begin a relationship with and she said that she knows all about P's conviction. She said she knows all details, how old the victims were, who the victims are, etc. She indicated that she has a 17 year old kid who lives with his father and a 22 year old. She understands fully that P is to not have any contact with any minors whatsoever. She even stated that if P did have contact with minors, she would report it. She said that she spoke with Brendan Playle, P's SOTP provider, and he approved. I then called Brendan and he approved of the relationship. All of the issues that I discussed with her, he discussed with her. I then spoke with P and told him that I would sign off on the relationship and also his trip permit to Texas. P was told that he is on strict supervisions and he is to not have any contact with minors. P voiced full compliance. P is to report on 08/4/15

sent tp for P for sotp and work in pierce county.

Details

Text

Date & Time Created: 07/02/2015 10:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/02/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

Date & Time Created: 07/01/2015 12:48 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/01/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

P reported to the office as instructed. P filled out offender report form. DISCIS indicates no niv. UA: due in August POLY: due in December. SOTP: indicates compliance. NRD: 08/5/15

Date & Time Created: 06/29/2015 10:06 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/29/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

The board has approved P to go to Oregon. P reported to the office for TP. P was informed that he will be polygraphed when he returns. P will be leaving on 07/05/15 and return on 07/10/15.P.will still need to report on 07/01/15.

Date & Time Created: 06/03/2015 08:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/03/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

P reported to the office as instructed. P completed offender report form. SOTP: indicates compliant. Poly: June 11, 2015. P asked about a trip to Oregon at his beach house. P was told I would need to ask the board about this matter. P's NRD: 07/01/15

Date & Time Created: 05/14/2015 01:02 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 05/14/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

05/13/15 P reported to the office as instructed. SOTP: P is completing in Pierce County because he cannot enter Seattle due to victim issues, per board. P is participating in tx with Brnedon Playle. UA: Scheduled for next month in June. Poly: June 11, 2015. P turned in a work related trips log.DISCIS: indicates no new law violations. NRD: 06/03/15

Date & Time Created: 04/30/2015 05:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/29/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Letter Offender (LP)

Email from P stating he's returned from his New Mexico trip (brother's funeral) without incident. No minor/victim contact. P further requests TP to participate in a Transition Support class at TRU, as approved and monitored by CSOTP Playle. Granted and scanned to P.

Date & Time Created: 04/22/2015 03:17 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/22/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Letter Collateral (LC)

Final review of safety plan for New Mexico trip, approved by treatment provider and Board CVL. P has reviewed SO registration laws for New Mexico. TP Issued for 4/25 through 4/29.

Date & Time Created: 04/08/2015 05:22 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/08/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Letter Collateral (LC) ,
 Office Offender (OP) ,
 Testing (TS)

P reported as directed and provided a UA sample, which tested negative. P is scheduled for a poly on 6/11 at 10:30. P provided a "Work Safety Plan," approved by his treatment provider, Pierce Co CSOTP Playle. This covers travels for property investment and management, which sometimes requires trips into Pierce County. On-going travel pass for work purposes requires P to keep a log of all Pierce County trips. NOTE that P's conditions do not allow any trips inside Seattle city limits, except with ISRB approval--also certain areas of WA state and OR, in the area of Portland. NRD 5/13.

Details

Date & Time Created: 04/01/2015 03:12 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/01/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Playle, Brendan R
 Events: Sex Offender Treatment Program Aftercare (GC)

Text

CSOTP group ran. Group members discussed offense history as well as high-risk behaviors and progress with community treatment. Group discussed the process of Safety Planning and how to identify high risks and minimize and avoid them in the community. Pt was active and involved in group discussions. Pt expressed some anxiety when falling on his head caused temporary blindness in his good eye, stating he's already blind in the other eye. States he had an emergency laser surgery and it appears to be getting better. Discussed having friends around and his gratefulness for his business partners and his church associates.

Date & Time Created: 01/20/2015 02:38 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/20/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Telephone Offender (TP)

P phoned to ask about 2 TP's. Friend Rob's sister is selling a sofa in Tacoma, no minors in house. Wants to travel with Rob to view a piece of vacant land they own in Milton. These will be issued when P provides dates and addresses.

Date & Time Created: 01/14/2015 04:33 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/14/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Office Offender (OP), Testing (TS)

P reported as directed and provided a UA sample which tested negative. P reported 1 minor contact last Friday at a Starbucks, handled appropriately. P denies any other minor contact, D/A use, or travel to city of Seattle. P has an on-going TP for work purposes, to Pierce County. NRD 2/10 for disclosure meeting with proposed chaperone.

Date & Time Created: 11/21/2014 02:07 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/21/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Playle, Brendan R
 Events: Sex Offender Treatment Program Aftercare (GC)

CSOTP group ran. Discussed group members' offense-related high risk thoughts and behaviors and current issues in the community. Discussed the DOC Chaperone Process and paperwork involved. Discussed finding an appropriate chaperone who is aware of the offending behavior and individual-specific high-risks. Pt was involved in group discussions, did not report any deviant ideation or behaviors. Pt states he is still upset with not being allowed a travel pass, and was upset with some things he was told, however he stated he made a mistake in arguing and called to apologize to his CCO. We discussed working on accepting things versus trying to be right all the time. He agreed and stated it's better to work on what is effective versus getting caught up in "being right". States he will continue to set positive goals and work on building his business.

Date & Time Created: 11/20/2014 08:25 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/19/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Telephone Offender (TP)

****Late Chrono****P phoned on 11/19 to request TP to Tacoma to transact a potential business deal. P presented as unaware of the need to address any safety issues (although he had rushed through a safety plan from his treatment provider after talking with duty officer yesterday). P also presented as troubled by excessive demands on him to curtail his normal activities, even though his prison release date was 9/29/14, and I have often explained to him that rules will be loosened up when, as, and if I notice his willingness to comply with rules. TP for this week was denied, and I further explained that an on-going (not case-by-case) TP will be available for him as I am able to get comfortable with his transition into the community.

Date & Time Created: 11/18/2014 03:04 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/18/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Dalton, Bryan R
 Events: Letter Collateral (LC), Telephone Offender (TP)

P called this date requesting travel pass to a medical office for work. P states he is meeting with several doctors in regards to a rental space in Tacoma. P states his business partner and him wanted to meet thursday with them, but one of the four doctor's only had availability wed 11/19/14 at 8:30. P committed to this meeting, but stated if he could not be issued the travel pass, his business partner would go for him. P requested travel pass for 11/19/14 & 11/20/14 for tacoma. I received Email from SOTP stating it was an approved travel safety plan which P provided. Sent email to CCO Knoblauch. P stated he wouldn't be able to get approval for travel 11/19/14 in time for meeting, so P mentioned he would call his CCO in regards to travel 11/20/14. Staffed with CCO Schemnitzer about issuing travel for 11/19/14, he agreed with me that P would need to request travel permit from CCO Knoblauch 11/19/14 in the morning.

Date & Time Created: 11/18/2014 11:48 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/18/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley

P called this date requesting travel permit to Tacoma for a business property he is interested in. P stated the property is within a medical center of some kind which has a walk-in clinic, dentist, even a pediatrician. I told P that this would not be approved, and that for it to even be considered he would need to provide a safety plan and talk with his SOTP about the plan. At that point I could speak with his SOTP, then my

Details

Author Name: Dalton, Bryan R
 Events: Telephone Offender (TP)

Text

CCS to consider it, but more than likely he would need to try to get ahold of his CCO and request travel permit another day. P understood, and knew he would need a safety plan regardless of if I approved the travel, so he stated he would do that today and get back to me.

Date & Time Created: 11/05/2014 03:27 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/05/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Letter Collateral (LC) ,
 Office Offender (OP)

P in office per his appointment to have me review and consider his Safety Plan for Internet Use Request. Per this approved plan, he will be able to access the Internet on one laptop and one smart phone, as soon as both devices are covered by X3Watch (I believe) with SOTP Pleyle as his accountability partner. I signed and provided P with copies of the entire plan. I decided to have this be P's report day for this month. Reviewed and signed new Board imposed condition against entering Skamania County or Oregon north of Hwy 20. P states he will appeal this. Reviewed conditions. P denies any violations, and no unreported incidental contact. P is requesting 3 supervisors of contact: Ron Strayer to cover events such as going to P's beach house in Oregon (which he will not plan on requesting for several months); Rob Murnen, business partner, to supervise on visits to real estate development sites; Russell Wolf, friend and business associate, to supervise on personal recreational events, such as movies. I gave P copies of supervisor of contact forms and advised him to work through his treatment provider to schedule beginning this process, further advising him that the entire process would take some time to complete. P wanted to discuss the issue of "Danielle having too much power over him," and I advised him to try a higher level of humility regarding her (and his) situation. P states that Joelle (his daughter he is trying to reconcile with) has told him that Danielle has told her that, if she (Joelle) tries to connect with P, then Danielle will make sure that none of Joelle's siblings will ever talk to her again. I reminded P that all of these people are adults, capable of making up their own minds about these things. By accepting this "scary person" idea about Danielle as fact, he (P) is actually giving Danielle power. I confronted P about his "Portland antique show plan" which implied little or no chance of Danielle or her family being at the event. P maintains that Danielle has never "owned" an antiques business, only helped out in his old business. He finally admitted that she does collect antiques, and that he might have imagined that she might likely attend such an event. I advised him to take a wider scope at "possible risks" when drawing up safety plans. P disclosed the plan he has been working on for at least a year with House of Mercy, which Pastor James had already disclosed to me. He has put \$1 million dollars into a trust to essentially incubate and mentor new businesses for people living at HOM residences, then have these businesses grow to the point that they create jobs for other HOM members. Due to the fact that he cannot enter Seattle without Board permission, he has hired a new law firm in Bellevue to advise him regarding this trust. NRD 12/19 for 1:30 polygraph.

Date & Time Created: 10/24/2014 02:29 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/24/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Playle, Brendan R
 Events: Sex Offender Treatment Program Aftercare (GC)

CSOTP group ran. Group watched a video from the TED Talks Series on one man's negative experiences from viewing pornography. Group discussed some of the problems with viewing pornography including increased hostile masculinity, sexual preoccupation, and sexual objectification. Group members discussed how some of these factors played a role in their own offense behaviors. Pt was active and involved in group discussions. Pt discussed his frustrations with being denied access to an antique show in Portland, and states he feels his ex-wife is being "vindictive". He states he knows ultimately this is a result of his choices and offending, and he working towards accepting his conditions while still achieving his personal goals.

Date & Time Created: 10/23/2014 11:01 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/23/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Letter Collateral (LC) ,
 Telephone Offender (TP)

Heard back from ISRB that P is approved to travel through Clark County only for the purpose of a one-day trip to Portland on Sunday. He is not to stop in Clark County for any purpose. I phoned P to give him that information. He mentioned that he was going to get to see his daughter, Joelle Badinich. I confirmed with him that Joelle cannot function as a chaperone, and that he does not have any chaperones. P agrees and knows that he needs to specifically avoid all contact with minors on this trip. He will pick up TP on Friday afternoon.

Date & Time Created: 10/10/2014 04:00 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/10/2014
 DOC No.: 308321

CSOTP group ran. Group members discussed their personal high risks and problem behaviors related to sexual offense cycle and their progress with meeting community goals. Pt was active and involved in group. No deviant or problematic issues reported this week. Pt reviewed safety plans for trip to antique show in Portland and a safety

Details

Offender Name: WINTON, Don Wesley
Author Name: Playle, Brendan R
Events: Sex Offender Treatment Program Aftercare (GC)

Text

plan for computer use. Discussed high risks related to both. He was told he may be asked by the ISRB to take a different route into Portland, as he is not allowed into Clark County. Told him I would staff his computer use plan with his CCO.

Date & Time Created: 10/01/2014 03:39 PM
Offender Location At Occurrence: Not Unique
Date & Time Of Occurrence: 10/01/2014
DOC No.: 308321
Offender Name: WINTON, Don Wesley
Author Name: Knoblauch, Lauren R
Events: Office Offender (OP) ,
Testing For Drugs (TD)

P in office requesting TP for CSOTP in Tacoma. P provided a UA sample (1st) which tested negative. Completed ONAT questions and OSP. P is even more congenial today that at his first report. Inquired again about TP's out of county for his business. I again reminded him of safety plans. Disputes that he has ever had any MH issues, but asserts that his crime may have been connected to his "depression" at the time. NRD changed to 11/12.

Date & Time Created: 09/16/2014 12:18 PM
Offender Location At Occurrence: MCC-TRU
Date & Time Of Occurrence: 09/16/2014
DOC No.: 308321
Offender Name: WINTON, Don Wesley
Author Name: Knoblauch, Lauren R
Events: Letter Collateral (LC)

Received ISRB permission for P to enter city of Seattle on PRD to register at King County Sheriff's SAU office at 516 3rd Ave, Seattle. Issued TP for above and scanned to CC Watts.

Exhibit 16

NO. 52371-0-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

DON WESLEY WINTON,

Petitioner.

DECLARATION OF
SHEILA LEWALLEN

I, SHEILA LEWALLEN, make the following declaration:

1. I am a Victim Liaison to the Indeterminate Sentence Review Board (ISRB). In my capacity as a Victim Liaison, I provide services to victims/survivors of the offenders under the ISRB supervision, including crisis intervention and counseling. I am responsible for communications regarding ISRB hearings and decisions, victims' rights and inmate status. I have training in victim and offender dynamics and utilize that training in preparation of reports and case analysis to supplement ISRB decisions.

2. I have knowledge of facts and information pertaining to Don Winton, DOC #308321. I have confirmed that there are current safety concerns in Clark County as it relates to Mr. Winton's geographic conditions. Both of Mr. Winton's adjudicated victims, and one unadjudicated victim, as well as the mother of two of the victims reside in Clark County.

3. I mapped the areas where the victims live, work and attend school and safety concerns cover two separate cities and areas which are

unincorporated. In determining a boundary, it became difficult to map specific areas without highlighting the victims' locations. Requiring Mr. Winton to obtain prior approval before traveling to Clark County allows the Victim Liaison and the Board to ensure victims in the area are notified and the risk of contact with Mr. Winton is minimized during his time in the county.

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

EXECUTED this 19th day of July, 2018, at Lacey, Washington.


SHEILA LEWALLEN

Exhibit 17

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER/SPANISH MANUALS		
	REVISION DATE 6/1/14	PAGE NUMBER 1 of 12	NUMBER DOC 420.380
	TITLE DRUG/ALCOHOL TESTING		

REVIEW/REVISION HISTORY:

Effective: 8/31/98
 Revised: 8/20/99
 Revised: 5/27/03
 Revised: 1/21/05
 Revised: 3/26/07 AB 07-008
 Revised: 12/5/07
 Revised: 12/18/07 AB 07-039
 Revised: 10/4/10
 Revised: 9/24/12
 Revised: 6/1/14

SUMMARY OF REVISION/REVIEW:

Numerous changes, including adjustments to the substances for which testing is conducted.
 Read carefully!

APPROVED:

Signature on file

BERNARD WARNER, Secretary
 Department of Corrections

5/20/14

 Date Signed

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REFERENCES:

DOC 100.100 is hereby incorporated into this policy; [WAC 137-28](#); [WAC 137-56](#); [ACA 5A-09](#); [DOC 320.150 Disciplinary Sanctions](#); [DOC 420.310 Searches of Offenders](#); [DOC 420.365 Evidence Management for Work Release](#); DOC 420.375 Contraband and Evidence Handling; [DOC 420.390 Arrest and Search](#); [DOC 420.395 Evidence/Property Procedures for Field](#); [DOC 460.000 Disciplinary Process for Prisons](#); [DOC 460.130 Violations, Hearings, and Appeals](#); [DOC 460.135 Disciplinary Procedures for Work Release](#); [DOC 590.100 Extended Family Visiting](#); [DOC 620.380 Offender Medical Cannabis Use](#); [DOC 670.500 Chemical Dependency Treatment Services](#); [DOC 670.655 Special Drug Offender Sentencing Alternative](#); [Records Retention Schedule](#)

POLICY:

- I. The Department will use drug testing as a management tool to enhance supervision, function as a treatment tool, and deter against drug use.

DIRECTIVE:

- I. Responsibilities
 - A. Employees/contract staff will only use drug testing options that are approved by the Department per the guidelines in Attachment 1.
 - B. Each Superintendent/Field Administrator will ensure drug and alcohol testing meets the expectations of this policy. S/he will appoint a Drug Testing Coordinator to coordinate, monitor, and provide the services of the drug testing program.
 - C. The Headquarters Prisons and Community Corrections designees will coordinate training for Drug Testing Coordinators and implement and follow a quality assurance program.
 - D. Drug Testing Coordinators will train employees and contract staff involved in any portion of the drug and alcohol testing process. Training will cover the use of all approved drug/alcohol screening instruments.
- II. Testing in Prison
 - A. Employees will conduct drug/alcohol testing using the instant on-site test. Off-site lab screening and/or confirmation may be ordered with justification and approval from the Superintendent/designee. Offenders must sign DOC 14-002 Acknowledgment of Drug/Alcohol Testing - Prison/Work Release when transferring to another facility.

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- B. Scheduled testing will be conducted before offenders are transferred to a minimum facility or Work Release.
1. Upon receipt of a transfer manifest, the Correctional Records Supervisor will notify the Drug Testing Coordinator/designee to schedule a urinalysis (UA). The Drug Testing Coordinator/designee will use an instant on-site test or other drug screen no more than 48 hours and no less than 24 hours before the date of transfer.
 2. If the test result is positive, the Drug Testing Coordinator/designee will notify the appropriate employees, and the transfer will be delayed/ cancelled pending the outcome of the disciplinary hearing.
- C. Per DOC 590.100 Extended Family Visiting, drug/alcohol testing will be conducted no more than 24 hours before and after Extended Family Visits (EFVs) and may be conducted during the visits. If a test result is positive, appropriate employees will be notified. The result may be confirmed by the contracted lab if determined necessary or appropriate.
1. Before the EFV, the offender will submit to an instant on-site test. If the test result is positive or shows as diluted, the visit will be suspended pending a disciplinary hearing.
 2. During the EFV, the offender may be required to submit to random instant on-site tests. If the test result is positive or shows as diluted, the visit will be terminated.
 3. Upon conclusion of the EFV, a drug/alcohol test will be conducted at the time of the routine strip search.
- D. Employees may conduct a breath alcohol test when they have reason to believe that an offender has used, possessed, or possesses substances containing alcohol.
- E. Offenders participating in substance abuse treatment will be subject to drug/ alcohol testing:
1. Upon admission to treatment, and
 2. Randomly, or for cause, at the treatment provider/Counselor's discretion.
- F. A minimum of 2 percent of the average daily population at each Prison will be randomly tested for drugs and alcohol using either the instant on-site test or off-site screening and confirmation through the contracted lab. By the 5th of each

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month, the facility Drug Testing Coordinator will generate the list of offenders from Offender Management Network Information (OMNI).

G. An offender may also be tested:

1. When s/he returns from an absence (e.g., court appearance, outside work crew, outside medical appointment).
2. If s/he has a documented history of drug/alcohol related disciplinary reports or violation behavior.

III. Testing in Work Release

A. Employees/contract staff will conduct drug/alcohol testing using the instant on-site test unless the Work Release contract indicates other methods of testing.

B. Offenders entering Work Release directly from the community will be tested within 24 hours of admission. Offenders must sign DOC 14-002 Acknowledgment of Drug/Alcohol Testing - Prison/Work Release at the time of intake.

C. Offenders will be tested according to their Custody Facility Plan.

D. Employees/contract staff may conduct a breath alcohol test when they have reason to believe that an offender has used, possessed, or possesses substances containing alcohol.

E. Offenders participating in substance abuse treatment will be subject to drug/alcohol testing:

1. Upon admission to treatment, and
2. Randomly, or for cause, at the treatment provider/Community Correction Officer (CCO)'s discretion.

F. An offender may also be tested:

1. When s/he returns from an absence from the facility (e.g., employment, court appearance, outside work crew, outside medical appointment).
2. If s/he has a documented history of drug/alcohol related disciplinary reports or violation behavior.

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IV. Testing in the Community

- A. Employees will conduct drug/alcohol testing using the instant on-site test. Lab confirmation is not required, but may be approved by the Community Corrections Supervisor (CCS) in limited cases to monitor decreasing substance levels, confirm prescribed usage, or determine if an offender is masking prohibited use.
- B. Offenders that have a prohibition not to use drugs/alcohol or a condition to submit to drug testing/breathalyzer, or who have affirmative conduct in this area, will be tested. Offenders must sign DOC 14-035 Acknowledgment for Drug/Alcohol Testing - Field at the time the condition is imposed.
 1. Employees will conduct drug/alcohol testing for offenders per court or Department imposed conditions, prohibitions, affirmative conduct, or the Offender Supervision Plan.
 - a. The first test will be conducted within 30 days of intake, except for offenders serving original jail time, in which case the test will be conducted within 30 days of release.
 - b. High Risk Violent and High Risk Non-Violent offenders will be tested at least monthly, which may be reduced to quarterly after 3 consecutive negative tests.
 - 1) Violation behavior will result in a return to monthly testing.
 - c. Moderate and Low Risk offenders with reporting requirements will be tested at least quarterly.
- C. Drug Offender Sentencing Alternative (DOSA) offenders in community based residential treatment will be tested at the treatment provider's discretion.
 1. Employees will conduct testing on all DOSA offenders on release from Prison or residential treatment or when community supervision begins.
 2. Employees will conduct testing on DOSA offenders who fail to report for a scheduled treatment appointment.
 3. All DOSA offenders will be required to submit to weekly drug testing for the first 3 months following release from Prison or residential treatment. If test results are negative, testing will be conducted as required for offenders with face-to-face contacts per the contact standards, or per court imposed conditions, prohibitions, affirmative conduct, or the Offender Supervision Plan.

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V. Testing for Cause

- A. In Prisons and Work Releases, the Superintendent/facility CCS will identify employees/contract staff authorized to require tests for cause reasons.
- B. In the community, CCOs may test offenders for cause.
- C. Cause for testing will include, but will not be limited to:
 1. Direct observation by an employee/contract staff or reliable source that provides reasonable suspicion that an offender has used, possessed, or possesses a drug or alcohol.
 2. When a canine officer observes a behavior change in his/her dog that signifies suspicion of the presence of a drug. All offenders in the suspected area will be tested.
 3. The offender is involved in an on-the-job accident, unsafe practices, or violent behavior.

VI. Substances

- A. The on-site drug test for both the specimen cup and the oral swab will test for the following substances:
 1. Methamphetamine,
 2. Amphetamine,
 3. Cocaine Metabolite,
 4. Opiate (MOP),
 5. Benzodiazepine, and
 6. Oxycodone
- B. On-site drug test strips for urine may be used with the specimen cup to test for these additional substances:
 1. Phencyclidine (PCP),
 2. Buprenorphine (Suboxone),
 3. Tetrahydrocannabinol (THC),
 4. Adulterants/dilutions, and
 5. Spice (Synthetic Canibinoid).
- C. Tests for the following substances may be conducted/ordered with justification and authorization from the Superintendent/CCS or designee:
 1. Barbiturate,

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2. Methadone,
3. Propoxyphene,
4. Ecstasy, and
5. Bath salts.

D. Use of the breathalyzer is the preferred option when testing for alcohol.

1. Laboratory testing for alcohol use may be conducted/ordered with justification and approval from the Superintendent/CCS or designee when alcohol is a documented risk factor for the offender and is directly related to his/her offense cycle.

VII. Specimen Collection

A. An offender's refusal to submit to breath alcohol screening or urine/oral fluid specimen collection for a drug/alcohol test will be treated as a violation. [5A-09]

B. Employees/contract staff will ensure that all testing and results are logged in the offender's electronic file.

1. Prison employees may use DOC 14-037 Instant On-Site Drug Testing and Breathalyzer Data Collection Worksheet to collect data for input into the offender's electronic file.
2. Community Corrections employees/contract staff may use DOC 14-166 Instant On-site Drug and Alcohol Testing Collection to collect data for input into the offender's electronic file.

C. Urine Collection

1. Employees/contract staff trained in the specimen collecting process will collect the specimen. The tester will be the same gender as the offender. Offenders who are not directly involved in the collection will not be permitted in the collection area.

- a. Offenders receiving kidney dialysis will not be required to provide urine specimens and may be tested using an oral fluid test.

- 1) In facilities with on-site health care, the tester will consult the facility Health Services Manager for alternative testing.
- 2) For all other offenders, the CCS/CCO will consult with the Chief Medical Officer at Headquarters regarding alternative testing.

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b. In Prisons, offenders with a valid Health Status Report (HSR) documenting a medical condition that causes difficulty urinating (e.g., parauresis/shy bladder) will be provided an additional hour to provide a urine specimen. If a specimen is not provided by the end of the second hour, an oral fluid test may be conducted with approval from the Superintendent/designee.

1) It is the offender's responsibility to obtain the HSR before the testing. Claiming a medical condition at the time of collection will not be sufficient reason for failing to produce a specimen.

c. If there is no same gender employee/contract staff available to collect the specimen, the offender will be tested using an oral fluid test.

2. The tester may use adulterant strips with the instant on-site tests on a random basis or when there is suspicion that a specimen is adulterated or diluted.
3. The tester will follow the procedures for specimen collection outlined in Processing Specimens for Contracted Lab - Chain of Custody Assurance (Attachment 2) and Testing Procedures - Urine (Attachment 5).

D. Oral Fluid Collection

1. Employees/contract staff trained in the oral fluid collection process may collect the specimen with justification and approval from the Superintendent/CCS or designee.
2. The tester will follow the procedures for specimen collection outlined in Processing Specimens for Contracted Lab - Chain of Custody Assurance (Attachment 2) and Testing Procedures - Oral Fluid (Attachment 4).

E. Breath Alcohol Screening

1. Employees/contract staff will use only Department authorized breathalyzer instruments.
2. Offenders who are not directly involved in the test will not be permitted in the testing area.

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3. Testing procedures are identified in Attachment 3. Testing procedures and accuracy check will be consistent with manufacturer's recommendations.
4. The Drug Testing Coordinator/CCS or designee will maintain the testing equipment records.
 - a. An accuracy check will be conducted monthly per manufacturer's instructions.
 - b. A calibration will be conducted by certified, trained personnel as needed when the instrument does not register accurately.
 - 1) The personnel will be responsible for the accuracy readings of the instruments they calibrate and may be called to a court or Department hearing to declare they have had the required training.
 - c. The Prisons and Community Corrections Divisions will maintain a current list of certified personnel authorized to conduct instrument calibration.
 - d. All accuracy checks and calibrations will be documented on DOC 14-311 Accuracy/Calibration Check Record. This record will be kept with the instrument and accessible for auditing purposes.
5. Offenders who provide a positive test reading of .020 or higher will be referred appropriately per the Response to Positive/Abnormal Test Results section of this policy.

VIII. Test Results

- A. The test results will be evaluated to determine if the reading falls within the normal range.
 1. An abnormal reading on pH, glutaraldehyde, nitrite, or oxidants suggests a chemical adulterant was introduced before or after urination.
 2. Specific gravity below 1.003 and a creatinine level of 20 mg/dl indicates the specimen was diluted.
- B. If the test result is negative and falls within the normal range, the tester will inform the offender of the result and document the result in the offender's electronic file. [5A-09]

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- C. If the test result is positive or abnormal:
1. In Prisons and Work Releases, the tester will have a witness confirm the test result. The tester will document the result and the name of the witness in the offender's electronic file. [5A-09]
 2. The tester will provide the offender an opportunity to admit use. If the offender admits use:
 - a. In Prison, the tester will document the admission in the violation report and the offender's electronic file.
 - b. In the community, s/he will be presented with DOC 14-021 Drug Use Admission for signature. If the offender signs the form, the tester will document the admission in the offender's electronic file, and no further testing will be required.
 3. If the offender denies use, a new specimen will only be allowed with Superintendent/designee or CCS approval.
- D. In Prisons, the results must be documented before transfer or release.
- E. All specimens sent to the contracted lab will be confirmed through Gas Chromatography Mass Spectrometry (GC/MS) or Liquid Chromatography Mass Spectrometry (LCMS).
1. The offender will be subject to a violation if the lab results indicate the specimen was:
 - a. Adulterated, or
 - b. Diluted, unless the offender has a valid HSR documenting a medical condition that causes diluted urine.
 2. At the request of the Department, individual specimens will be kept until final disposition of any court/Department action.
- F. A copy of a confirmed positive test result will be forwarded to the central/offender file and to the assigned substance abuse professional, if applicable.
- IX. [5A-09] Specimen Storage and Transfer
- A. For specimens being sent to the contracted lab, Department responsibility for the chain of custody is only complete when the test result has been documented in the offender's electronic file and the specimen has been processed per:

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<h1>POLICY</h1>			

1. Testing Procedures - Urine (Attachment 5) or Testing Procedures - Oral Fluid (Attachment 4), as applicable, and
 2. Processing Specimens for Contracted Lab - Chain of Custody Assurance (Attachment 2).
- B. Specimens not transported within 24 hours of collection must be stored in a secured receptacle.
- C. Handling and transportation of specimens should be documented on DOC 14-038 Drug Test Log Chain of Custody Assurance. The number of individuals handling the specimens must be kept to a minimum.
- D. Log sheets, any receipts from couriers, and other drug/alcohol testing records must be secured and retained per the Records Retention Schedule.
- X. Response to Positive/Abnormal Test Results
- A. In Prisons, upon receipt of a positive screening, the Drug Testing Coordinator will ask Health Services to complete DOC 14-036 Medication Certification Request to determine any possible cross-reactions between any prescribed medications the offender may be taking. In Work Releases and in the community, when confirmation is requested, employees/contract staff will submit verification of any prescribed medication with the test specimen.
 - B. [5A-09] For offenders in Prison or Work Release, positive tests and abnormal results indicating adulterated/diluted specimens will be addressed per DOC 320.150 Disciplinary Sanctions or DOC 460.135 Disciplinary Procedures for Work Release, as applicable.
 - C. An offender on community supervision who tests positive for a prohibited substance may be arrested and placed in total confinement, except if s/he tests positive for THC and has approval to use medical cannabis per DOC 620.380 Offender Medical Cannabis Use. The violation will be addressed per DOC 460.130 Violations, Hearings, and Appeals.
 1. [5A-09] Positive drug/alcohol tests for DOSA offenders addressed per DOC 670.655 Special Drug Offender Sentencing Alternative.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER/SPANISH MANUALS		
	REVISION DATE 6/1/14	PAGE NUMBER 12 of 12	NUMBER DOC 420.380
	TITLE DRUG/ALCOHOL TESTING		

ATTACHMENTS:

- [Drug Testing Methods and Occasions of Use \(Attachment 1\)](#)
- [Processing Specimens for Contracted Lab - Chain of Custody Assurance \(Attachment 2\)](#)
- [Testing Procedures - Breath Alcohol Screening \(Attachment 3\)](#)
- [Testing Procedures - Oral Fluid \(Attachment 4\)](#)
- [Testing Procedures - Urine \(Attachment 5\)](#)

DOC FORMS:

- [DOC 14-002 Acknowledgment of Drug/Alcohol Testing - Prison/Work Release](#)
- [DOC 14-021 Drug Use Admission](#)
- [DOC 14-035 Acknowledgment of Drug/Alcohol Testing - Field](#)
- [DOC 14-036 Medication Certification Request](#)
- [DOC 14-037 Instant On-Site Drug Testing and Breathalyzer Data Collection Worksheet](#)
- [DOC 14-038 Drug Test Log Chain of Custody Assurance](#)
- [DOC 14-166 Instant On-Site Drug and Alcohol Testing Collection](#)
- [DOC 14-174 Acknowledgment of Drug/Alcohol Testing Time Requirements](#)
- [DOC 14-311 Accuracy/Calibration Check Record](#)

EXHIBIT 18

NO. 52371-0-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

DON WESLEY WINTON,

Petitioner.

DECLARATION OF
ROBIN RILEY

I, ROBIN RILEY, make the following declaration:

1. I am an Executive Assistant for the Department of Corrections (DOC) at the Indeterminate Sentence Review Board (ISRB) office in Lacey, Washington. I have knowledge of the facts stated herein and am competent to testify.

2. The ISRB maintains an offender Board file for each offender under the ISRB's jurisdiction. This file contains information on an offender's sentence structure and documents relevant to his history with the ISRB. As an Executive Assistant, I am a custodian of records kept by the ISRB in the ordinary course of business.

3. Upon request of the Attorney General's Office, I provided correct copies of several documents from the Board file of offender Don Wesley Winton, DOC No. 843441, to be used as exhibits. These documents include the following:

Exhibit 1: Judgment and Sentence, *State v. Winton*, Clark County Superior Court Cause No. 06-1-02237-8

- Exhibit 2: Decision and Reasons, Hearing Date August 21, 2014
- Exhibit 3: Decision and Reasons, Decision Dated March 20, 2014
- Exhibit 4: Administrative Board Decision, dated July 3, 2014
- Exhibit 5: Order of Release
- Exhibit 6: ISRB Administrative Decision Sheet
- Exhibit 7: Correspondence from Matt Frank
- Exhibit 8: Order of Release and Conditions Addendum
- Exhibit 9: June 2009 Correspondence
- Exhibit 10: January 2014/December 2013 Correspondence
- Exhibit 11: February/March 2014 Correspondence
- Exhibit 12: November 2014 Correspondence
- Exhibit 13: June/July 2016 Correspondence
- Exhibit 14: May 2017 Correspondence

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

EXECUTED this 23rd day of July 2018, at Lacey, Washington.

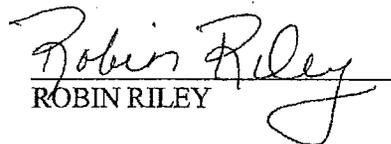

ROBIN RILEY

Exhibit 19

NO. 52371-0-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

DON WESLEY WINTON,

Petitioner.

DECLARATION OF
MANDY L. ROSE

I, MANDY L. ROSE, make the following declaration:

1. I am an Assistant Attorney General (AAG) with the Corrections Division of the Attorney General's Office (AGO) in Olympia, Washington.

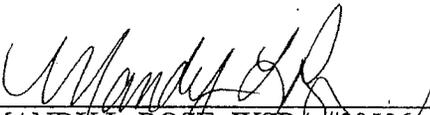
2. I am familiar with the Offender Management Network Information (OMNI) used by the Department of Corrections (Department or DOC). I am authorized by the Department to retrieve information from the OMNI. Among other things, information regarding an offender's location, custody, birth date, sentence, and infractions are entered and tracked on OMNI. I printed from OMNI for Don Wesley Winton, DOC #308321, the following documents to be used as exhibits:

Exhibit 15: OMNI Chronos

3. I printed a correct copy of DOC Policy 420.380 from the DOC's website, <http://www.doc.wa.gov/policies/>, to be used as Exhibit 17.

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

EXECUTED this 20th day of July 2018, at Olympia, Washington.



MANDY L. ROSE, WSBA #38506
Assistant Attorney General

CORRECTIONS DIVISION ATTORNEY GENERAL'S OFFICE

July 23, 2018 - 10:52 AM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 52371-0
Appellate Court Case Title: Personal Restraint Petition of Don Wesley Winton
Superior Court Case Number: 06-1-02237-8

The following documents have been uploaded:

- 523710_Personal_Restraint_Petition_20180723105029D2114127_4859.pdf
This File Contains:
Personal Restraint Petition - Response to PRP/PSP
The Original File Name was Response.pdf

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- elizabeth@newtonandhall.com

Comments:

Sender Name: Cherrie Melby - Email: CherrieK@atg.wa.gov

Filing on Behalf of: Mandy Lynn Rose - Email: mandyr@atg.wa.gov (Alternate Email:)

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Washington State Attorney General, Corrections Division
P.O. Box 40116
Olympia, WA, 98504-0116
Phone: (360) 586-1445

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