

FILED
Court of Appeals
Division II
State of Washington
6/22/2020 2:10 PM
No. 54188-2-II

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

IN RE THE PERSONAL RESTRAINT OF
WELDON MARK GILBERT

REPLY BRIEF AND SUPPLEMENTAL APPENDIX

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I. REPLY ARGUMENTS

Gilbert responds to the State's arguments in its Response to Personal Restraint Petition [ROB]. The State's primary argument is Gilbert's Petition is time barred because he is relying on something it calls "statutory double jeopardy" rather than Const. Art. 1, §9. This Court should reject that argument because RCW 10.43.090 is simply a rejection of the "dual severity" doctrine – it is not a separate protection against double jeopardy.

A. THE STATE IS MISTAKEN WHEN IT ARGUES THAT GILBERT'S CLAIM IS NOT A DOUBLE JEOPARDY CLAIM UNDER CONST. ART. 1 § 9.

The double jeopardy clause of the Washington State Constitution guarantees that "No person shall ... be twice put in jeopardy for the same offense." Const. art. 1, § 9. It is the words " same offense" that control the issue. Our Supreme Court held the double jeopardy clause in Const. art. 1, § 9 is given the same interpretation the Supreme Court gives to the double jeopardy clause in the Fifth Amendment in *State v. Gocken*, 127 Wash. 2d 95, 109, 896 P.2d 1267, 1274 (1995). Presumably then the term "same offense" in Art. I, Sec. 9 would mean the same thing as it does under the Fifth Amendment.

The term “same offense” under the Fifth Amendment is controlled by the “dual sovereignty doctrine” That doctrine was first directly dealt with by the United States Supreme Court in *United States v. Lanza*, 260 U.S. 377 (1922). The defendants in *Lanza* had been indicted federally for violating the National Prohibition Act after they had been charged in state court in Washington for manufacturing, transporting and possessing the same liquor. *Id.* at 379. The defendants argued that two punishments for the same act, one under federal law and the second under state law, constituted double jeopardy under the Fifth Amendment. *Id.*

The Supreme Court disagreed, noting:

We have here two sovereignties, deriving power from different sources, capable of dealing with the same subject matter within the same territory. Each may, without interference by the other, enact laws to secure prohibition, with the limitation that no legislation can give validity to acts prohibited by the amendment. Each government in determining what shall be an offense against its peace and dignity is exercising its own sovereignty, not that of the other. It follows that an act denounced as a crime by both national and state sovereignties is an offense against the peace and dignity of both and may be punished by each.... Here the same act was an offense against the state of Washington, because a violation of its law, and also an offense against the United States under the National Prohibition Act. The defendants thus committed two different offenses by the same act, and a conviction by a court of Washington of the offense against the state is not a conviction of the different offense against the United States, and so is not double jeopardy.

Id. at 382. See also *Bartkus v. People of State of Ill.*, 359 U.S. 121, 131, 79 S. Ct. 676, 682, 3 L. Ed. 2d 684 (1959).

Thereafter dual sovereignty” doctrine was consistently subject to criticism. See e.g. *Abbate v. United States*, 359 U.S. 187 (1959) (Black, J., with whom were Warren, C.J., and Douglas, J., dissenting)(“These [past cases] had assumed that identical conduct of an accused might be prosecuted twice, once by a State and once by the Federal Government, because the ‘offense’ punished by each is in some, meaningful, sense different. The legal logic used to prove one thing to be two is too subtle for me to grasp.”)

This debate as to the proper construction of the Fifth Amendment culminated in the decision last year in *Gamble v. United States*, 139 S. Ct. 1960, 1965, 204 L. Ed. 2d 322 (2019). The Court held although the dual-sovereignty rule is often dubbed an “exception” to the double jeopardy right it was not an exception but rather followed the term “same offense.” The Court reasoned historically an “offence” is defined by a law, and each law is defined by a sovereign. Where there are two sovereigns, there are two laws, and two “offences.”

Absent RCW 10.43.040, the same construction would apply to Art. 1, § 9. Gilbert would have no argument. But the statute rejects the dual sovereignty doctrine adopted by the United States Supreme Court when

construing the Fifth Amendment. The statute controls the term “same offense” in our state constitution. It is not, as the State suggests, a protection distinct from Art. 1, § 9. It simply clarifies that the words “same offense” in Art. 1, §9 includes convictions by other sovereigns. The interconnection between the two was noted in *State v. Caliguri*, 99 Wash. 2d 501, 511, 664 P.2d 466, 472 (1983):

While a few states have construed their state constitutions to provide such protection (most of the more than 20 states which have rejected the dual sovereignty doctrine have done so by statute.

Citations omitted.

In addition, when RCW 10.43.040 was amended in 1999, the Legislature materials clarify that the statute was not independent of Art. 1, Sec. 9. Rather it was a statutory rejection of the dual sovereignty doctrine.

Under the double jeopardy clauses of the federal and state constitutions, it is unconstitutional for a person to be tried twice for the same crime by the same sovereign. However, there is no constitutional prohibition against successive prosecutions for the same crime by different sovereigns. For example, a Washington court could constitutionally prosecute a defendant who has already been prosecuted for the same crime in another state or in a military tribunal. This is known as the doctrine of dual sovereignty.

Many states, including Washington, statutorily override the doctrine of dual sovereignty. In Washington, double jeopardy protections apply to a defendant who has already been criminally prosecuted for the same offense by another sovereign.

Washington Final Bill Report, 1999 Reg. Sess. H.B. 1067

The authorities cited by the State do not hold that a claim double jeopardy claim under RCW 10.43.040 is separate and distinct from a claim under Const. Art. 1 Sec. 9 and thus subject to a one-year time bar. *In Re Cook*, 114 Wash. 2nd 802, 792 P. 2nd 506 (1990), considered the petitioner's second personal restraint petition. He filed the second petition because the Supreme Court had just decided *State v. Caliguri*, 99 Wash. 2nd 501, 664 P.2nd 466 (1983), and construed RCW 10.43.040, to specifically reject the dual sovereignty doctrine as to prosecution by the federal government. *Id.* at 512. The issue before the Court was whether it had the power to consider whether a petitioner could attack a conviction based upon non-constitutional issues. The Court's holding rejected the "automatic bar to advancing a non-constitutional argument in a personal restraint petition merely because the argument was not advanced earlier." *Id.* at 811.

After announcing its holding, the Supreme Court said Cook's "argument arguably fits into three recognized categories justifying collateral relief. RAP 16.4(c)(1), (2), and (4)." *In Re Cook*, at 812. RAP 16.4(c)(1)(2) is the provision regarding post-conviction claims that the defendant's conviction was obtained in violation of the state constitution. The Court also held although Cook's argument was based upon the Court's new interpretation of RCW 10.43.040, "it is closely akin to a fundamental constitutional right afforded great respect by this court." *Id.*

813. Thus, while not deciding the precise issues raised here, the Court seemed to conclude that the statute could not be read without reference to Art. 1, § 9. And it certainly did not conclude that a claim based upon the statutory rejection of the dual sovereignty doctrine was not a claim under Art. 1, § 9. The Court eventually concluded that Cook could not prevail because his federal court conviction was not based upon the same act or omission that led to the charges in state court.

Finally, while the trial court denied the motion before Gilbert's state court trial, the issue was not ripe until the trial court failed to follow the agreed recommendation at the state court sentencing. Had the trial court followed the joint recommendation, no double jeopardy issue would have arisen.

RCW 10.43.040 is simply a statutory explanation of what the term "same offense" means in Art. 1, § 9. Thus, Gilbert's claim is not time-barred and fits within the exception to RCW 10.100.090(1).

B. BECAUSE GILBERT RAISED A CONSTITUTIONAL CLAIM, HE DID NOT WAIVE ANY DOUBLE JEOPARDY CLAIMS WHEN HE ENTERED A PLEA.

Although Gilbert entered a plea to the charges in the Superior Court, the double jeopardy claim in this case is raised as a challenge to a sentence that exceeds the court's authority. *Matter of Schorr*, 191 Wash. 2d 315, 323, 422 P.3d 451 (2018). And, to be clear, the State seemed to

recognize the double jeopardy implications because it agreed to recommend concurrent sentences in exchange for the plea. It was only after the sentencing judge imposed the consecutive sentence that the issue became apparent.

C. THE STATE AND FEDERAL CONVICTIONS WERE BASED UPON THE SAME ACTS.

In rejecting the dual sovereignty doctrine, the focus on fact alone rather than fact and law is justified because crimes defined by different sovereigns may differ in certain technical respects which have little to do with the interest protected. *State v. Caliguri*, at 514. The crimes for which Gilbert was convicted and sentenced were the same in fact as the crimes for which he was sentenced in federal court. The charges all arose from the central claim that Gilbert engaging in unlawful sexual contact with minors and filming those encounters.

In state court Gilbert entered an expansive Alford plea. The trial court judge said:

You also understand that by entering In Re Barr pleas, you are entering pleas of guilty to crimes in the second amended information which you did not commit and for which there is no factual basis but are doing so in order to take advantage of this agreement reached with the state. you are stipulating that there is a factual basis to support all of the charges in the connected amended information, and the state possesses sufficient evidence to provide -- prove each of the counts in the corrected amended information beyond a reasonable doubt

App. at 281-82. See also Supp. App. at 4-57.

The State first argues that pleas are based on two different sets of acts because sexual gratification is required for the State charges but not for the federal charges. But that is incorrect. A person is guilty of child molestation in the second degree or third degree when the person has sexual contact with a minor. Sexual contact means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party. RCW 9A.44.010(2). Our Supreme Court has held that that “sexual gratification” is not an essential element to the crime of child molestation but a definitional term that clarifies the meaning of the essential element, “sexual contact.” *State v. Lorenz*, 152 Wash. 2d 22, 36, 93 P.3d 133, 140 (2004).

The State also argues that the State charges include “minor victims who were not listed in the federal indictment. But that is impossible to tell. The federal indictment uses “John Doe” to describes the victims and the State uses initials. The discovery in trial court is all held under various protective orders so the Gilbert cannot tell if the two lists match up. See Supp. App. 1-4. On the face of the documents, the two prosecutions involved the same victims. The State must respond to a properly supported personal restraint petition with its own competent

evidence; if its response reveals disputed material issues of fact, then the appellate court generally orders a reference hearing or a determination on the merits in superior court. *In re Reise*, 146 Wash.App. 772, 192 P.3d 949 (2008). Gilbert disputes the State’s argument that there were additional victims in the state court proceedings.

D. GILBERT HAS PRESENTED SUBSTANTIAL PROOF OF HIS CLAIM.

In evaluating a timely PRP, this Court has three options. It may: (1) deny the PRP “if the petitioner fails to make a prima facie showing of constitutional or non-constitutional error” resulting in prejudice, (2) remand for a reference hearing “if the petitioner makes a prima facie showing but the merits of the contentions cannot be determined solely from the record,” or (3) grant the PRP with no hearing if the petitioner has proved both the required error and actual prejudice or a miscarriage of justice. *In re Pers. Restraint of Stockwell*, 160 Wn. App. 172, 176-77, 248 P.3d 576 (2011). Unlike all other civil proceedings, a PRP petitioner may not conduct discovery unless and until the appellate court transfers the case to the superior court for a reference hearing. See RAP 16.12.

The State argues – as it invariably does – that Gilbert has not complied with RAP 16.7(a)(2) and the decision in *In Re Rice*, 118 Wash. 2nd 876, 828 P. 2nd 1086 (1992). The full citation to *Rice* is as follows:

Finally, we take this opportunity to explain more fully the showing petitioners must make to support a request for a reference hearing. As a threshold matter, the petitioner must state in his petition the facts underlying the claim of unlawful restraint and the evidence available to support the factual allegations. RAP 16.7(a)(2)(i). This does not mean that every set of allegations which is not meritless on its face entitles a petitioner to a reference hearing. Bald assertions and conclusory allegations will not support the holding of a hearing. Rather, with regard to the required factual statement, the petitioner must state with particularity facts which, if proven, would entitle him to relief.

Id. at 885–86. (1992)(citations omitted). RAP 16.7 (a)(2) states:

(2) Grounds for Relief. A statement of (i) the facts upon which the claim of unlawful restraint of petitioner is based and the evidence available to support the factual allegations, and (ii) why the petitioners restraint is unlawful for one or more of the reasons specified in rule 16.4(c). Legal argument and authorities may be included in the petition, or submitted in a separate brief as provided in rule 16.10(a).

(3) Citations to Court Documents. If some of the evidence supporting the factual allegations is contained in the files of a trial or appellate court, the petition should identify the documents needed for review and the case numbers under which they can be found, The appellate court may order that any court documents identified for review be transferred or transmitted to the court.

Emphasis added.

The State says that Gilbert made only “conclusory” allegations that the state and federal court sentenced him for the same act or omission.

This is false. The State cites to page 13 of Gilbert’s petition and ignores

the statement of facts at pages 5-7 of his Petition and all of the documents attached as the appendix. Here, although Petitioner has been afforded no opportunity for discovery, he has satisfied this threshold requirement by submitting an appendix containing the state and federal court documents that demonstrate that he was convicted of the same “act or omission” in both jurisdictions.

Contrary to the State’s contention, Gilbert does not have to conclusively prove that he was convicted of the same “act or omission” in both jurisdictions in his PRP. At this stage of the proceedings, Gilbert need only make a prima facie case demonstrating actual prejudice stemming from constitutional error. *In re Hews*, 99 Wash. 2d 80, 91, 660 P.2d 263, 269 (1983). He has presented an arguable basis for relief in law and in fact, given the constraints of the personal restraint petition vehicle. *In re Khan*, 184 Wash. 2d 679, 685–87, 363 P.3d 577, 580 (2015). He has demonstrated that he has admissible evidence to prove that he was convicted of the same “acts or omissions” in both courts.

To the extent the State disagrees, there is a factual dispute that can only be resolved by an evidentiary hearing. See RAP 16.11(b). At that time Gilbert’s present counsel can seek modification of the protective orders so that he can conclusively demonstrate that both prosecutions were based upon the same acts.

II. CONCLUSION

This Court should find Gilbert's petition timely and should either grant the petition or remand to the Superior Court for an evidentiary hearing based upon the State's assertion there is a factual dispute.

Respectfully submitted this 22nd day of June, 2020.

_____/S/_____
Suzanne Lee Elliott, WSBA #12634
Attorney for Gilbert

CERTIFICATE OF SERVICE

I certify that on the date listed below, I served by First Class United States Mail, postage prepaid, one copy of this brief and appendix on the following:

Pierce County Prosecutor's Office
Via this Court's Electronic Filing System

Mr. Weldon Marc Gilbert
37955-086
FCI TERMINAL ISLAND
FEDERAL CORRECTIONAL INSTITUTION
PO BOX 3007
SAN PEDRO, CA 90733

06/22/20
Date

/S/
Suzanne Lee Elliott

SUPPLEMENTAL APPENDIX



07-1-05618-3 36333524 STP 05-04-11

FILED
IN COUNTY CLERK'S OFFICE
A.M. MAY -4 2011 P.M.
PIERCE COUNTY WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff, CAUSE NO. 07-1-05618-3

WELDON MARC GILBERT,

STIPULATION AND AGREED
PROTECTIVE ORDER REGARDING
IMAGES VIA CD AND AUDIO
EVIDENCE VIA DVD and/or AUDIO
RECORDING

Defendant.

The defendant, WELDON MARC GILBERT, standby attorney John Henry Browne, defense investigator Morgan Armijo, and the Pierce County Prosecuting Attorney, by and through their respective counsel, hereby stipulate to the entry of a Protective Order regarding the use and distribution of images and audio evidence in the form of CD/DVD and/or audio recording provided in the course of discovery in the above-entitled cause and agree to the following conditions, which apply to the defendant, both prosecution and defense counsel, and their respective employees and agents:

1. The evidence shall not be used for any purpose other than to prepare for the prosecution and/or defense of the named defendant in the above-entitled cause.
2. The evidence shall not be given, loaned, sold, or shown or in any other way provided to any member or associate of the media unless expressly permitted by court order.
3. The evidence shall not be exhibited, shown, displayed, or used in any fashion except in connection with judicial proceedings in the above-entitled cause. This provision is not meant to prohibit the defense or prosecution from exhibiting the evidence to any person(s) necessary to the preparation and/or presentation of the prosecution or defense case.

Stipulation and Agreed Protective Order
Regarding Image Via CD and Audio Evidence Via
DVD and/or Audio Recording-1

SUPP. APPEN. 000001

11-1-00855-1

1 4. The evidence shall not be duplicated, except as required in connection with the
2 prosecution or defense of the above-entitled cause, provided that any such duplication shall only
be pursuant to a court order; each resulting copy shall be governed by this Order as if an original.

3 5. Other than an original of the evidence maintained by the law enforcement or interviewing
4 agency, any additional copies shall not be provided to anyone not employed by either the Pierce
5 County Prosecuting Attorney's Office or counsel for the defendant with the exception of defense
or prosecution experts.

6 6. The defendant shall not, under any circumstances, be permitted to retain or possess the
7 CD/DVD and/or audio tape and is only permitted to review the CD/DVD/tape in the presence of
8 defense counsel, a defense investigator, or a defense expert. The defendant shall not be
permitted to review the CD/DVD and/or audio tape alone.

9 7. The CD/DVD and/or audio tape shall be maintained by defense counsel in a secure
location.

10 8. A transcript of the recording may be prepared at the expense of the party seeking
11 transcription, provided that before either party provides the evidence to a transcriber or
12 transcriptionist, the party shall serve that person with a copy of this Order. Proof of service of
13 this order shall be retained in the prosecution or defense attorney's file until such a time as the
evidence is returned to the Pierce County Prosecuting Attorney's Office or destroyed in
accordance with this Order. A copy of the transcript shall be given to opposing counsel.

14 9. Neither the transcript of the recording, nor any portion thereof, shall be divulged to any
15 person not authorized by the terms of this stipulation to review the CD/DVD and/or audio
recording.

16 10. Before either party provides the evidence to an expert witness, the party shall serve the
17 expert with a copy of this Order. Proof of service of this Order shall be retained in the
18 prosecution or defense attorney's file until such a time as the evidence is returned to the Pierce
County Prosecuting Attorney's Office.

19 11. **When a final disposition in the above-entitled cause has been reached in the trial
20 court, other than the evidence retained by the investigating law enforcement agency, any
21 and all additional copies shall be returned to the Pierce County Prosecuting Attorney's
22 Office within 30 days following final disposition in the trial court, unless otherwise agreed
to by the parties and approved by the court. The Pierce County Prosecuting Attorney's
Office will maintain one copy of the evidence for the pendency of the case, including
appeals.**

23 12. Either party may petition the court for access to the evidence at a later date upon a
24 showing that the access is for a legitimate purpose in connection with the above-entitled cause.
25 A legitimate purpose shall include, but is not limited to, investigation and preparation of any
legal action for the benefit of the defendant.

11-1-00855-1

13. A copy of this Order shall be kept with the CD/DVD and/or audio tape at all times.

14. Any violation of this Order may be the subject of personal or professional sanction by the court presiding over the proceedings for which the discovery/records are sought or may subject counsel to other sanctions permitted by law.

DATED this 4 day of May, 2011.

Bryan Chushcoff

JUDGE

BRYAN CHUSHCOFF

Presented by:

Patrick J. Hammond

PATRICK J. HAMMOND
Deputy Prosecuting Attorney
WSBA #23090

FILED
IN COUNTY CLERK'S OFFICE

A.M. MAY - 4 2011 P.M.
PIERCE COUNTY WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

John Henry Browne

JOHN HENRY BROWNE
Attorney for Defendant
WSBA #4677

Weldon Marc Gilbert

WELDON MARC GILBERT 5/3/11
Defendant

Morgan Armijo

MORGAN ARMIJO
Defense Investigator

Stipulation and Agreed Protective Order
Regarding Image Via CD and Audio Evidence Via
DVD and/or Audio Recording-3

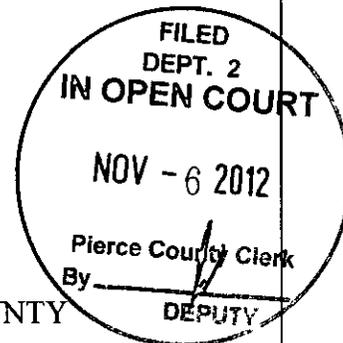


07-1-05618-3

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PLAGSR

11-06-12



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY
DEPARTMENT 2, JUDGE KATHERINE STOLZ

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 07-1-05618-3

vs.

WELDON MARC GILBERT,

PLEA AGREEMENT

Defendant.

COMES NOW, the plaintiff, the State of Washington, by and through its attorney, Pierce County Prosecuting Attorney Mark E Lindquist, by and through his deputies, Patrick Hammond and Tim Lewis, Deputy Prosecuting Attorneys, the defendant, Weldon Marc Gilbert, proceeding pro se, assisted by standby counsel Ann Stenberg, have entered into a plea agreement resolving this case pursuant to Revised Code of Washington (RCW) 9.94A.421, and consistent with the terms of the Plea Agreement between the United States of America, and the defendant, Weldon Marc Gilbert, entered in United States of America v. Weldon Marc Gilbert, case number CR07-5732BHS. The terms of the plea agreement between the State of Washington and the defendant are as follows:

1. **Offenses and Maximum Penalties:**

The Defendant agrees to plead guilty to each count in the second amended Information presented by the State, contingent upon the Court's acceptance of the second amended Information, in which the Defendant is charged in Counts I-III, VII-IX, and XI-XIII with Child

1 Molestation in the Second Degree, contrary to RCW 9A.44.086, and in Counts IV-VI, X, and
2 XIV with Child Molestation in the Third Degree, contrary to RCW 9A.44.089. The defendant's
3 pleas of guilty to Counts I-XIV shall result in imposition of a determinate sentence. The
4 Defendant understands that Child Molestation in the Second Degree is a Class "B" Felony
5 Crime, punishable by up to 10 years imprisonment and a \$20,000 fine per RCW 9A.20.021. The
6 Defendant understands that Child Molestation in the Third Degree, is a Class "C" Felony Crime,
7 punishable by up to 5 years imprisonment and a \$10,000 fine per RCW 9A.20.021. The
8 defendant understands that Child Molestation in the Second Degree and Child Molestation in the
9 Third Degree as charged in the second amended Information require a term of 36 months of
10 Community Custody upon release from confinement, and that violation of the terms of
11 Community Custody could result in additional terms of imprisonment. The defendant
12 understands that Child Molestation in the Second Degree is a sex offense which will require him
13 to register as a sex offender for a period of 15 years.

14
15 **2. Factual Basis for the Plea:**

16 The defendant will enter pleas of guilty to all charges in the second amended Information
17 via *Alford/Newton* and *In re Barr* pleas. North Carolina v. Alford, 400 U.S. 25 (1970); State v.
18 Newton, 87 Wn.2d 363 (1976); In re Barr, 102 Wn.2d 363 (1976). The defendant understands
19 that by entering *Alford/Newton* pleas of guilty, he is not required to admit guilt, but will
20 acknowledge that the State possess sufficient evidence to prove his guilt beyond a reasonable
21 doubt as to the original charges in the corrected amended Information. The defendant
22 understands that by entering *In re Barr* pleas, he is entering pleas of guilty to crimes in the
23 second amended Information which he did not commit and for which there is no factual basis,
24 but is doing so in order to take advantage of the plea agreement reached with the State. The
25

1 defendant stipulates that there is a factual basis to support all of the charges in the corrected
2 amended Information, and that the State possesses sufficient evidence to prove each of the
3 counts in the corrected amended Information beyond a reasonable doubt.

4 **3. Waiver of Appeal:**

5 The defendant understands that he has a right to appeal his convictions. The defendant
6 understands that since he has entered pleas of guilty to the charges in the second amended
7 Information, he has waived his right to raise certain issues, as discussed in his Statement of
8 Defendant on Plea of Guilty, in an appeal. The defendant understands that he has a right to
9 appeal any sentence that is outside of his standard sentencing range.

10 **4. Restitution:**

11 The State will not seek restitution in this matter, as forfeiture of the defendant's assets
12 and restitution to his victims were incorporated into his plea and sentencing under United States
13 of America v. Weldon Marc Gilbert, case number CR07-5732BHS.

14 **5. Assistance and Advice of Counsel:**

15 The defendant is proceeding pro se in this case with the assistance of standby counsel,
16 and has elected to do so knowingly and voluntarily. The defendant stipulates that he is
17 completely satisfied with the assistance afforded by his standby counsel in this case.

18 **6. Sentencing Recommendation:**

19 The defendant understands that pursuant to his pleas of guilty to the second amended
20 Information filed by the State, for purposes of sentencing, he would present with an offender
21 score of nine plus. The standard sentencing range for Child Molestation in the Second Degree
22 with an offender score of nine plus is 87-116 months imprisonment. The standard sentencing
23
24
25

1 range for Child Molestation in the Third Degree with an offender score of nine plus is 60 months
2 imprisonment.

3 Contingent upon the defendant entering pleas of guilty to Counts I through XIV of the
4 amended Information, the parties will make the following agreed recommendation to the Court
5 regarding sentencing:

6 Counts I, II, III, VII, VIII, IX, XI, XII, XIII (Child Molestation in the Second
7 Degree): 116 months determinate imprisonment, each count concurrent with the
8 other, concurrent with Counts IV, V, VI, X, and XIV, of the second amended
9 Information, and concurrent with the Defendant's sentence imposed under United
10 States of America v. Weldon Marc Gilbert, case number CR07-5732BHS. Credit
11 for time spent in custody since the Defendant's initial arrest on November 1,
12 2007. 36 Months Community Custody to be supervised and served concurrently
13 with lifetime supervision by United States Probation as ordered in the judgment in
14 United States of America v. Weldon Marc Gilbert, case number CR07-5732BHS.
15 Conditions of Supervision as ordered in the judgment in United States of America
16 v. Weldon Marc Gilbert, case number CR07-5732BHS. Legal financial
17 obligations in the form of \$500.00 Crime Victim Penalty Assessment, \$200.00
18 Court Costs, \$100.00 DNA Testing Fee, No Contact with the victims listed in the
19 second amended Information, No Contact with Minors.

20 Counts IV, V, VI, X, and XIV (Child Molestation in the Third Degree): 60
21 months determinate imprisonment, each count concurrent with the other,
22 concurrent with Counts I, II, III, VII, VIII, IX, XI, XII, XIII of the second
23 amended Information, and concurrent with the Defendant's sentence imposed
24 under United States of America v. Weldon Marc Gilbert, case number CR07-
25 5732BHS. Credit for time spent in custody since the Defendant's initial arrest on
November 1, 2007. 36 Months Community Custody to be supervised and served
concurrently with lifetime supervision by United States Probation as ordered in
the judgment in United States of America v. Weldon Marc Gilbert, case number
CR07-5732BHS. Conditions of Supervision as ordered in the judgment in United
States of America v. Weldon Marc Gilbert, case number CR07-5732BHS.

7. Role of the Court

21 The defendant stipulates that the Superior Court of the State of Washington, in and for
22 the County of Pierce, has both personal and subject matter jurisdiction over him and this case
23 and waives any objection to venue. The Defendant understands that the Court is not bound by
24 any sentencing recommendation of the parties pursuant to RCW 9.94A.431(2), but that pursuant
25

1 to 9.94A.431(1), upon review of this plea agreement, the Court shall determine if the plea
 2 agreement is consistent with the interests of justice and with the prosecuting standards found at
 3 RCW 9.94A.411. If the Court determines that the plea agreement is not consistent with the
 4 interests of justice and the prosecuting standards, the Court shall, on the record, inform the
 5 Defendant and the State that they are not bound by the agreement and that the Defendant may
 6 withdraw his plea of guilty if one has been entered.

7 Pursuant to RCW 9.94A 431(2), the Court is not bound by any sentencing
 8 recommendation contained in any allowed plea agreement. The Court is free to sentence the
 9 Defendant anywhere within his standard sentencing range of 87-116 months on Counts I, II, III,
 10 VII, VIII, IX, XI, XII, XIII (Child Molestation in the Second Degree) , and 60 months on Counts
 11 IV, V, VI, X, and XIV (Child Molestation in the Third Degree). The State of Washington makes
 12 no promise or representation concerning what sentence the Court will impose, and the defendant
 13 understands that he cannot withdraw his plea of guilty based upon the actual sentence imposed
 14 by the Court.
 15

16 **8. Nature of Agreement and Modifications:**

17 This written agreement constitutes the complete plea agreement between the plaintiff, the
 18 State of Washington, and the defendant, Weldon Marc Gilbert. The Defendant acknowledges
 19 that no threats, promises, or representations have been made, nor agreements reached, other than
 20 those set forth in writing in this plea agreement, to cause the defendant to plead guilty to the
 21 second amended Information in this case.

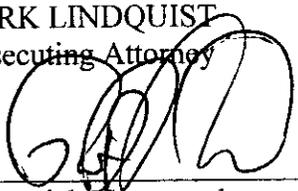
22 **9. Interdependence of Plea Agreements:**

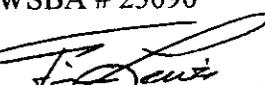
23 The defendant stipulates that the second amended Information and this plea agreement
 24 satisfies and complies with the obligations of the State of Washington as outlined and described
 25

1 in section 14, "Interdependence of Plea Agreements", of the Plea Agreement between the
2 defendant and the United States Attorney for the Western District of Washington, entered in
3 United State of America v. Weldon Marc Gilbert, case number CR07-5732BHS (Attachment A).

4 DATED this 6th day of November, 2012.

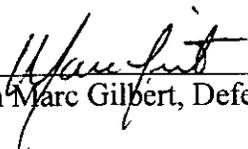
5 MARK LINDQUIST
6 Prosecuting Attorney

7 By: 
8 Patrick Hammond
9 Deputy Prosecuting Attorney
10 WSBA # 23090

11 By: 
12 Tim Lewis
13 Deputy Prosecuting Attorney
14 WSBA # 33767

15 **Defendant's Signature:** I hereby agree that I have consulted with my standby attorneys and
16 fully understand all rights I have as a criminal defendant as to these charges and that I am giving
17 up those rights by voluntarily entering into this plea agreement with the State of Washington, and
18 entering by entering pleas of guilty to the second amended Information in this case. I further
19 understand that the Sentencing Reform Act, RCW 9.94A, and the sentencing guidelines therein,
20 apply fully to my case, and that the Court is not bound by any recommendation of either party as
21 to the sentence I receive. I have read this plea agreement fully and reviewed each portion of this
22 plea agreement with my standby attorney I understand this agreement and voluntarily agree to
23 it.

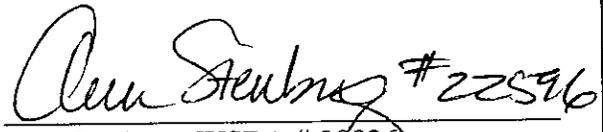
24 Date: 11/6/2012

25 
Weldon Marc Gilbert, Defendant

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Standby Counsel Signature: I am standby counsel for the defendant in this case. I have fully explained to the defendant each and every right he has a criminal defendant, that he is giving up those rights by entering into this plea agreement with the State of Washington, and by entering a plea of guilty to the second amended Information before this Court. I have explained to the Defendant that the Court is not bound by this plea agreement, nor the recommendation of either party, in imposing sentence in this case. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this plea agreement is an informed and voluntary one.

Date: Nov 6, 2012


Ann Stenberg, WSBA # ~~30226~~ 22596
Standby Attorney for Defendant

Attachment A

Judge Settle

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07-CR-05732-PLAGR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,
Plaintiff,
v.
WELDON MARC GILBERT,
Defendant.

NO. CR07-5732BHS
PLEA AGREEMENT

The United States of America, by and through Jeffrey C. Sullivan, United States Attorney for the Western District of Washington, and Roger Rogoff and Michael Dion, Assistant United States Attorneys for said District, and the defendant, WELDON MARC GILBERT, and his attorneys, John Henry Browne and Emma Scanlan, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C):

1. The Charges. Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to the following charges contained in the Fourth Superseding Indictment ("Indictment"). By entering this plea of guilty, Defendant hereby waives all objections to the form of the charging document.

a. Sexual exploitation of a child in the Production of Child Pornography, as charged in Counts 1 through 21, 23 through 31, and 33, in violation of Title 18, United States Code, Section 2251(a) and (e), and 2256;

1 b. Transportation of a minor to engage in illegal sexual activity, as
2 charged in Counts 34 and 35, in violation of Title 18, United States Code, Section
3 2423(a) and Section 2;

4 c. Obstruction of justice, as charged in Count ³⁶35, in violation of Title
5 18, United States Code, Section 1512(b)(3); and

6 d. Obstruction of justice, as charged in Count ³⁷36, in violation of Title
7 18, United States Code, Section 1512(b)(1).

8 Defendant further understands that before entering his pleas of guilty, Defendant
9 will be placed under oath. Any statement given by Defendant under oath may be used by
10 the government in a prosecution for perjury or false statement.

11 2. Elements of the Offenses. The elements of the offenses are as follows:

12 a. The elements of the offense of Production of Visual Depictions of
13 Minors Engaged in Sexually Explicit Conduct, as charged in Counts 1 through 21, 23
14 through 31, and 33, of the Indictment, are:

15 First, Defendant employed, used, persuaded, induced, enticed or coerced the
16 victim to take part in sexually explicit conduct for the purpose of producing a visual
17 depiction of such conduct;

18 Second, at the time, the victim was a minor; and

19 Third, the visual depiction was produced or transmitted using materials that
20 had been mailed, shipped, or transported in or affecting interstate or foreign commerce.

21 b. The elements of the offense of Transportation of Minors to Engage
22 in Illegal Sexual Conduct, as charged in Counts 34 and 35 of the Indictment, are:

23 First, Defendant knowingly transported an individual in interstate
24 commerce;

25 Second, the individual was under 18 years of age when the transportation
26 took place; and

27 Third, Defendant intended that the person engage in sexual activity for
28 which any person can be charged with a criminal offense.

1 c. The elements of the offense of Obstruction of Justice, as charged in
2 Count 36 of the Indictment, are:

3 First, Defendant knowingly did corruptly persuade, attempt to corruptly
4 persuade, or engage in misleading conduct toward another by trying to convince such
5 person not to cooperate with law enforcement and judicial officers;

6 Second, Defendant did so with intent to hinder, delay and prevent the
7 communication to a law enforcement officer or judge of the United States, of information
8 relating to the commission or possible commission of a Federal offense.

9 d. The elements of the offense of Obstruction of Justice, as charged in
10 Count 37 of the Indictment, are:

11 First, Defendant knowingly did corruptly persuade, attempt to corruptly
12 persuade, and engage in misleading conduct toward another, by trying to convince that
13 person not to cooperate with law enforcement and judicial officers; and

14 Second, Defendant did so with intent to influence, delay, or prevent the
15 testimony of any person in an official proceeding.

16 3. The Penalties.

17 a. The statutory penalties for Production of Visual Depictions of
18 Minors Engaged in Sexually Explicit Conduct, as charged in Counts 1 through 21, ~~22~~²³
19 through 31, and 33, of the Indictment, are, as to each count: imprisonment for not less
20 than fifteen (15) years and not more than Life, a fine of up to two-hundred and fifty
21 thousand dollars (\$250,000.00), or both, a one-hundred dollar (\$100.00) penalty
22 assessment, and a period of supervision following release from prison of not less than five
23 (5) years and up to the lifetime of the offender.

24 b. The statutory penalties for Transportation of Minors with Intent to
25 Engage in Illegal Sexual Conduct, as charged in Counts 34 and 35 of the Indictment are:
26 imprisonment for not less than 10 years nor more than Life, a fine of up to two-hundred
27 and fifty thousand dollars (\$250,000.00), or both, a one-hundred dollar (\$100.00) penalty
28

1 assessment, and a period of supervision following release from prison of not less than five
2 (5) years and up to the lifetime of the offender.

3 c. The statutory penalties for Obstruction of Justice, as charged in
4 Count 36 and 37 of the Indictment are: imprisonment for not more than 20 years, a fine of
5 up to two-hundred and fifty thousand dollars (\$250,000.00), or both, a one-hundred dollar
6 (\$100.00) penalty assessment, and a period of supervision following release from prison
7 of not more than three (3) years.

8 Defendant understands that supervised release is a period of time following
9 imprisonment, during which he will be subject to certain restrictions and requirements.
10 Defendant further understands that if supervised release is imposed and he violates one or
11 more of its conditions, he could be returned to prison for all or part of the term of
12 supervised release that was originally imposed. This could result in Defendant serving a
13 total term of imprisonment greater than the statutory maximum stated above.

14 Defendant agrees that any monetary penalty the Court imposes, including the
15 special assessment, fine, costs or restitution, is due and payable immediately, and further
16 agrees to submit a completed Financial Statement of Debtor form as requested by the
17 United States Attorney's Office.

18 4. Rights Waived by Pleading Guilty. Defendant understands that, by
19 pleading guilty, he knowingly and voluntarily waives the following rights:

- 20 a. The right to plead not guilty, and to persist in a plea of not guilty;
- 21 b. The right to a speedy and public trial before a jury of Defendant's
22 peers;
- 23 c. The right to the effective assistance of counsel at trial, including, if
24 Defendant could not afford an attorney, the right to have the Court appoint one for
25 Defendant;
- 26 d. The right to be presumed innocent until guilt has been established at
27 trial, beyond a reasonable doubt;
- 28

1 e. The right to confront and cross-examine witnesses against Defendant
2 at trial;

3 f. The right to compel or subpoena witnesses to appear on Defendant's
4 behalf at trial;

5 g. The right to testify or to remain silent at trial, at which trial such
6 silence could not be used against Defendant; and

7 h. The right to appeal a finding of guilt or any pretrial rulings

8 5. United States Sentencing Guidelines. Defendant understands and
9 acknowledges that, absent applicable intervening law:

10 a. The United States Sentencing Guidelines, promulgated by the
11 United States Sentencing Commission, are applicable to this case;

12 b. The Court will determine Defendant's applicable Sentencing
13 Guidelines range at the time of sentencing; and

14 c. Except as provided in paragraph 7 below, Sentencing, Defendant
15 may not withdraw a guilty plea solely because of the sentence imposed by the Court.

16 6. Statement of Facts. The parties agree on the following facts in support of
17 Defendant's guilty plea and sentencing. Defendant admits he is guilty of the charged
18 offenses and expressly waives any right to have these facts determined by a jury beyond a
19 reasonable doubt.

20 **Background**

21 a. At all relevant times, WELDON MARC GILBERT resided at his house in
22 Lake Tapps, Washington. GILBERT was born on August 26, 1960.

23 **Child Pornography Production Charges**

24 b. GILBERT used one or more foreign-made video cameras to create videos
25 of minors engaged in sexually explicit conduct. All of the videos described below were
26 created using those foreign-made video cameras, and those cameras traveled to
27 Washington state in interstate and foreign commerce before being used to create those
28 videos.

1 c. GILBERT filmed all of the videos described below with the purpose and
2 intent of creating visual depictions of minors engaged in sexually explicit conduct.
3 GILBERT knew that the victims shown on the videos were minors, and he knew that they
4 were engaging in sexually explicit conduct.

5 d. GILBERT created thirty-one visual depictions of minors engaged in
6 sexually-explicit conduct, as charged in Counts 1 through 21, 23 through 31, and 33 of
7 the Indictment. The videos show 17 different victims. The youngest victims are 10, 12,
8 13, and 14 when they first appear in the videos. GILBERT arranged the lighting, camera
9 angle, and the victims' bodies to ensure that the victims' genitalia would be clearly caught
10 on film. All of the videos fall into one of the following two categories: (a) GILBERT
11 engaged in some form of sex act with the victim, or the victim masturbating at
12 GILBERT's direction; or (b) a lascivious display of the victims' genitalia. With respect
13 to category (b), each and every one of those videos also displayed one or more of the
14 following: (1) GILBERT striking the unclothed victim with his hand, or with an
15 implement, such as a paddle, belt, or cane; (2) GILBERT restraining the victim, either by
16 hand or by tying the victim down; (3) the victim indicating that GILBERT was inflicting
17 pain upon them; (4) welts, bruises, or blisters inflicted by GILBERT, (5) GILBERT
18 caressing the nude bodies of the victims while striking them; (6) GILBERT commenting
19 upon the victims' genitalia; (7) GILBERT touching, or attempting to touch, the victims'
20 genitalia; and (8) GILBERT engaging in a sexual discussion with the victim.

21 e. There was no legitimate reason for GILBERT to create any of these visual
22 depictions of minors engaged in sexually explicit conduct. GILBERT created the videos
23 for the purpose of producing child pornography that he could watch whenever he wanted
24 to. GILBERT created these videos over a period of several years. All of the videos were
25 created in Washington State. GILBERT agrees and acknowledges that all of the videos
26 were sexually explicit, in that each and every one of the videos showed one or more of the
27 following: (1) actual or simulated sexual intercourse; (2) masturbation; (3) sadistic abuse;
28 and (4) lascivious exhibition of the genitals and pubic area.

1 f. GILBERT used, persuaded, and induced each of the victims to appear in the
2 videos.

3 **Transportation of minors charges**

4 g. In 2005, GILBERT transported a minor male victim ("John Doe 1") from
5 Washington State to Whistler, British Columbia, Canada. One of GILBERT's dominant
6 purposes in transporting John Doe 1 to Canada was to engage in illegal sexual conduct
7 with John Doe 1, namely, GILBERT intended to produce pornographic videos of John
8 Doe 1 in violation of 18 U.S.C. § 2251(a). GILBERT did in fact produce a pornographic
9 video of John Doe 1, the content of which was along the lines of the videos described
10 above. GILBERT used a video recorder that had traveled in interstate or foreign
11 commerce, GILBERT knew that John Doe 1 was a minor, and GILBERT deliberately
12 created a visual depiction of John Doe 1 engaged in sexually explicit conduct.

13 h. In 2007, GILBERT transported four minor male victims, John Doe 1 and
14 three of his friends, from Washington State to Whistler, British Columbia, Canada. One
15 of GILBERT's dominant purposes in transporting these victims to Canada was to engage
16 in illegal sexual conduct with the victims, namely, GILBERT intended to produce
17 pornographic videos of the victims in violation of 18 U.S.C. § 2251(a). GILBERT used a
18 video recorder that had traveled in interstate or foreign commerce, GILBERT knew that
19 the victims were minors, and GILBERT deliberately created a visual depiction of the
20 victims engaged in sexually explicit conduct along the lines of the other videos described
21 above.

22 **Obstruction of justice charges**

23 i. On October 30, 2007, GILBERT learned that he was being investigated by
24 law enforcement. GILBERT soon learned that the subject of the investigation was child
25 abuse, child molestation, and production of child pornography. GILBERT knew that the
26 evidence would prove that he committed these crimes. GILBERT knowingly and
27 intentionally set out to obstruct the investigation and eventual prosecution of these crimes.
28 GILBERT repeatedly attempted to tamper with John Doe 1. GILBERT's goals were: (1)

1 to prevent John Doe 1 from telling law enforcement the truth about GILBERT's crimes;
2 (2) to prevent John Doe 1 from testifying at trial; and (3) to convince John Doe 1 to make
3 false statements in a legal proceeding that would support GILBERT's efforts to suppress
4 evidence seized during the investigation.

5 j. GILBERT was charged in federal court in this case on November 2, 2007.
6 From that point on, GILBERT knew that he was the subject of a federal criminal
7 proceeding before the United States District Court for the Western District of
8 Washington, and his attempts to tamper with John Doe 1 were aimed at (1) corruptly
9 persuading John Doe 1 to lie, or to refuse to testify, in that proceeding, and (2) to prevent
10 John Doe 1 from communication^{ing} information to federal agents and federal judicial
11 officers in connection with that proceedings.

12 k. GILBERT made several attempts to tamper with John Doe 1 in the manner
13 described above. In January of 2008, GILBERT wrote a letter to John Doe 1. GILBERT
14 arranged for a third party to meet with John Doe 1 and convey the contents of the letter to
15 him. The letter encouraged John Doe 1 to make false statements to the federal judge in
16 the context of the federal criminal case. GILBERT believed that these false statements
17 would support an effort by defense to have the search warrant declared invalid and the
18 critical evidence suppressed. ~~As an inducement, GILBERT offered John Doe 1 a~~ *11) 2*
19 ~~financial reward.~~ In February of 2008, GILBERT wrote another letter to the third party
20 he had previously used to contact John Doe 1. In the letter, GILBERT instructed the third
21 party about how to approach John Doe 1 and ~~convince him not to testify truthfully to the~~
11) and convince him to not AA
~~Court, and not cooperate with federal agents, in the pending criminal case regarding the~~
22 federal offense of production of child pornography. GILBERT told the third party to
23 mention to John Doe 1 an incident in which one of John Doe 1's friends was charged with
24 stealing a television from GILBERT. The third party was to tell John Doe 1 that
25 GILBERT was willing to falsely tell the police that the friend had permission to take the
26 television. GILBERT hoped that, in return for his willingness to lie to protect John Doe
27
28

1 | 1's friend, John Doe 1 would stop cooperating with the federal investigation and
2 | prosecution of the case against GILBERT.

3 | 7. Sentencing.

4 | Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the
5 | parties acknowledge and agree that the appropriate sentence of imprisonment to be
6 | imposed by the Court at the time of sentencing should be within the range of 228 to 300
7 | months, to be followed by supervised release for life. If the sentencing court rejects the
8 | agreement of the parties and seeks to impose a sentence outside the agreed upon
9 | sentencing range, both the defendant and the United States reserve the right to withdraw
10 | from this agreement pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal
11 | Procedure and to proceed to trial. No other agreement has been made with regard to the
12 | imposition of the sentence in this matter, and the parties understand that the Court retains
13 | full discretion to impose a sentence within the range agreed to above.

14 | 8. Presentation of Evidence at Sentencing. The Government agrees to the
15 | following restrictions on the evidence that it will present in support of its sentencing
16 | recommendation: (1) the Government will not present any videos, excerpts from videos,
17 | or stills from videos, unless requested by the Court; and (2) the Government will not
18 | present the document it has marked as trial Exhibit 75 (and sub-exhibits), unless
19 | requested by the Court.

20 | With respect to (1), the Government is free to describe videos in as much detail as
21 | it wishes. Furthermore, if Defendant disputes the accuracy of the Government's
22 | description of a video, the parties agree to request that a judicial officer of this District,
23 | other than the sentencing judge, review the video at issue and report to the sentencing
24 | judge about whether the Government's description is accurate.

25 | Defendant acknowledges and understands that this Paragraph will not bar the
26 | Government from providing whatever information it is required to provide to the United
27 | States Probation Office.

28 |

1 9. Non-Prosecution of Additional Offenses. As part of this Plea Agreement,
2 the United States Attorney's Office for the Western District of Washington agrees to
3 move to dismiss the remaining counts in the Indictment at the time of sentencing and not
4 to prosecute Defendant for any additional offenses known to it as of the time of this
5 Agreement that are based upon evidence in its possession at this time, or that arise out of
6 the conduct giving rise to this investigation. In this regard, Defendant recognizes that the
7 United States has agreed not to prosecute all of the criminal charges that the evidence
8 establishes were committed by Defendant solely because of the promises made by
9 Defendant in this Agreement. Defendant acknowledges and agrees, however, that for
10 purposes of preparing the Presentence Report, the United States Attorney's Office will
11 provide the United States Probation Office with evidence of all relevant conduct
12 committed by Defendant.

13 The United States Attorney's Office for the Western District of Washington also
14 agrees not to prosecute any other person based upon evidence in its possession at this
15 time, or that arise out of the conduct giving rise to this investigation, relating to witness
16 tampering, obstruction of justice, or related offenses, in connection with this case.

17 Defendant agrees and acknowledges that any charges to be dismissed before or at
18 the time of sentencing were substantially justified in light of the evidence available to the
19 United States, were not vexatious, frivolous or taken in bad faith, and do not provide
20 Defendant with a basis for any future claims under the "Hyde Amendment," Pub.L. No.
21 105-119 (1997).

22 10. Voluntariness of Plea. Defendant acknowledges that he has entered into
23 this Plea Agreement freely and voluntarily, and that no threats or promises, other than the
24 promises contained in this Plea Agreement, were made to induce Defendant to enter these
25 pleas of guilty.

26 11. Statute of Limitations. In the event that this Agreement is not accepted by
27 the Court for any reason, or Defendant has breached any of the terms of this Plea
28 Agreement, the statute of limitations shall be deemed to have been tolled from the date of

1 the Plea Agreement to: (1) 30 days following the date of non-acceptance of the Plea
2 Agreement by the Court; or (2) 30 days following the date on which a breach of the Plea
3 Agreement by Defendant is discovered by the United States Attorney's Office.

4 12. Post-Plea Conduct. Defendant understands that the terms of this Plea
5 Agreement apply only to conduct that occurred prior to the execution of this Agreement.
6 If, after the date of this Agreement, Defendant should engage in illegal conduct, or
7 conduct that is in violation of his conditions of release or confinement (examples of
8 which include, but are not limited to: obstruction of justice, failure to appear for a court
9 proceeding, criminal conduct while pending sentencing, and false statements to law
10 enforcement agents, the Pretrial Services Officer, Probation Officer or Court), the United
11 States is free under this Agreement to seek a sentence that takes such conduct into
12 consideration. Such a sentence could include, to the extent the United States Sentencing
13 Guidelines are applicable, a sentencing enhancement or upward departure.

14 13. Forfeiture of Property: Defendant agrees to forfeit to the United States
15 immediately all of his right, title and interest in any property, real or personal, used or
16 intended to be used, to commit or to promote the commission of the offense of Sexual
17 Exploitation of a Child in the Production of Child Pornography and any property
18 traceable to such property, pursuant to Title 18, United States Code, Section 2253(a)(3),
19 including the following properties:

- 20 a. One (1) 2004 blue Lexus GX470, bearing Washington license plate
21 029RYB, VIN JTJBT20X940035115;
- 22 b. One (1) 2006 white Ford F150 pick-up, Washington license plate A68898Z,
23 VIN 1FTRF12206NB15476;
- 24 c. One (1) 1981 Bell 206B-III helicopter bearing tail number N325JR and
25 serial number 3296, and all flight logs and maintenance logs associated with this aircraft;
- 26 d. One (1) 1968 Cessna A185E Float Plane, Tail #N2210T, Serial #185-1362,
27 and all flight logs and maintenance logs associated with this aircraft;
- 28

1 e. One (1) 2003 Sea Ray Boat, Model 185BR, bearing license number
2 WN8212NM, Boat Hull #SERV5716E303185BR3560 and One Shore Land'r trailer,
3 Washington license plate 0059RG, VIN 1MDJ2JR163A248710;

4 f. Real property located at 2901 211th Avenue East, Lake Tapps, Washington
5 98391, parcel numbers 8996010100, its buildings, improvements, appurtenances,
6 fixtures, attachments and easements, more particularly described as: Lot 10 of Tapps
7 Island Division No. 1, according to the Plat thereof recorded in volume 48 of Plats at
8 pages 30 to 34, inclusive, records of Pierce County, Washington; and,

9 g. Real property located at 2901 211th Avenue East, Lake Tapps, Washington
10 98391, parcel numbers 8996010110, its buildings, improvements, appurtenances, fixtures,
11 attachments and easements, more particularly described as: Lot 11 of Tapps Island
12 Division No. 1, according to Plat recorded in Book 48 of Plats at pages 30 to 34,
13 inclusive, records of Pierce County, Washington;

14 h. One (1) Sony Digital Handicam Digital 8 cam corder, model:
15 DCR-TRV250, s/n: 388947;

16 i. One (1) Sony Video 8 Handycam cam corder, model: model: CCD-TR40,
17 s/n: 3009669;

18 j. One (1) Averatec laptop computer, model: 5500 series, s/n obliterated;

19 k. One (1) Fry's Intel Pentium 4 computer tower, model: FS7470, s/n:
20 747FSX340000296;

21 l. One (1) Averatec Notebook computer, model: 2200 series, s/n partially
22 obliterated, starting with NW04CE06040;

23 m. One (1) Seagate Medalist 13640 hard drive, model: ST313640A, s/n:
24 7AE054NA;

25
26 n. One (1) Western Digital WD1600 Enhanced IDE hard drive, model:
27 WD1600BB-00DAA0, s/n: WMACK2069917;

28

1 o. One (1) Western Digital WD400 Enhanced IDE hard drive, model:
2 WD400JB-00ENA0, s/n: WCAD19728957;

3 p. One (1) Western Digital WD1600 Enhanced IDE hard drive, model:
4 WD1600JB-75GVC0, s/n: WCAL96008970; and

5 q. One (1) MX 1000 Camera tripod.

6 Defendant agrees to forfeit to the United States immediately all of his right, title
7 and interest in any visual depiction described in Title 18, United States Code, Section
8 2251, or any book, magazine, periodical, film, videotape or other matter which contains
9 any such visual depiction, which was produced, transported, mailed, shipped, or received
10 in violation of this chapter, pursuant to Title 18, United States Code, Section 2253(a)(1),
11 including the following properties:

12 a. Any and all images of child pornography, in whatever form and however
13 stored, including but not limited to, those stored on zip disks, CDs/DVDs, video cassette
14 tapes, and floppy disks.

15 Defendant agrees to forfeit to the United States immediately all of his right, title
16 and interest in any property, real or personal, used to commit or to facilitate the
17 commission of the violation of Transportation of a Minor to Engage in Illegal Sexual
18 Activity, and any property traceable to such property, pursuant to Title 18, United States
19 Code, Section 2428(b)(1)(A), including the following property:

20 a. One (1) 2004 blue Lexus GX470, bearing Washington license plate
21 029RYB, VIN JTJBT20X940035115.

22 Defendant agrees to fully assist the United States in the forfeiture of the listed
23 assets, including but not limited to: surrendering title and executing any documents
24 necessary to effectuate such forfeiture; assisting in bringing any assets located outside the
25 United States within the jurisdiction of the United States; and taking whatever steps are
26 necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted,
27 hidden, or otherwise made unavailable for forfeiture. Defendant further agrees to
28

1 withdraw all claim(s) to the listed properties in the related civil forfeiture action, United
2 States v. One 2004 Blue Lexus, GX470, et al., Docket No. C08-5084BHS.

3 The United States agrees that once the preliminary order of forfeiture is entered,
4 forfeiting the defendant's interest in the above-listed assets, the government will negotiate
5 with counsel representing the defendant in the related civil forfeiture case in this district
6 to attempt to achieve the objective of applying the assets, or proceeds from the sale of the
7 assets, for the benefit of the victims of the crimes to which the defendant is pleading
8 guilty and any related crimes, with the exception of the visual depictions, or those
9 electronic items containing visual depictions, being forfeited to the United States. In
10 addition, the government will seek to obtain all necessary approvals to achieve the goal of
11 utilizing the forfeited assets to compensate the victims of the defendant's crimes, in lieu of
12 obtaining final orders of forfeiture for the assets. The defendant in turn will take all steps
13 necessary to ensure that these assets in fact are utilized for the benefit of the victims and
14 will not go back to him or any of his relatives, including the removal of any liens or
15 interests in the assets that currently exist in favor of any of his relatives.

16 14. Interdependence of Plea Agreements. The parties agree that this Plea
17 Agreement shall be conditioned upon the defendant entering a plea in Pierce County
18 Superior Court in the matter of State of Washington v. Weldon Marc Gilbert, cause
19 number 07-1-05618-3, as set forth in the Memorandum attached as Appendix A to this
20 plea agreement.

21 Defendant understands, therefore, that this Agreement is part of a package plea
22 agreement with the United States and the State of Washington, to wit, if Defendant does
23 not enter into, and plead guilty pursuant to the respective Plea Agreements in Federal
24 District Court and ^{Pierce County} ~~King~~ County Superior Court, or if Defendant subsequently seeks to
25 withdraw from either guilty plea, then the United States will withdraw from the instant
26 Plea Agreement and will seek an indictment against Defendant for all crimes for which
27 the United States has sufficient evidence. Defendant's plea of guilty in State of
28 Washington v. Weldon Marc Gilbert is integral to the instant plea agreement. If the State

1 of Washington fails to abide by the agreement set forth in Appendix A, the defendant may
2 withdraw his federal plea agreement.

3 15. Acceptance of Responsibility. The United States acknowledges that
4 Defendant has assisted the United States by timely notifying the authorities of his
5 intention to plead guilty, thereby permitting the United States to avoid preparing for trial
6 and permitting the Court to allocate its resources efficiently. If at the time of sentencing,
7 the United States remains satisfied that Defendant has accepted responsibility, then it will
8 recommend a sentence that takes this acceptance of responsibility into consideration.
9 Defendant understands and agrees that the United States will base its recommendation on
10 factors set forth in the United States Sentencing Guidelines, including Section 3E1.1.

11 16. Waiver of Appeal. As part of this Plea Agreement and on the condition that
12 the Court imposes a term of imprisonment that does not exceed the sentencing range set
13 forth in this Agreement, Defendant waives to the full extent of the law:

14 a. any right conferred by Title 18, United States Code, Section 3742 to
15 appeal the sentence, including any restitution order imposed; and

16 b. any right to bring a collateral attack against the conviction and
17 sentence, including any restitution order imposed, except as it may relate to the
18 effectiveness of legal representation

19 Furthermore, this waiver does not preclude Defendant from bringing an
20 appropriate motion pursuant to 28 U.S.C. 2241, to address the conditions of his
21 confinement or the decisions of the Bureau of Prisons regarding the execution of his
22 sentence.

23 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
24 attacking (except as to effectiveness of legal representation) the conviction or sentence in
25 any way, the United States may prosecute Defendant for any counts, including those with
26 mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea
27 Agreement.

28

UNITED STATES DISTRICT COURT

Western District of Washington

UNITED STATES OF AMERICA
V.

WELDON MARC GILBERT

JUDGMENT IN A CRIMINAL CASE

Case Number: CR07-5732BHS-001
USM Number: 37955-086

John Henry Browne
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) 1 - 21, 23 - 31 and 33 - 37 of the Indictment Plea: 04/23/09
- pleaded nolo contendere to count(s) _____
which was accepted by the court.
- was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 2251(a) and (e) and 2256	Sexual Exploitation of a Child in the Production of Child Pornography	10/31/2007	1 - 21, 23 - 31 and 33
18 U.S.C. §§ 2423(a) and 2	Transportation of a Minor to Engage in Illegal Sexual Activity	10/31/2007	34 and 35
18 U.S.C. § 1512(b)(3)	Obstruction of Justice	08/28/2008	36
18 U.S.C. § 1512(b)(1)	Obstruction of Justice	08/28/2008	37

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____
- Count(s) 22, and 32 of the Indictment is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of material changes in economic circumstances.

[Signature]
Assistant United States Attorney

November 16, 2009
Date of Imposition of Judgment

[Signature]
Signature of Judge

The Honorable Benjamin H. Settle
United States District Judge

Nov. 16, 2009
Date

DEFENDANT: WELDON MARC GILBERT
CASE NUMBER: CR07-5732BHS-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 300 months (25 years)

The court makes the following recommendations to the Bureau of Prisons:

Court recommends placement at Terminal Island

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: WELDON MARC GILBERT
CASE NUMBER: CR07-5732BHS-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: Life years

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug and/or alcohol test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight valid tests per month, pursuant to 18 U.S.C. § 3563(a)(5) and 18 U.S.C. § 3583(d).

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: WELDON MARC GILBERT
CASE NUMBER: CR07-5732BHS-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall submit to a search of his or her person, residence, office, property, storage unit or vehicle conducted in a reasonable manner and at a reasonable time by a probation officer.

The defendant shall not possess or peruse any authentic, altered, or manufactured, in whatever form, material that depicts and/or describes "sexually explicit conduct," as defined in 18 U.S.C. § 2256(2) or "child pornography," as defined in 18 U.S.C. § 2256(8).

The defendant's employment must be approved in advance by the probation officer. The defendant may not engage in any paid occupation or volunteer service that exposes him/her, either directly or indirectly, to minors, unless approved in advance by the probation officer.

The defendant, who is required to register under the Sex Offender Registration and Notification Act, must comply with all requirements of that Act. The defendant shall report the address where the defendant will reside and any subsequent change of residence to the probation officer responsible for supervision, and shall register as a sex offender in any jurisdiction where the person resides, is employed, or is a student. For initial registration purposes only, the defendant shall also register in the jurisdiction in which convicted if such jurisdiction is different from the jurisdiction of the residence. Registration must occur within three business days after sentencing (if the offender did not receive a prison sentence) or within three business days after being released from custody.)

The defendant shall participate in a sexual deviancy evaluation conducted by a sexual deviancy treatment provider, as directed and approved by the U.S. Probation Officer. The treatment provider shall be trained and experienced in the treatment of sexual deviancy, and follow the guideline practices established by the Association for the Treatment of Sexual Abusers (ATSA). The sexual deviancy evaluation may include psychological and physiological testing. The defendant shall disclose all previous sex offender or mental health evaluations to the treatment provider. The defendant shall also contribute to the costs of the evaluation, according to his/her ability, as determined by the U.S. Probation Officer. **except plethysmograph*

The defendant shall actively participate and make reasonable progress in a certified sexual deviancy treatment program, as designated by the U.S. Probation Officer. The sexual deviancy treatment program shall follow the guideline practices established by the Association for the Treatment of Sexual Abusers (ATSA). The program shall offer individual and group sessions, and appropriate testing, to determine the defendant's patterns of sexual arousal, and to monitor the defendant's progress and compliance with treatment goals and conditions of supervision. The defendant shall disclose all previous sex offender or mental health evaluations to the treatment provider. The defendant shall also contribute to the costs of treatment, according to his/her ability, as determined by the U.S. Probation Officer.

The defendant shall follow all rules, to include other lifestyle restrictions by the defendant's therapist, and continue with those rules and restrictions as they pertain to avoiding risk situations throughout the course of the defendant's supervision.

The defendant shall not go to places nor loiter within 100 feet of an area where minors are known to frequent without the prior approval of the probation officer and the sexual deviancy therapist. The defendant shall not affiliate with, own, control, volunteer, and/or be employed, in any capacity, by an organization in an activity, which would place him/her in direct or indirect contact with children under the age of 18.

The defendant shall have no direct or indirect contact with any children under the age of 18, unless accompanied and supervised by an adult, who has been approved in advance by the sexual deviancy therapist and the supervising probation officer. The defendant shall immediately report any unauthorized contact with children to the probation officer and sexual deviancy therapist.

The defendant's residence shall be pre-approved by the probation office. The defendant shall not reside in direct view of places used primarily by minors, such as school yards, parks, public swimming pools, or recreational centers, playgrounds, youth centers, video arcade facilities, or other places primarily used by children under the age of 18.

Restitution in the amount of \$TBD is due immediately. Any unpaid amount is to be paid during the period of supervision in monthly installments of not less than 10% of his or her gross monthly household income. Interest on the restitution shall not be waived.

The defendant shall consent to the U.S. Probation Office conducting ongoing monitoring of his/her computer(s), hardware, and software, and any/all electronic devices/media. The monitoring may include the installation, at the defendant's expense, of hardware or software systems which allow evaluation of his/her computer use. Monitoring may also include the retrieval and copying of all data from his/her computer(s) or any/all other electronic devices/media. The defendant shall also comply with the requirements of the U.S. Probation Computer Monitoring Program as directed.

The defendant shall provide the probation officer with access to any requested financial information including authorization to conduct credit checks and obtain copies of the defendant's federal income tax returns.

No contact with victims

DEFENDANT: WELDON MARC GILBERT
CASE NUMBER: CR07-5732BHS-001

CRIMINAL MONETARY PENALTIES

TOTALS Assessment Fine Restitution
\$ 3,500 \$ Waived \$ TBD

The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
	TBD	TBD	
TOTALS	\$ _____ TBD	\$ _____ TBD	

Restitution amount ordered pursuant to plea agreement \$ _____

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that.

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

The court finds that the defendant is financially unable and is unlikely to become able to pay a fine and, accordingly, the imposition of a fine is waived

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: WELDON MARC GILBERT
CASE NUMBER: CR07-5732BHS-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- PAYMENT IS DUE IMMEDIATELY. Any unpaid amount shall be paid to Clerk's Office, United States District Court, 700 Stewart Street, Seattle, WA 98101.
- During the period of imprisonment, no less than 25% of their inmate gross monthly income or \$25.00 per quarter, whichever is greater, to be collected and disbursed in accordance with the Inmate Financial Responsibility Program.
- During the period of supervised release, in monthly installments amounting to not less than 10% of the defendant's gross monthly household income, to commence 30 days after release from imprisonment.
- During the period of probation, in monthly installments amounting to not less than 10% of the defendant's gross monthly household income, to commence 30 days after the date of this judgment.

The payment schedule above is the minimum amount that the defendant is expected to pay towards the monetary penalties imposed by the Court. The defendant shall pay more than the amount established whenever possible. The defendant must notify the Court, the United States Probation Office, and the United States Attorney's Office of any material change in the defendant's financial circumstances that might affect the ability to pay restitution.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program are made to the United States District Court, Western District of Washington. For restitution payments, the Clerk of the Court is to forward money received to the party(ies) designated to receive restitution specified on the Criminal Monetaries (Sheet 5) page.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several
Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several and corresponding payee, if appropriate.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

DEFENDANT: WELDON MARC GILBERT
CASE NUMBER: CR07-5732BHS-001

ADDITIONAL FORFEITED PROPERTY

One 2004 blue Lexus GX470, bearing Washington license 029RYB, VIN JTJBT20X940035115; One 2006 white Ford F150 pick-up, Washington license A68898Z, VIN1FTRF12206NB15476; One 1981 Bell 206B helicopter, Tail #N325JR, Serial #3296, and all flight logs and maintenance logs associated with this aircraft; One 1968 Cessna A185E float plane, Tail #N2210T, Serial #185-1362, and all flight logs and maintenance logs associated with this aircraft; One 2003 Sea Ray boat, Model 185BR, license #WN8212NM, Boat Hull #0059RG, VIN 1MDJ2JR163A248710; Real property located at 2901 211th Avenue East, Lake Tapps, Washington 98391, parcel numbers 8996010100, its buildings, improvement, appurtenances, fixtures, attachments and easements, more particularly described as : Lot 10 of Tapps Island Division No. 1, according to the Plat thereof recorded in volume 48 of Plats at pages 30 to 34, inclusive records of Pierce County, Washington; Real property located at 2901 211th Avenue East, Lake Tapps, Washington 98391, parcel numbers 8996010110, its buildings, improvement, appurtenances, fixtures, attachments and easements, more particularly described as : Lot 11 of Tapps Island Division No. 1, according to the Plat thereof recorded in volume 48 of Plats at pages 30 to 34, inclusive records of Pierce County, Washington; One Sony Digital Handicam Digital 8 camcorder, model DCR-TRV250, Serial #388947; One Sony Video 8 Handicam camcorder, model CCE-TR40, Serial #3009669; One Averatec laptop computer, model 5500 series, Serial number obliterated; One Fry's Intel Pentium 4 computer tower, model FS7470, Serial #747FSX340000296; One Averatec Notebook computer, model 2200 series, Serial number partially obliterated, starting with NW04CE6040; One SeaGate Medalist 13640 hard drive, model ST313640A, Serial #7AE054NA; One Western Digital WD1600 Enhanced IDE hard drive, model WD1600BB-00DAA0, Serial #WMACK2069917; One Western Digital WD400 Enhanced IDE hard drive, model WD400JB-00ENA0, Serial #WCAD19728957; One Western Digital WD1600 Enhanced IDE hard drive, model WD1600JB-75GVC0, Serial #WCAL96008970; One MX 1000 camera tripod; and Any and all images of child pornography, in whatever form and however stored, including but not limited to, those stored in zip disks, CDs/DVDs, video cassette tapes, and floppy disks.

UNITED STATES DISTRICT COURT

WESTERN

District of

WASHINGTON

UNITED STATES OF AMERICA

V.

WELDON MARC GILBERT

AMENDED JUDGMENT IN A CRIMINAL CASE

Case Number: CR07-5732BHS-001

USM Number: 37955-086

John Henry Browne

Defendant's Attorney

Date of Original Judgment: November 16, 2009
(Or Date of Last Amended Judgment)

Reason for Amendment:

- Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
- Reduction of Sentence for Changed Circumstances (Fed. R. Crim P. 35(b))
- Correction of Sentence by Sentencing Court (Fed. R. Crim P. 35(a))
- Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

- Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))
- Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
- Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(e)(2))
- Direct Motion to District Court Pursuant to 28 U.S.C. § 2255 or 18 U.S.C. § 3559(e)(7)
- Modification of Restitution Order (18 U.S.C. § 3664)

THE DEFENDANT:

- pleaded guilty to Counts 1-21, 23-31, and 33-37 of the Fourth Superseding Indictment
- pleaded nolo contendere to count(s) _____ which was accepted by the court.
- was found guilty on count(s) _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number
18 USC §§ 2251(a) & (e) and 2256	Sexual Exploitation of Child in Production of Child Pornography	10/31/2007	1-21, 23-31, & 33
18 USC §§ 2423(a) and 2	Transportation of a Minor to Engage in Illegal Sexual Activity	10/31/2007	34 and 35
18 USC §§ 1512(b)(3)	Obstruction of Justice	08/28/2008	36
18 USC §§ 1512(b)(1)	Obstruction of Justice	08/28/2008	37

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984

- The defendant has been found not guilty on count(s) _____
- Count(s) 22 and 32 is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

[Signature]
Signature of Assistant United States Attorney

10/7/11
Date of Imposition of Judgment

[Signature]
Signature of Judge

Benjamin H. Settle, US Dist. Judge
Name and Title of Judge

10/7/11
Date

AO 245C (Rev. 6/2005) Amended Judgment in a Criminal Case (Rev. USAO 10/2005)
Sheet 2 — Imprisonment

(NOTE: Identify Changes with Asterisks (*))

Judgment — Page 2 of 8

DEFENDANT: Weldon Marc Gilbert
CASE NUMBER: CR07-5732BHS-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 300 months (25 years)

The court makes the following recommendations to the Bureau of Prisons:

The court recommends that the defendant be placed at Terminal Island Correctional Facility.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____

DEPUTY UNITED STATES MARSHAL

AO (Rev. 6/2005) Amended Judgment in a Criminal Case (Rev. USAO 10/2005)
 Sheet 3 — Supervised Release

(NOTE: Identify Changes with Asterisks)

Judgment—Page 3 of 8

DEFENDANT: Weldon Marc Gilbert
 CASE NUMBER: CR07-5732BHS-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised
Life

- The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons
- The defendant shall not commit another federal, state or local crime.
- The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, up to a maximum of 8 tests per month at dates and times directed by the U.S. Probation Officer.
- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer,
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record, personal history, or characteristics and shall permit the probation officer to make such notifications and confirm the defendant's compliance with such notification requirement.

AO 245C

Sheet 3C — Supervised Release

(NOTE: Identify Changes with Asterisks (**))

Judgment—Page 4 8

DEFENDANT: Weldon Marc Gilbert
CASE NUMBER: CR07-5732BHS-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall submit to a search of his/her person, residence, office, property, storage unit, or vehicle conducted in a reasonable manner and at a reasonable time by a probation officer.

The defendant shall not possess or peruse any authentic, altered or manufactured, in whatever form, material that depicts and/or describes "sexually explicit conduct," as defined in 18 USC § 2256(2) or "child pornography," as defined in 18 USC §2256(8).

The defendant's employment must be approved in advance by the probation officer. The defendant may not engage in any paid occupation or volunteer service that exposes him/her, either directly or indirectly, to minors, unless approved in advance by the probation officer.

The defendant, who is required to register under the Sex Offender Registration and Notification Act, must comply with all requirements of the Act. The defendant shall report the address where the defendant will reside and any subsequent change of residence to the probation officer responsible for supervision, and shall register as a sex offender in any jurisdiction where the person resides, is employed, or is a student. For initial registration purposes only, the defendant shall also register in the jurisdiction in which convicted if such jurisdiction is different from the jurisdiction of the residence. Registration must occur within three business days after sentencing (if the offender did not receive a prison sentence) or within three business days after being released from custody.

The defendant shall participate in a sexual deviancy evaluation conducted by a sexual deviancy treatment provider, as directed and approved by the U.S. Probation Officer. The treatment provider shall be trained and experienced in the treatment of sexual deviancy, and follow the guideline practices established by the Association for the Treatment of Sexual Abusers (ATSA). The sexual deviancy evaluation may include psychological and physiological testing **except plethysmograph ** The defendant shall disclose all previous sex offender or mental health evaluations to the treatment provider. The defendant shall also contribute to the costs of the evaluation, according to his/her ability, as determined by the U.S. Probation Officer.

The defendant shall follow all rules, to include other lifestyle restrictions, recommended by the defendant's therapist, and continue with those rules and restrictions as they pertain to avoiding risk situations throughout the course of supervision.

The defendant shall not go to places nor loiter within 100 feet of an area where minors are known to frequent without the prior approval of the probation officer and the sexual deviancy therapist. The defendant shall not affiliate with, own, control, volunteer, and/or be employed, in any capacity, by an organization in an activity which would place him in the direct or indirect contact with children under the age of 18.

The defendant shall have no direct or indirect contact with any children under the age of 18, unless accompanied and supervised by an adult, who has been approved in advance by the sexual deviancy therapist and the supervising probation officer. The defendant shall immediately report any unauthorized contact with children to the probation officer and sexual deviancy therapist.

The defendant's residence shall be pre-approved by the probation office. The defendant shall not reside in direct view of places used primarily by minors, such as school yards, parks, public swimming pools, or recreational centers, playgrounds, youth centers, video arcade facilities, or other places primarily used by children under the age of 18.

Restitution in the amount of \$1,072,175.76 is due in full within 30 days.

The defendant shall consent to the U.S. Probation Office conducting ongoing monitoring of his computers, hardware, and software and any electronic devices/media. The monitoring may include the installation, at the defendant's expense, of hardware or software systems which allow evaluation of his computer use. Monitoring may also include the retrieval and copying of all data from his computers or any/all other electronic devices/media. The defendant shall also comply with the requirements of the U.S. Probation Computer Monitoring Program as directed.

The defendant shall provide the probation officer with access to any requested financial information including authorizations to conduct credit checks and obtain copies of the defendant's federal income tax returns.

The defendant shall have no contact whatsoever with any of the victims in this case.

DEFENDANT: Weldon Marc Gilbert
 CASE NUMBER: CR07-5732BHS-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 3,500	\$ Waived	\$ 1,072,175.76

- The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Amount of Total</u>	<u>Amount of Restitution</u>	<u>Priority or Percentage</u>
<u>John Doe 1</u>	<u>23,612.50</u>	<u>23,612.50</u>	
<u>John Doe 2</u>	<u>51,250.00</u>	<u>51,250.00</u>	
<u>John Doe 3</u>	<u>98,750.00</u>	<u>98,750.00</u>	
<u>John Doe 4</u>	<u>67,127.59</u>	<u>67,127.59</u>	
<u>John Doe 5</u>	<u>94,144.17</u>	<u>94,144.17</u>	
<u>See Add'l Payees on</u>	<u>Attached page</u>		
<u>TOTALS</u>	\$ 1,072,175.76	\$ 1,072,175.76	

- Restitution amount ordered pursuant to plea agreement \$ _____
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the 30th day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest, and it is ordered that:
 - the interest requirement is waived for fine restitution.
 - the interest requirement for the fine restitution is modified as follows:
- Interest is not ordered so long as the restitution is paid in full 30 days from today's date
- The Court finds that the defendant is financially unable and is unlikely to become able to pay a fine and, accordingly, the imposition of a fine is waived.

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

AO 245C (Rev. 6/2005) Amended Judgment in a Criminal Case (Rev. USAO 10/2005)
Sheet 5B -- Criminal Monetary Penalties

(NOTE: Identify Changes with Asterisks (**))

Judgment -- Page 6 of 8DEFENDANT: Weldon Marc Gilbert
CASE NUMBER: CR07-5732BHS-001**ADDITIONAL RESTITUTION PAYEES**

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
John Doe 6	1,717.49	1,717.49	
John Doe 7	69,195.45	69,195.45	
John Doe 8	49,021.40	49,021.40	
John Doe 9	58,713.99	58,713.99	
John Doe 10	71,749.03	71,749.03	
John Doe 11	98,750.00	98,750.00	
John Doe 12	47,520.00	47,520.00	
John Doe 13	21,225.00	21,225.00	
John Doe 14	32,758.80	32,758.80	
John Doe 15	2,204.52	2,204.52	
John Doe 16	7,089.77	7,089.77	
John Doe 17	54,353.55	54,353.55	
John Doe 18	68,575.00	68,575.00	
John Doe 19	67,625.00	67,625.00	
John Doe 20	34,962.50	34,962.50	
John Doe 21	51,830.00	51,830.00	

* Findings for the total amount of losses are required by Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Weldon Marc Gilbert
CASE NUMBER: CR07-5732BHS-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

PAYMENT IS DUE IMMEDIATELY. Defendant will fully pay the restitution amount within 30 days.:

- During the period of imprisonment, no less than _____% of their inmate gross monthly income or \$25.00 per quarter, whichever is greater, to be collected and disbursed in accordance with the Inmate Financial Responsibility Program.
- During the period of supervised release, in monthly installments amounting to not less than _____% of the defendant's gross monthly household income, to commence 30 days after release from imprisonment.
- During the period of probation, in monthly installments amounting to not less than _____% of the defendant's gross monthly household income, to commence 30 days after the date of this judgment.

The payment schedule above is the minimum amount that the defendant is expected to pay towards the monetary penalties imposed by the Court. The defendant shall pay more than the amount established whenever possible. The defendant must notify the Court, the United States Probation Office, and the United States Attorney's Office of any material change in the defendant's financial circumstances that might affect the ability to pay restitution.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment.

All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to: United States District Court, Western District of Washington. For restitution payments, the Clerk of the Court is to forward money received to the party(ies) designated to receive restitution specified at pages 5 & 6 of this Judgment.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

AO 245C (Rev. 6/2005) Amended Judgment in a Criminal Case (Rev. USAO 10/2005)
 Sheet 6B — Schedule of Payments

(NOTE: Identify Changes with Asterisks (**))

Judgment—Page 8 of 8

DEFENDANT: Weldon Marc Gilbert
 CASE NUMBER: CR07-5732BHS-001

ADDITIONAL FORFEITED PROPERTY

One blue Lexu GX470, bearing WA License 029RYB, VINGJTJBT20X940035115; One 2006 white Ford F150 pick-up, WA license A68898Z, VIN1FTRF12206NB15476; One 1981 Bell 206B helicopter, Tail#N325JR, Serial #3296, and all flight logs and maintenance logs associated with this aircraft; One 1968 Cessna A185E float plane, Tail #N2210T, Serial #185-1362, and all flight logs and maintenance logs associated with this aircraft; One 2003 Sea Ray boat, Model 185BR, license #WN8212NM, Boat Hull #0059RG, VIN 1MDJ2JR163A248710; Real property located at 2901 211th Avenue East, Lake Tapps, Washington, 98391, parcel numbers 8996010100, its buildings, improvements, appurtenances, fixtures, attachments and easements, more particularly described as: Lot 10 of Lake Tapps Island Division No. 1, according to the Plat thereof recorded in volume 48 of Plats at pages 30 to 34, inclusive records of Pierce County, Washington; Real property located at 2901 211th Avenue East, Lake Tapps, Washington 98391, parcel numbers 8996010110, its buildings, improvements, appurtenances, fixtures, attachments, and easements, more particularly described as: Lot 11 of Tapps Island Division No. 1, according to the Plat thereof recorded in volume 48 of Plats at pages 30 to 34, inclusive records of Pierce County, Washington; One Sony Digital Handicam Digital 8 camcorder, model DCR-TRV250, Serial #388947; One Sony Video 8 Handicam camcorder, model CCE-TR40, Serial #3009669; One Averatec laptop computer, model 5500 series, Serial number obliterated; One Fry's Intel Pentium 4 computer tower, model FS7470, Serial #747FSX340000296; One Averatec Notebook computer, model 2200 series, Serial number partiall obliterated, starting with NW04CE6040; One SeaGate Medalist 13640hard drive, model ST313640A, Serial #7AE054NA; One Western Digital WD1600 Enhanced IDE hard drive, model WD1600BB-00DAA0, Serial #WMACK2069917; One Western Digital WD400 Enhanced IDE hard drive, model WD400JB-00ENA0, Serial #WCAD19728957; One Western Digital WD 1600 Enhanced IDE hard drive, model WD1600JB-75GVC0, Serial #WCAL96008970; One MX 100 camera tripod; and any and all images of child pornography, in whatever form and however stored, including but not limited to, those stored in zip disks, CDs/DVDs, video cassette tapes, and floppy disks.



07-1-05618-3 39479861 STTDFG 11-06-12



**Superior Court of Washington
For Pierce County**

No 07-1-05618-3

State of Washington

Plaintiff

vs.

Weldon Marc Gilbert

Defendant

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

1 My true name is: Weldon Marc Gilbert

2 My age is: 52 8/26/60

3 The last level of education I completed was College JR yr.

4 **I Have Been Informed and Fully Understand That:**

(a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is:
Pro Se w/ Standby Counsel Ann Stenberg.

(b) I am charged with the crime(s) of: Child Molestation 2nd and 3rd Degree
as set out in the amended Information, dated, 11/5/12, a copy of which I hereby
acknowledge previously receiving and reviewing with my lawyer.

(Defendant's initials)

The elements of this crime these crimes
are as set out in the amended Information, dated 11/5/12 a copy of which I hereby
acknowledge previously receiving and reviewing with my lawyer

(Defendant's initials)

X Additional counts are addressed in Attachment "B"

5. **I Understand I Have the Following Important Rights, and I Give Them Up by
Pleading Guilty:**

(a) The right to a speedy and public trial by an impartial jury in the county where the crime

was allegedly committed;

- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me,
- (e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty,
- (f) The right to appeal a finding of guilt after a trial as well as other pre-trial motions such as time for trial challenges and suppression issues.

6. **In Considering the Consequences of My Guilty Plea, I Understand That:**

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a **Standard Sentence Range** as follows:

COUNT NO	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range including enhancement)	COMMUNITY CUSTODY (Only applicable for crimes committed on or after July 1, 2000 For crimes committed prior to July 1, 2000 see paragraph 6(f))	MAXIMUM TERM AND FINE
1	39	87-116 Months		87-116 Months	36 Months	10yr/\$20K
2	39	87-116 Months		87-116 Months	36 Months	10yr/\$20K
3	39	87-116 Months		87-116 Months	36 Months	10yr/\$20K

* Each sentencing enhancement will run consecutively to all other parts of my entire sentence, including other enhancements and other counts. The enhancement codes are: (F) Firearm, RCW 9 94A 533, (D) Other deadly weapon, RCW 9.94A 533, (SM) Sexual Motivation, RCW 9 94A 533(8), (SCF) Sexual conduct with a child for a fee, RCW 9 94A 533(9), (CSG) Criminal street gang involving minor, RCW 9 94A 533, (AE) Endangerment while attempting to elude. RCW 9 94A 533

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this statement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If the prosecutor and I disagree about the computation of the offender score, I understand that this dispute will be resolved by the court at sentencing. I waive any right to challenge the acceptance of my guilty plea on the grounds that my offender score or standard range is lower than what is listed in paragraph 6(a). If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history

Statement on Plea of Guilty to Sex Offense (STTDFG) - Page 2 of 9
CrR 4 2(g) (2/2012)

is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.

- (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment and any mandatory fines or penalties that apply to my case. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.
- (f) **For sex offenses committed prior to July 1, 2000:** In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is more than one year, the judge will order me to serve three years of community custody or up to the period of earned early release, whichever is longer. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For sex offenses committed on or after July 1, 2000 but prior to September 1, 2001: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, the judge will sentence me to community custody for 36 months or up to the period of earned release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For sex offenses committed on or after September 1, 2001: (i) Sentencing under RCW 9.94A.507: If this offense is any of the offenses listed in subsections (aa) or (bb), below, the judge will impose a maximum term of confinement consisting of the statutory maximum sentence of the offense and a minimum term of confinement either within the standard range for the offense or outside the standard range if an exceptional sentence is appropriate. The minimum term of confinement that is imposed may be increased by the Indeterminate Sentence Review Board if the Board determines by a preponderance of the evidence that it is more likely than not that I will commit sex offenses if released from custody. In addition to the period of confinement, I will be sentenced to community custody for any period of time I am released from total confinement before the expiration of the maximum sentence. During the period of community custody I will be under the supervision of the Department of Corrections and I will have restrictions and requirements placed upon me, which may include electronic monitoring, and I may be required to participate in rehabilitative programs

- (aa) If the current offense is any of these offenses or attempt to commit any of these offenses:

- (j) I understand that **I may not possess, own, or have under my control any firearm**, and under federal law any firearm or ammunition, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license
- (k) I understand that **I will be ineligible to vote** until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const art VI, § 3, RCW 29A.04.079, 29A.08.520.
- (l) **Government assistance may be suspended** during any period of confinement
- (m) **I will be required to register where I reside, study or work.** The specific registration requirements are described in the "Offender Registration" Attachment.
- (n) **I will be required to have a biological sample** collected for purposes of DNA identification analysis, unless it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense. I will be required to pay a \$100.00 DNA collection fee.
- (o) **I will be required to undergo testing** for the human immunodeficiency (HIV/AIDS) virus.

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

Handwritten:
 Defendant acknowledges this paragraph applies to the Child Molest 2nd Degree Counts
 Ann Steubing

- (p) ~~This offense is a most serious offense or "strike" as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the offense for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. In addition, if this offense is (i) rape in the first degree, rape of a child in the first degree, rape in the second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child molestation in the first degree, or (ii) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree, with a finding of sexual motivation, or (iii) any attempt to commit any of the offenses listed in this sentence and I have at least one prior conviction for one of these listed offenses in this state, in federal court, or elsewhere, the offense for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.~~
- (q) **Special sex offender sentencing alternative:** In addition to other eligibility requirements under RCW 9.94A.670, to be eligible for the special sex offender sentencing alternative, I understand that I must voluntarily and affirmatively admit that I committed all of the elements of the crime(s) to which I am pleading guilty. I make my voluntary and affirmative admission in my statement in paragraph 11.

~~For offenses committed before September 1, 2001: The judge may suspend execution of the standard range term of confinement under the special sex offender sentencing~~

alternative (SSOSA) if I qualify under former RCW 9 94A.120(8) (for offenses committed before July 1, 2001) or RCW 9.94A 670 (for offenses committed on or after July 1, 2001). If the judge suspends execution of the standard range term of confinement, I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater; I will be ordered to serve up to 180 days of total confinement; I will be ordered to participate in sex offender treatment; I will have restrictions and requirements placed upon me, and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

For offenses committed on or after September 1, 2001: The judge may suspend execution of the standard range term of confinement or the minimum term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.670. If the judge suspends execution of the standard range term of confinement for a sex offense that is not listed in paragraph 6(f)(i), I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater. If the judge suspends execution of the minimum term of confinement for a sex offense listed in paragraph 6(f)(i), I will be placed on community custody for the length of the statutory maximum sentence of the offense. In addition to the term of community custody, I will be ordered to serve up to 180 days of total confinement if I committed the crime prior to July 1, 2005, or up to 12 months with no early release if I committed the crime on or after July 1, 2005; I will be ordered to participate in sex offender treatment; I will have restrictions and requirements placed upon me, which may include electronic monitoring; and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

- _____ (r) If this is a crime of domestic violence, the court may order me to pay a domestic violence assessment of up to \$100.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50 150.
- _____ (s) If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.
- _____ (t) I understand that RCW 46.20 285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.
- _____ (u) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[p].

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree committed when I was at least 18 years old	Rape of a child in the second degree committed when I was at least 18 years old
Child molestation in the first degree committed when I was at least 18 years old	Indecent liberties by forcible compulsion
Any of the following offenses with a finding of sexual motivation:	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Kidnapping in the second degree	Assault in the first degree
Assault in the second degree	Assault of a child in the first degree
Assault of a child in the second degree	Burglary in the first degree

(bb) If the current offense is any sex offense and I have a prior conviction for any of these offenses or attempt to commit any of these offenses:

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree	Rape of a child in the second degree
Child molestation in the first degree	Indecent liberties by forcible compulsion
Any of the following offenses with a finding of sexual motivation:	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Kidnapping in the second degree	Assault in the first degree
Assault in the second degree	Assault of a child in the first degree
Assault of a child in the second degree	Burglary in the first degree

(ii) If this offense is a sex offense that is not listed in paragraph 6(f)(i), then in addition to sentencing me to a term of confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, or if my crime is failure to register as a sex offender, and this is my second or subsequent conviction of that crime, the judge will sentence me to community custody for 36 months or up to the period of earned release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me, which may include electronic monitoring

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

1) If the offense is rape of a child in the first degree, rape of a child in the second degree or child molestation in the first degree and the offense includes a special allegation that the offense was predatory.

2) If the offense is rape in the first degree, rape in the second degree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation and the offense includes special allegation that the victim of the offense was under 15 years of age at the time of the offense.

3) If the offense is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation and this offense includes a special allegation that the victim of the offense was, at the time of the offense, developmentally disabled, mentally disordered, or a

frail elder or vulnerable adult.

Community Custody Violation: If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 60 days confinement per violation and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation

- (g) The prosecuting attorney will make the following recommendation to the judge:

Please See State's Plea Agreement
filed November 6, 2012, for terms
and condition.

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

- (h) **The judge does not have to follow anyone's recommendation as to sentence.** The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so (except as provided in paragraph 6(f)). I understand the following regarding exceptional sentences:

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

If the court imposes a standard range sentence, then no one may appeal the sentence. If the court imposes an exceptional sentence after a hearing, either the State or I can appeal the sentence.

- (i) **If I am not a citizen of the United States**, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States

____ (v) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts ____ and ____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.

____ (w) The offense(s) I am pleading guilty to include(s) a deadly weapon, firearm or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.

____ (x) **For crimes committed on or after July 22, 2007:** If I am pleading guilty to rape of a child in the first, second, or third degree or child molestation in the first, second or third degree, and I engaged, agreed or offered to engage the victim in sexual intercourse or sexual contact for a fee, or if I attempted, solicited another, or conspired to engage, agree or offer to engage the victim in sexual intercourse or sexual contact for a fee, then a one-year enhancement shall be added to the standard sentence range. If I am pleading guilty to more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement

7. I plead guilty to count(s) I-XIV as charged in the second amended Information, dated 11/5/12. I have received a copy of that Information and reviewed it with my lawyer.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime.

This is my statement:

Please see "Addendum to Plea Form for Combined Alford/Newton and In re Barr Plea" attached to and incorporated into this State of Defendant on Plea of Guilty.

Instead of making a statement, I agree that the court may review the police reports and/or a

statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

M. Pit
Defendant

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

Tim Lewis
Prosecuting Attorney

Tim Lewis 33767
Print Name WSBA No.

Ann Stenberg # 22596
Defendant's Lawyer **STANDBY**

Ann Stenberg 22596
Print Name WSBA No.

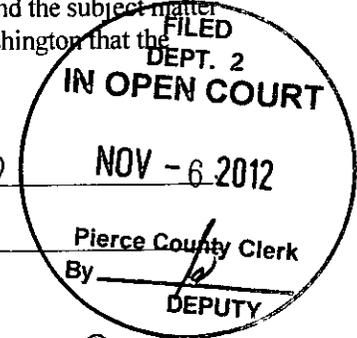
The defendant signed the foregoing statement in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is attached.

Interpreter's Declaration: I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands. I have translated and interpreted this document for the defendant from English into that language. I have no reason to believe that the defendant does not fully understand both the interpretation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

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

Interpreter _____ Print Name _____



I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: 11/06/12
Katherine M. Stolz
Judge **KATHERINE M. STOLZ**

Case Name: Weldon Marc Gilbert Cause No 07-1-05618-3

ATTACHMENT "B"

4 (b) (continued) Defendant is pleading guilty to these additional counts

Count IV : Counts V, VI, X, IVX: Child Molestation in the Third Degree
 Elements: see second amended Information

The crime carries a maximum sentence of 5 years imprisonment and a
 \$ 10K fine. The standard range is from 00 months to 00 months
 based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense Serious Violent Violent Non-
 Violent Sex Drug Traffic (check all that apply)

Count VH : Counts VIII, IX, XI, XII, XIII: Child Molestation Second Degree
 Elements: see second amended Information

The crime carries a maximum sentence of 10 years imprisonment and a
 \$ 20K fine. The standard range is from 87 months to 116 months
 based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense Serious Violent Violent Non-
 Violent Sex Drug Traffic (check all that apply)

6 (b) (continued) Defendant is pleading guilty to these additional counts

COUNT NO	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancement for (F) Firearm, (D) Other Deadly Weapon, (V) VUCSA in protected zone, (VH) Vehicular Homicide, See RCW 46 61 520, or (JP) Juvenile Present	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	STANDARD RANGE COMMUNITY CUSTODY (Only applicable for crimes committed on or after July 1, 2000 For crimes committed prior to July 1, 2000, see paragraph 6(f))	MAXIMUM PENALTY
IV-VI, X, IVX	60 Months		60 Months	36 Months	5 Yrs/\$10,000
VII, VIII, IX, XI, XIII	120 Months		120 Months	36 Months	10yr/\$20K

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

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 07-1-05618-3

vs.

WELDON MARC GILBERT
D.O.B.: 08/26/1960ADDENDUM TO PLEA FORM FOR
COMBINED ALFORD/NEWTON AND IN RE
BARR PLEA

Defendant.

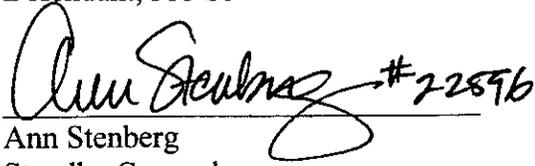
North Carolina v. Alford, 400 U.S. 25 (1970); State v. Newton, 87 Wn.2d 363 (1976): I do not admit that I am guilty of this/these crime(s), but I have reviewed the evidence with my attorney and believe that there is a substantial likelihood I would be convicted or more serious charges if I proceeded to trial. I am pleading guilty in order to take advantage of the State's offer. I understand that the court must find a factual basis for my plea of guilty. I acknowledge there is a factual basis for the charge(s) in the Original Information that is set forth in the Declaration for Determination of Probable Cause, and I agree the court may consider that declaration, as well as any other information presented by the prosecutor at the time of this plea, to support the court's finding of a factual basis for my plea.

In re Barr, 102 Wn.2d 265 (1984): In addition to what is set out above, and in addition to my factual admissions in the plea form, I recognize that I am entering a plea of guilty to a crime that I in fact did not commit. My attorney has discussed with me all of the elements of the original charge(s) and the elements of the amended charge(s), and I understand them all. There is a factual basis for the original charge(s). I understand that the prosecution would be unable to prove the amended charge(s) at trial, but I see pleading guilty to the amended charge(s) as being beneficial to me because it will allow me to avoid the risk of conviction on the charge(s) I would face at trial. Based upon a review of the alternatives before me, I have decided to plead guilty to a crime I did not commit in order to take advantage of the State's offer. I understand the consequences of this plea agreement and I am making a voluntary and informed choice to enter into it.

1 I understand that the court must find a factual basis for the original charge(s) and I
2 agree that the court may consider the declaration for determination of probable cause and any
3 other information presented by the prosecutor at the time of this plea to support the factual
4 basis for the original charge(s).

5 DATED this 6th day of November, 2012.

6 
7 WELDON MARC GILBERT
8 Defendant, Pro Se

9  #22596
10 Ann Stenberg
11 Standby Counsel
12 WSB # 22596
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CASE NAME State v. Weldon Marc Gilbert Cause No 07-1-05618-3

ATTACHMENT "S" See paragraph 6(f) and 6(g) of Statement on Plea of Guilty (Required attachment to Statement of Defendant on Plea of Guilty for plea to any sex offense)

Paragraph 6(f) For sex crimes committed prior to July 1, 2000:

In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is not more than 12 months. If the period of confinement is more than one year, the judge will order me to serve three years of community custody or up to the period of earned early release period, whichever is longer. During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. My failure to comply with these conditions will render me ineligible for general assistance. RCW 74.04.005(6)(h)

For sex crimes committed on or after July 1, 2000, but prior to Sept. 1, 2001:

Unless I am being sentenced under RCW 9.94A.670 (SSOSA)(formerly RCW 9.94A.120(8)), in addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, the judge will sentence me to community custody for a period of 36 to 48 months or up to the period of earned release, whichever is longer. During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

For sex crimes committed on or after September 1, 2001:

(i) **Sentencing under RCW 9.94A.712:** If this offense is for any of the offenses listed in subsections (aa) or (bb), below, the judge will impose a maximum term of confinement consisting of the statutory maximum sentence of the offense and a minimum term of confinement either within the standard range for the offense or outside the standard range if an exceptional sentence is appropriate. The minimum term of confinement that is imposed may be increased by the Indeterminate Sentencing Review Board if the Board determines by a preponderance of the evidence that it is more likely than not that I will commit sex offenses if released from custody. In addition to the period of confinement, I will be sentenced to community custody for the statutory maximum sentence for that offense. The statutory maximum sentence for this offense is [] ten years [] life. During the period of community custody I will be under the supervision of the Department of Corrections and I will have restrictions placed on my activities and I may be required to participate in rehabilitative programs or other affirmative conduct. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

STATEMENT ON PLEA OF GUILTY (Attachment S for sex offenses)(05/02) - Page 1 of 3

(aa) If the current offense is any of these offenses or attempt to commit any of these offenses:

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree committed when I was at least 18 years old	Rape of a child in the second degree committed when I was at least 18 years old
Child molestation in the first degree committed when I was at least 18 years old	Indecent liberties by forcible compulsion
Any of the following offenses with a finding of sexual motivation	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Assault in the first degree	Kidnapping in the second degree
Assault in the second degree	Assault of a child in the first degree
Burglary in the first degree	

(bb) If the current offense is any sex offense, other than failure to register as a sex offender, and I have a prior conviction for any of these offenses or attempt to commit any of these offenses:

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree	Rape of a child in the second degree
Child molestation in the first degree	Indecent liberties by forcible compulsion
Any of the following offenses with a finding of sexual motivation	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Assault in the first degree	Kidnapping in the second degree
Assault in the second degree	Assault of a child in the first degree
Burglary in the first degree	

(ii) If this offense is for a sex offense that is not listed in paragraph 6(f)(i), then in addition to sentencing me to a term of confinement, the judge may order me to serve up to one year of community

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2 custody if the total period of confinement ordered is not more than 12 months. If the period of
3 confinement is over one year, the judge will sentence me to community custody for a period of 36 to 48
4 months or up to the period of earned release, whichever is longer. During the period of community
5 custody to which I am sentenced, I will be under the supervision of the Department of Corrections, and I
6 will have restrictions placed on my activities

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Paragraph 6(o)

For offenses committed before September 1, 2001: The judge may suspend execution of the standard range term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under former RCW 9.94A.120(8) (for offenses committed before July 1, 2001) or RCW 9.94A.670 (for offenses committed on or after July 1, 2001). If the judge suspends execution of the standard range term of confinement, I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater; I will be ordered to serve up to 180 days of total confinement; I will be ordered to participate in sex offender treatment; and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

For offenses committed on or after September 1, 2001: The judge may suspend execution of the standard range term of confinement or the minimum term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.670. If the judge suspends execution of the standard range term of confinement and my current offense is for any sex offense other than those listed in paragraph 6(f)(i), I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater. If the judge suspends execution of minimum term of confinement for a sex offense listed in paragraph 6(f)(i), I will be placed on community custody for the length of the statutory maximum sentence of the offense. In addition to the term of community custody, I will be ordered to serve up to 180 days of total confinement; I will be ordered to participate in sex offender treatment; and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

LAW OFFICE OF SUZANNE LEE ELLIOTT

June 22, 2020 - 2:10 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 54188-2
Appellate Court Case Title: Personal Restraint Petition of Weldon M. Gilbert
Superior Court Case Number: 07-1-05618-3

The following documents have been uploaded:

- 541882_Briefs_20200622140957D2825405_5584.pdf
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- wapofficemail@washapp.org

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