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STATE OF WASHINGTON

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79371-9

SUPREME COURT OF THE STATE OF WASHINGTON

MICHAEL BOYD, PETITIONER,

v.

STATE OF WASHINGTON,
RESPONDENT.

Appeal from the Superior Court of
Pierce County
The Honorable Thomas Larkin
Pierce County Superior Court
04-1-05178-1

MOTION FOR DISCRETIONARY
REVIEW

BARBARA COREY, WSB#11778
901 South I Street, Suite 201
Tacoma, WA 98405
253-779-0844

A. IDENTITY OF PETITIONER:

MICHAEL BOYD, defendant below, asks this court to accept review of the Superior Court decision designated in part B of this petition.

B. SUPERIOR COURT DECISION:

Petitioner Michael Boyd seeks direct discretionary review of the decision of the Honorable Thomas Larkin entered on October 17, 2006, in Pierce County Superior Court No. 04-1-05178-1, denying the defendant's motion for discovery of photographs and computer images, including a mirror image of the hard drive, and also placing restrictions on the defendant's pretrial interviews of the alleged victims. Copies of the court's orders are attached as Appendix A.

C. ISSUES PRESENTED FOR REVIEW:

1. Pursuant to the liberal discovery rules of the Washington courts, should the State be required to provide copies of photographs and computer images, including a mirror image of the hard drive, in a prosecution for sexual exploitation of a minor and possession of depictions of minors engaged in sexually explicit conduct, where the items sought are reasonable and material to the defense, where there is no "substantial risk"

of harm to anyone from this discovery process, and where the items may be protected from duplication and/or dissemination by protective order of the trial court?

2. May a trial court sua sponte impose restrictions on the conduct of defendant's pretrial interviews of the alleged victims in the absence of any legal authority permitting such intervention?

D. STATEMENT OF THE CASE:

The defendant is charged with twenty eight counts of child rape in the first degree, child molestation in the first degree, sexual exploitation of a minor, and possession of depictions of minors engaged in sexually explicit conduct¹. The counts of sexual exploitation of minors allege that the defendant took numerous sexually explicit photographs of three young girls.

The defendant has had numerous attorneys and investigators, some of whom viewed the photos and computer images. Their detailed descriptions were provided to present counsel.

In the course of pretrial preparation, the defendant filed a motion to compel discovery of the photos and computer images. The motion was

¹ Appendix B

filed on July 3, 2006. Due to scheduling issues, the motion was not argued until October 10, 2006. By that date, the defendant's motion² had been successfully argued in two other Pierce County cases, State v. Giles and State v. Wear, Pierce County Superior Court nos. 06-1-03604-4 and 06-1-02616, both of which are now before this court in the State's pending motion for discretionary review in Supreme Court no. 79339-5.

On October 10, 2006, the defendant argued his motion before a different judge, the Honorable Thomas Larkin. Judge Larkin denied the motion and stated that the rules of discovery are to be applied on a case by case basis. Judge Larkin, who had a copy of the protective order from the above-named cases in front of him and little other knowledge of the facts of those cases or this case, found that the instant case was somehow different from those cases and proceeded to deny the defendant's motion. The State proposed an order and the defendant filed objections³ thereto. The court issued the protective order that is appended hereto as Appendix A. The court denied the defense the opportunity to possess the items in a secured environment of its choice, to permit the defense investigator to examine the items on his computer equipment with the computer software

² Counsel for defendant Giles filed and argued defendant Boyd's pleadings in his motion.

³ The defendant's objections are attached as Appendix C. From these objections, this court will appreciate many of the difficulties that the defendant envisioned as a consequence of the court's order. The prosecutor did not file a copy of his proposed order with the court.

of his selection and on his own schedule. The court ordered that the defense be given "at least" two opportunities to view the evidence, despite the fact that the State's expert had spent many days examining the same evidence. The court also held that the defense would have to make a motion before the court if it wanted more time to review the evidence than the court order allowed.

The court also entered an order prohibiting defense counsel from showing any of the photographs in its pretrial interviews of the alleged victims without advance permission from the court. The court denied the defendant's motion to have that procedure (to which the defendant objected) occur *in camera* and outside the presence of the prosecutor. The court denied that motion as well.

The practical effect of the court's order is to deny the defendant ready access to the evidence that the State intends to use to convict him of numerous charges and to deny the defense expert the opportunity to examine the evidence with the software he deems appropriate. Although the State offered to permit the defense to install its software on the State's computer, this is an expensive and burdensome process. In addition, the practical effect of the court's order is to require the defendant to preview his case to the court and to the prosecutor by requiring advance approval

for the use of photos in pretrial interviews. The defendant will have to justify the use of the photos prior to obtaining the court's approval and, in doing so, will be required to disclose the questions he intends to ask about the photos. The State will be a participant in the hearing and will not only object to the use of the photos but also will learn the specific reasons for the defense use of the photos. The defendant thereby loses the opportunity to conduct interviews of the alleged victims wherein it can ask questions that they have not been prepped for.

The trial court's rulings create an uneven, unconstitutional and thoroughly disadvantageous playing field for Mr. Boyd as he prepares for this serious trial. The trial court's rulings impair his ability to investigate his case by limiting his access to the discovery sought and also by restricting the scope of materials he may use in the defense pretrial interviews of the alleged victims.

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED:

RAP 4.2(a)(4) permits this court to accept direct review of a case if it involves "a fundamental and urgent issue of broad public import which requires prompt and ultimate determination." This case presents such an

issue. This court must decide once and for what discovery criminal defendants receive in criminal cases which involve depictions of minors engaged in sexually explicit conduct.

The petitioner, defendant Michael Boyd, is properly before this court. RAP 2.3(a) provides that, subject to limited exceptions, any party may seek discretionary review of any act of the superior court not appealable as a matter of right. RAP 2.3(b) provides considerations for governing acceptance of discretionary review. Of these considerations, the defendant submits that review is warranted under RAP 2.3(b)(2), that is, "the superior court has committed probable error and the decision of the superior court substantially alters the status quo or substantially limits the freedom of a party to act." This is the identical criteria to that invoked by the State in its petition for review on the identical issue in Supreme Court no. 79339-5, a petition by the State of Washington in State v. Giles and Wear, Pierce County Superior Court nos. 06-1-03604-4 and 06-1-02616-8.

Application of this criterion to this instant case is discussed below.

1. THE TRIAL COURT COMMITTED PROBABLE ERROR WHEN IT DENIED DISCOVERY OF MATERIALS THAT ARE RELEVANT AND MATERIAL TO THE DEFENSE OF THE CHARGES, THE RELEASE OF WHICH WOULD NOT CREATE A SUBSTANTIAL RISK TO ANY PERSON OF PHYSICAL HARM, INTIMIDATION, BRIBERY, ECONOMIC REPRISALS OR UNNECESSARY EMBARRASSMENT, AND WHICH ARE SUBJECT TO PROTECTIVE ORDER BY THE COURT.

The State has filed a motion for discretionary review on the identical issue presented in this case in Supreme Court no. no. 79339-5. This case presents exactly the same issue except that the trial court (a different trial court in the same county as the other case) reached an opposite ruling. Both of these trial courts cannot be correct in their application of the law. One must be right and the other wrong. This court's intervention is required at this time to resolve this important issue of criminal procedure.

It is the long settled policy in this state to construe the rules of criminal discovery liberally in order to serve the purposes underlying CrR 4.7, which are "to provide adequate information for informed pleas, expedite trials, minimize surprise, afford opportunity for effective cross-examination, and meet the requirements of due process . . .". State v. Yates, 111 Wn.2d 793, 797, 765 P.2d 291 (1988) (quoting Criminal Rules Task Force, *Washington Proposed Rules of Criminal Procedure* 77 (West Pub'g Co. ed. 1971)). To accomplish these goals, it is necessary that the

prosecutor resolve doubts regarding disclosure in favor of sharing the evidence with the defense.

Since the Yates case, the trend in criminal cases in Washington has been toward further expansion of discovery techniques, both before and during trial. State v. Pawlyk, 115 Wn.2d 457, 800 P.2d 338 (1998).

Further, the defendant has a recognized right to prepare his case in such a way that the identity and tasks of the defense expert are protected by the work product doctrine. United States v. Nobles, 422 U.S. 238, 95 S.Ct. 2160, 445 L.Ed.2d 1414 (1975); State v. Yates, supra.

CrR 4.7(e)(1) permits the trial court to order such discovery where the requested disclosure is reasonable and material to the preparation of the defense and there is no substantial risk to any person of any harm so as to outweigh any usefulness of the discovery to the defendant. In addition, CrR 4.7(h)(3) requires such materials to remain in the custody of the attorney and to be used only for the purpose of conducting the party's side of the case. CrR 4.7(h)(4) also authorizes the trial court to issue protective orders to restrict the use of discovery.

Application of those rules to the instant case affirms that the trial court in this case should have ordered discovery, just as the trial court did in the cases before this court in Supreme Court No. 79339-5. There can be

no doubt that the discovery sought is reasonable and material to the preparation of the defense – the items themselves form the very basis for the criminal charges. Likewise, the state failed to establish that there was “substantial risk” to any person from the provision of this discovery. The State, at best, made theoretical arguments regarding injuries to persons if the defense possesses and views the materials. The State’s arguments ring hollow because the State intends to publish the photos to a judge, jury, and spectators in open court. If it is necessary to show the materials to the fact finder, it is equally necessary to provide the materials to the defendant so that he may prepare for trial in the manner he deems appropriate.

The trial courts lack guidance regarding how to assure that the defendant’s constitutional rights are assured and how to apply the discovery rules in sexual exploitation cases. Compare this case with the facts of Supreme Court no. 79339-5, a petition by the State of Washington in State v. Giles and Wear, Pierce County Superior Court nos. 06-1-03604-4 and 06-1-02616-8, where the trial courts reached opposite rulings from the instant case.

The trial courts and the litigants require an ultimate determination from this court regarding the discovery issues presented in this case.

The issue of discovery obviously bears great significance for criminal defendants who should be able to evaluate the physical evidence with an expert of their choosing and in a laboratory with the requisite technology. At present, the State releases ballistics evidence, potential DNA evidence, and other physical evidence to the defense/defense expert for pretrial preparations. The State knows that the defense may be trusted to handle that evidence with integrity and to return it to the State as required by any court orders.

The discovery at issue in this case does not differ in principle from the types of discovery identified above. There is absolutely no principled reason to treat photographic and computer evidence different from those types of evidence. The courts should not recognize any exception for such evidence.

The State contends that releasing this evidence to the defense for its trial preparation somehow runs afoul of laws against the duplication and dissemination of child pornography. The defendant agrees that such materials should be carefully safeguarded, but notes that when the State provides to the defense a stolen firearm for ballistics testing, the State does not claim that it is violating the criminal law forbidding trafficking in stolen property or otherwise argue that it cannot give the evidence item to

the defense because it would be furthering the crime of possession of a stolen firearm.

Once the emotional response to the discovery issue is stripped away, this court should not treat discovery matters in sexual exploitation cases different than discovery in other cases. It would be a curious situation where the State could prosecute an individual for serious felonies while simultaneously prohibiting the defendant from meaningful preparation for trial.

In this case, the trial court placed draconian and unreasonable restrictions on the defense access to the evidence at issue. The defense expert⁴, a highly qualified individual⁵ who has testified as an expert in such cases in other superior courts in this state, is not even allowed to look at the evidence except in the presence of the defense investigator or defense counsel. There is no legitimate reason for this restriction except to increase the inconvenience and expense for the defense. In addition, although the State has had unlimited access to the volumes of photographic and computer discovery in this case, the defendant gets "at least two opportunities" to view the evidence and needs to make a motion

⁴ Although case law permits the nondisclosure of the defense expert, the defense was required to inform the state of the name of the expert for approval to use the state's computer and other tools, since the defense expert cannot use his own equipment.

⁵ See Appendix D.

before the court if the defense requires additional access to the materials. One may be certain that the State will oppose such access. In addition, the defense is prohibited, absent a court order, from showing any of the images to the alleged victims in this case. Thus, the defendant may not even conduct meaningful interviews about the charged crimes with the alleged victims.⁶

Because the trial court's ruling constitutes probable error and significantly impairs the defendant's pretrial preparation, this court should grant discretionary review.

2. THE TRIAL COURT COMMITTED PROBABLE ERROR WHEN IT SUA SPONTE ORDERED THE DEFENDANT NOT TO USE IN PRETRIAL INTEVIEWS OF THE ALLEGED VICTIMS THE VERY EVIDENCE THAT FORMS THE BASIS FOR THE CHARGES UNLESS AND UNTIL THE DEFENDANT OBTAINED PERMISSON FROM THE COURT IN AN OPEN HEARING WITH THE PROSECUTION PRESENT.

CrR 4.6 acknowledges that the defendant has a right to a pretrial interview and provides a remedy for dealing with individuals who refuse

⁶ The State belatedly filed a declaration from Lucy Berliner of the Harborview Sexual Assault Center regarding the potential harm to the alleged victims from seeing the material. However, the State filed that document AFTER the motions and the court ruling in this case and did not ever provide defense counsel any opportunity to address the contents. The defendant submits that this document was improperly filed in anticipation of this motion for discretionary review and should not be considered if ever placed before this court.

to be so interviewed. Indeed, failure to interview witnesses may support a claim of ineffective assistance of counsel. *State v. Ray*, 116 Wn.2d 531, 548, 806 P.2d 1220 (1991). Further, the Washington courts recognize that the law must afford the attorney a wide latitude and flexibility in his choice of trial psychology and tactics, including during the conduct of pretrial interviews. *State v. Piche*, 71 Wn.2d 583, 590, 430 P.2d 522 (1967).

The constitutional guarantee of effective assistance of counsel extends to the right to pretrial gathering of information. *Coleman v. Alabama*, 399 U.S. 1, 90 S.Ct. 1999, 26 L.Ed.2d 387 (197).

In this case, the trial court erred because it usurped defense counsel's ability to make decisions regarding how best to prepare for trial. The trial court, knowing very little about the case except what is contained in the charging documents, determined that it would regulate the conduct of defense pretrial interviews. The trial court enlisted the State to help it do so by requiring defense counsel to obtain advance permission from the court before showing the witnesses the photos that form the basis for the charges and in which the witnesses are depicted.

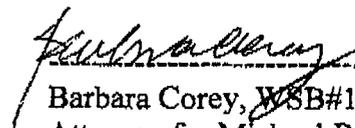
The trial court's actions, encouraged by the prosecutor, deprive the defendant of his Sixth Amendment right to effect assistance of counsel, his

Fourteenth Amendment Due Process rights, and his rights under the Washington Constitution, Article I, sec. 11.

F. CONCLUSION:

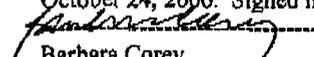
For the foregoing reasons, the petitioner Michael Boyd respectfully asks this court to grant this motion for discretionary review.

DATED October 24, 2006.



Barbara Corey, WSB#11778
Attorney for Michael Boyd

Declaration of Service: I declare under penalty of perjury under the laws of the State of Washington that I served a copy of this motion via facsimile on Deputy Prosecutor Kathleen Proctor, Pierce County Prosecuting Attorney's Office, 930 Tacoma Ave. S., Tacoma, WA on October 24, 2006. Signed in Tacoma, Washington on October 24, 2006.

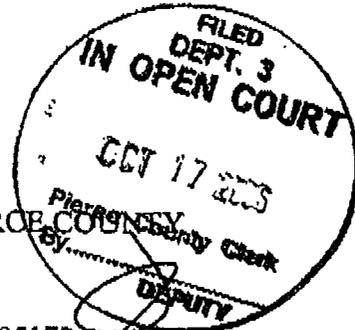


Barbara Corey

APPENDIX A



04-1-05178-1 26330354 PORD 10-18-06



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-05178-1

vs.

MICHAEL ALLEN BOYD,

PROTECTIVE ORDER REGARDING THE DEFENDANT'S ACCESS TO CHILD PORNOGRAPHY

Defendant.

This matter having come before the court on October 10, 2006 for the defendant's motion to seek unrestricted access to images that depict minors engaged in sexually explicit conduct and the defendant having been present represented by Attorney Barbara Corey and the State of Washington having been represented by Hugh K. Birgenheier, Deputy Prosecuting Attorney and the court having reviewed the materials submitted by the parties including the applicable case law, CrR 4.7(a); CrR 4.7(e); CrR 4.7(h) and 18 U.S.C. 504(m) and having heard the argument of counsel and being in all matters fully advised, it is hereby:

ORDERED, ADJUDGED AND DECREED as follows:

- 1) The court finds that the defendant has provided Investigator Clark of the Pierce County Prosecutor's Office with blank a 200 gigabyte hard drive on October 12, 2006. Investigator Clark has created a mirrored image of the defendant's hard drive (hereafter referred as the "mirrored image") pursuant to Ms. Corey's request.
2) The completed mirrored image is ready for Ms. Corey, defense investigator Bob Crow and the defense expert to begin their forensic examination. Investigator Clark shall provide Ms. Corey, defense investigator Bob Crow and the defense expert a secured room within the Investigative Services of the Pierce County Prosecutor's Office to conduct the defense's forensic evaluation of the mirrored image. Investigator Clark shall also provide Ms. Corey, defense investigator Bob Crow and the defense expert, at the secured location, with a tower, monitor, keyboard, mouse and operating system/software for viewing graphics. The defense may use any data recovery software that they choose during their forensic evaluation of the mirrored image. Ms. Corey, defense investigator Bob Crow and the defense expert shall also have a substantial amount of time, during this session, to complete the forensic evaluation of the mirrored image. Investigator Clark is

PROTECTIVE ORDER-1

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Main Office: (253) 798-7400

1 authorized to be present in another room during the defense's forensic evaluation of the
 2 mirrored image. Investigator Clark shall not interfere with Ms. Corey's forensic
 3 evaluation of the mirrored image. Neither Ms. Corey, defense investigator Bob Crow or
 4 the defense expert shall remove any data recovered during their forensic evaluation of the
 5 mirrored image of the defendant's computer from the secured location where the forensic
 6 evaluation is conducted. Once Ms. Corey, defense investigator Bob Crow and the
 7 defense expert have completed their forensic evaluation of the mirrored image they shall
 8 notify Investigator Clark. Investigator Clark will then provide the defense with a storage
 9 device so they data retrieved from the mirrored image can be stored. The storage device
 10 shall be retained by Investigator Clark. Investigator Clark is prohibited from viewing any
 11 data that the defense has retrieved.

- 12 3) In addition to the items listed in paragraph 2, Investigator Clark shall provide Ms. Corey,
 13 defense investigator Bob Crow and the defense expert photographic copies of the images
 14 showing S.R. and S.C. as well as photographic copies of the five images that depict
 15 unnamed minors engaged in sexually explicit conduct. The photographic copies that
 16 Investigator Clark provides to the defense shall be numbered and placed in numerical
 17 order. Ms. Corey, defense investigator Bob Crow and the defense expert are not allowed
 18 to retain any of these images.
- 19 4) Neither Ms. Corey nor her expert shall remove any of the images (in any form including
 20 data or photographic) from the secured location where the viewing is conducted.
- 21 5) After Ms. Corey, defense investigator Bob Crow and the defense expert complete the
 22 forensic evaluation of the mirrored image Ms. Corey can arrange for a time for her,
 23 defense investigator Bob Crow and the defense expert to meet with the defendant in the
 24 Pierce County Jail. At that time Investigator Clark will provide the defense with laptop
 25 computer and a mouse. Investigator Clark shall also provide Ms. Corey, defense
 investigator Bob Crow and the defense expert with the storage device which contains the
 data that the defense previously recovered from the mirrored image. Investigator Clark
 will also again provide Ms. Corey, defense investigator Bob Crow and the defense expert
 with copies of the images discussed in paragraph 3. During this ~~session~~ ^{opportunity}, Ms. Corey,
 defense investigator Bob Crow and the defense expert will have a substantial amount of
 time to meet with the defendant to review the data that they have recovered from the
 mirrored image as well as the images discussed in paragraph 3. Ms. Corey or Defense ~~Investigator~~
 Investigator Bob Crow must be present at all times when the defendant is viewing the
 data the defense recovered from the mirrored image as well as the images discussed in
 paragraph 3.
- 6) The data recovered by Ms. Corey, defense investigator Bob Crow and the defense expert
 during their forensic evaluation of the mirrored image shall only be viewed by Ms.
 Corey, defense investigator Bob Crow, the defense expert and the defendant. The data
 recovered from the mirrored image as well as the photographic images shall not be used
 by the defendant for any purpose other then preparation for trial.

PROTECTIVE ORDER-2

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1) Under no circumstances shall Ms. Corey, defense investigator Bob Crow, the defense expert or the defendant be allowed to retain any graphic images recovered from the mirrored image. Under no circumstances shall Ms. Corey, defense investigator Bob Crow, the defense expert or the defendant be allowed to retain the photographic images provide to the defense by Investigator Clark.

2) The computer into which the mirrored image of the defendant's hard drive is inserted for access and operation shall not be connected to a network while the mirrored image is installed. The computer into which the mirrored image is inserted for access and operation shall not be connected to a printer.

3) In no event shall graphic files containing images of minors engaged in sexually explicit conduct or which could reasonably be construed as constituting images of minors engaged in sexually explicit conduct, be copied, duplicated or replicated, in whole or part, onto any external media by the defense, without a court order.

4) Ms. Corey is granted at least two opportunities to have access to the mirrored image and/or the photographic images. If Ms. Corey determines that she needs additional access to either the mirrored image or to the photographic images she shall, with notice to the State, move the court to allow additional access to the images.

5) Ms. Corey, defense investigator Bob Crow and the defense expert are prohibited, absent a court order, from showing any of the images that depict minors engaged in sexually explicit conduct to any of the victims in this case.

DONE IN OPEN COURT this 17th day of October, 2006.

[Signature]

JUDGE

Presented by:

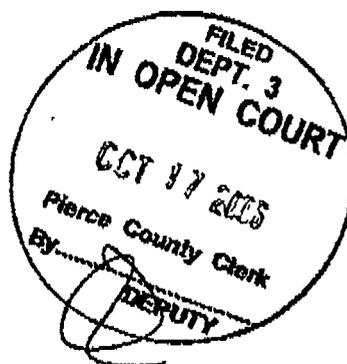
[Signature]

Hugh K. Birgenheier
Deputy Prosecuting Attorney
WSB# 14720

Approved as to Form:

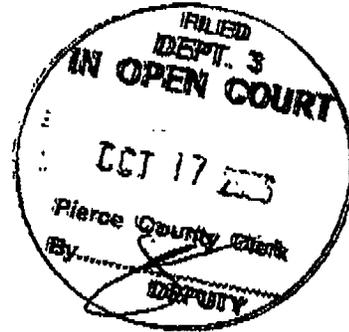
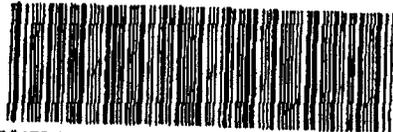
[Signature]

Barbara Corey
Attorney for Defendant
WSB# 11778



PROTECTIVE ORDER-3

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Tacoma, Washington 98402-2171
Main Office: (253) 798-7400



IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff

vs.

BOYD, MICHAEL ALLEN,

Defendant

Cause No: 04-1-05178-1

ORDER REGARDING
CHILD VICTIM INTERVIEWS

The court orders the following interview schedule:

① Alleged victims SR, BW, and HW shall be interviewed on Nov. 1, 2006 from 9 am - 4 pm. (The defense provides notice of its intent to tape record these interviews).

② Alleged victims DC and SR shall be interviewed on Nov. 9, 2006, from 9:30 ^{am} to 4 pm. (The defense provides notice of its intent to tape record these interviews).

The court further orders that no photos that form the basis for the class of sexual exploitation/possession of depictions of minors may be shown to any of the alleged victims without prior order of the court. The defense must provide appropriate notice to the state prior to making such motion.

DATED this 17th day of Oct., 2006.

[Signature]
HUGH K. BIRGENHEIER
Attorney for Plaintiff
WSBA# 14720

[Signature]
JUDGE

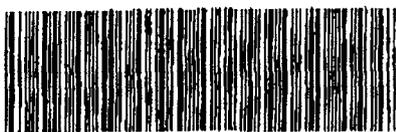
[Signature]
BARBARA L. COREY
Attorney for Defendant
WSBA# 11778

△ Must give fee. Show notice of any motion by 10/25/06.

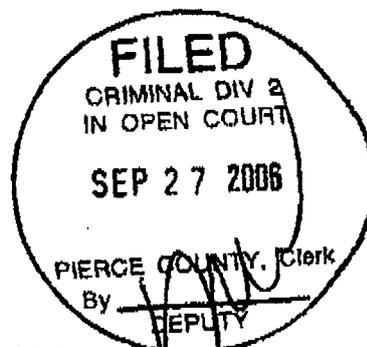
The state shall be permitted to argue regarding the conduct of the defense pretrial ^{in accordance with} (no later than ^{indicated})

APPENDIX B

ORIGINAL



04-1-05178-1 28212314 AMINF 09-27-06



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-05178-1

SEP 26 2006

vs.

MICHAEL ALLEN BOYD,

AMENDED INFORMATION

Defendant.

DOB: 7/19/1952
PCN#: 538254754

SEX : MALE
SID#: 22517795

RACE: WHITE
DOL#: UNKNOWN

COUNT I

I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD MOLESTATION IN THE FIRST DEGREE, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between the 1st day of June, 2002 and the 1st day of September, 2003, did unlawfully and feloniously, being at least 36 months older than D.C., have sexual contact (hand/breast contact during fireworks) with D.C., who is less than 12 years old and not married to the defendant, contrary to RCW 9A.44.083, a domestic violence incident as defined in RCW 10.99.020, and against the peace and dignity of the State of Washington.

COUNT II

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

AMENDED INFORMATION- 1

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Main Office (253) 798-7400

1 That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
2 the 1st day of June, 2002 and the 1st day of September, 2003, did unlawfully and feloniously, being at
3 least 36 months older than D.C., have sexual contact (hand/breast contact involving lotion) with D.C.,
4 who is less than 12 years old and not married to the defendant, contrary to RCW 9A.44.083, a domestic
5 violence incident as defined in RCW 10.99.020, and against the peace and dignity of the State of
6 Washington.

6 COUNT III

7 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
8 authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD
9 MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime
10 based on the same conduct or on a series of acts connected together or constituting parts of a single
11 scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be
12 difficult to separate proof of one charge from proof of the others, committed as follows:

13 That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
14 the 1st day of June, 2002 and the 1st day of September, 2003, did unlawfully and feloniously, being at
15 least 36 months older than D.C., have sexual contact (hand/breast contact during belly rubs) with D.C.,
16 who is less than 12 years old and not married to the defendant, contrary to RCW 9A.44.083, a domestic
17 violence incident as defined in RCW 10.99.020, and against the peace and dignity of the State of
18 Washington.

19 COUNT IV

20 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
21 authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD
22 MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime
23 based on the same conduct or on a series of acts connected together or constituting parts of a single
24 scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be
difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
the 1st day of June, 2002 and the 1st day of September, 2003, did unlawfully and feloniously, being at
least 36 months older than D.C., have sexual contact (hand/vaginal contact during belly rubs) with D.C.,
who is less than 12 years old and not married to the defendant, contrary to RCW 9A.44.083, a domestic
violence incident as defined in RCW 10.99.020, and against the peace and dignity of the State of
Washington.

AMENDED INFORMATION- 2

Office of the Prosecuting Attorney
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COUNT V

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of RAPE OF A CHILD IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between the 1st day of June, 2002 and the 14th day of November, 2003, did unlawfully and feloniously being at least 24 months older than D.C., engage in sexual intercourse (oral/vaginal contact during leg kisses) with D.C., who is less than 12 years old and not married to the defendant, contrary to RCW 9A.44.073, a domestic violence incident as defined in RCW 10.99.020, and against the peace and dignity of the State of Washington.

COUNT VI

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between the 1st day of June, 2002 and the 14th day of November, 2003, did unlawfully and feloniously, being at least 36 months older than D.C., have sexual contact (hand/penile contact during "vertical") with D.C., who is less than 12 years old and not married to the defendant, contrary to RCW 9A.44.083, a domestic violence incident as defined in RCW 10.99.020, and against the peace and dignity of the State of Washington.

COUNT VII

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single

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1 scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be
2 difficult to separate proof of one charge from proof of the others, committed as follows:

3 That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
4 the 1st day of June, 2002 and the 31st day of December, 2003, did unlawfully and feloniously, being at
5 least 36 months older than S.C., have sexual contact (hand/vaginal) with S.C., who is less than 12 years
6 old and not married to the defendant, contrary to RCW 9A.44.083, a domestic violence incident as
7 defined in RCW 10.99.020, and against the peace and dignity of the State of Washington.

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COUNT VIII

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD
MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime
based on the same conduct or on a series of acts connected together or constituting parts of a single
scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be
difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
the 1st day of June, 2002 and the 31st day of December, 2003, did unlawfully and feloniously, being at
least 36 months older than S.C., have sexual contact (hand/penile while sitting on the defendant's lap)
with S.C., who is less than 12 years old and not married to the defendant, contrary to RCW 9A.44.083, a
domestic violence incident as defined in RCW 10.99.020, and against the peace and dignity of the State of
Washington.

COUNT IX

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of SEXUAL
EXPLOITATION OF A MINOR, a crime of the same or similar character, and/or a crime based on the
same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,
and/or so closely connected in respect to time, place and occasion that it would be difficult to separate
proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
the 1st day of June, 2002 and the 31st day of December, 2003, did unlawfully and feloniously, being a
parent, legal guardian, or person having custody or control of a minor, permit and/or did aid, invite,
authorize, or cause D.C., a minor, to engage in sexually explicit conduct, knowing that the conduct will be
photographed or part of a live performance, contrary to RCW 9.68A.040(1)(b) and/or (c), a domestic

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1 violence incident as defined in RCW 10.99.020, and against the peace and dignity of the State of
2 Washington.

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COUNT X

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of SEXUAL EXPLOITATION OF A MINOR, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between the 1st day of June, 2002 and the 31st day of December, 2003, did unlawfully and feloniously, being a parent, legal guardian, or person having custody or control of a minor, and/or did aid, invite, authorize, or cause S.C., a minor, to engage in sexually explicit conduct, knowing that the conduct will be photographed or part of a live performance, contrary to RCW 9.68A.040(1)(b) and/or (c), a domestic violence incident as defined in RCW 10.99.020, and against the peace and dignity of the State of Washington.

COUNT XI

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of SEXUAL EXPLOITATION OF A MINOR, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between the 27th day of August, 2004 and the 28th day of August, 2004, did unlawfully and feloniously aid, invite, employ, authorize, or cause S.R., a minor, to engage in sexually explicit conduct, (as depicted in the images located on the defendant's computer from day one) knowing that such conduct will be photographed or part of a live performance, contrary to RCW 9.68A.040(1)(b), and against the peace and dignity of the State of Washington.

COUNT XII

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of SEXUAL AMENDED INFORMATION- 5

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1 EXPLOITATION OF A MINOR, a crime of the same or similar character, and/or a crime based on the
2 same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,
3 and/or so closely connected in respect to time, place and occasion that it would be difficult to separate
proof of one charge from proof of the others, committed as follows:

4 That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
5 the 27th day of August, 2004 and the 28th day of August, 2004, did unlawfully and feloniously, being a
6 parent, legal guardian, or person having custody or control of a minor, permit S.C., a minor, to engage in
7 sexually explicit conduct, (as depicted in the images located on the defendant's computer from day one)
8 knowing that the conduct will be photographed or part of a live performance, contrary to RCW
9.68A.040(1)(c), a domestic violence incident as defined in RCW 10.99.020, and against the peace and
dignity of the State of Washington.

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10 **COUNT XIII**

11 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
12 authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD
13 MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime
14 based on the same conduct or on a series of acts connected together or constituting parts of a single
15 scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be
16 difficult to separate proof of one charge from proof of the others, committed as follows:

17 That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
18 the 27th day of August, 2004 and the 29th day of August, 2004, did unlawfully and feloniously, being at
19 least 36 months older than S.R., have sexual contact (hand/penile in tent) with S.R., who is less than 12
20 years old and not married to the defendant, contrary to RCW 9A.44.083, and against the peace and
21 dignity of the State of Washington.

22 **COUNT XIV**

23 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
24 authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD
MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime
based on the same conduct or on a series of acts connected together or constituting parts of a single
scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be
difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
the 27th day of August, 2004 and the 29th day of August, 2004, did unlawfully and feloniously, being at
least 36 months older than S.C., sexual contact (hand/penile in the tent) with S.C., who is less than 12

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1 years old and not married to the defendant, contrary to RCW 9A.44.083, a domestic violence incident as
2 defined in RCW 10.99.020, and against the peace and dignity of the State of Washington.

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COUNT XV

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between the 28th day of August, 2004 and the 29th day of August, 2004, did unlawfully and feloniously, being at least 36 months older than S.R., have sexual contact (hand/penile as captured in images located on the defendant's computer 1248.jpg and/or 880.jpg, with S.R., who is less than 12 years old and not married to the defendant, contrary to RCW 9A.44.083, and against the peace and dignity of the State of Washington.

COUNT XVI

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between the 28th day of August, 2004 and the 29th day of August, 2004, did unlawfully and feloniously, being at least 36 months older than S.C., have sexual contact (hand/penile as captured in images located on the defendant's computer 1247.jpg and/or 879.jpg) with S.C., who is less than 12 years old and not married to the defendant, contrary to RCW 9A.44.083, and against the peace and dignity of the State of Washington.

COUNT XVII

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of SEXUAL EXPLOITATION OF A MINOR, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,

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1 and/or so closely connected in respect to time, place and occasion that it would be difficult to separate
2 proof of one charge from proof of the others, committed as follows:

3 That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
4 the 28th day of August, 2004 and the 29th day of August, 2004, did unlawfully and feloniously aid,
5 invite, employ, authorize, or cause S.R., a minor, to engage in sexually explicit conduct, (as depicted in
6 the images located on the defendant's computer from day two) knowing that such conduct will be
7 photographed or part of a live performance, contrary to RCW 9.68A.040(1)(b), and against the peace and
8 dignity of the State of Washington.

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COUNT XVIII

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of **SEXUAL
EXPLOITATION OF A MINOR**, a crime of the same or similar character, and/or a crime based on the
same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,
and/or so closely connected in respect to time, place and occasion that it would be difficult to separate
proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
the 28th day of August, 2004 and the 29th day of August, 2004, did unlawfully and feloniously, being a
parent, legal guardian, or person having custody or control of a minor, permit S.C., a minor, to engage in
sexually explicit conduct, (as depicted in the images located on the defendant's computer from day two)
knowing that the conduct will be photographed or part of a live performance, contrary to RCW
9.68A.040(1)(c), a domestic violence incident as defined in RCW 10.99.020, and against the peace and
dignity of the State of Washington.

COUNT XIX

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of **CHILD
MOLESTATION IN THE FIRST DEGREE**, a crime of the same or similar character, and/or a crime
based on the same conduct or on a series of acts connected together or constituting parts of a single
scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be
difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
the 27th day of August, 2004 and the 29th day of August, 2004, did unlawfully and feloniously, being at
least 36 months older than S.R., have sexual contact (hand/vaginal contact) with S.R., who is less than 12

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1 years old and not married to the defendant, contrary to RCW 9A.44.083, and against the peace and
2 dignity of the State of Washington.

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COUNT XX

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between the 1st day of June, 2003 and the 29th day of August, 2004, did unlawfully and feloniously, being at least 36 months older than B.W., have sexual contact (hand/buttocks) with B.W., who is less than 12 years old and not married to the defendant, contrary to RCW 9A.44.083, and against the peace and dignity of the State of Washington.

COUNT XXI

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of SEXUAL EXPLOITATION OF A MINOR, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between the 1st day of June, 2003 and the 29th day of August, 2004, did unlawfully and feloniously aid, invite, employ, authorize, or cause B.W., a minor, to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance, contrary to RCW 9.68A.040(1)(b), and against the peace and dignity of the State of Washington.

COUNT XXII

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single

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1 scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be
2 difficult to separate proof of one charge from proof of the others, committed as follows:

3 That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
4 the 1st day of June, 2003 and the 29th day of August, 2004, did unlawfully and feloniously, being at least
5 36 months older than H.W., have sexual contact (hand/genital first incident) with H.W., who is less than
6 12 years old and not married to the defendant, contrary to RCW 9A.44.083, and against the peace and
7 dignity of the State of Washington.

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COUNT XXIII

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of CHILD
MOLESTATION IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime
based on the same conduct or on a series of acts connected together or constituting parts of a single
scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be
difficult to separate proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
the 1st day of June, 2003 and the 29th day of August, 2004, did unlawfully and feloniously, being at least
36 months older than H.W., have sexual contact (hand/genital second incident) with H.W., who is less
than 12 years old and not married to the defendant, contrary to RCW 9A.44.083, and against the peace
and dignity of the State of Washington.

COUNT XXIV

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of
POSSESSION OF DEPICTIONS OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT—
WITH SEXUAL MOTIVATION, a crime of the same or similar character, and/or a crime based on the
same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,
and/or so closely connected in respect to time, place and occasion that it would be difficult to separate
proof of one charge from proof of the others, committed as follows:

That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
the 24th day of March, 2004 and the 2nd day of September, 2004, did unlawfully, feloniously, and
knowingly possess visual or printed matter depicting a minor engaged in sexually explicit conduct, to wit:
124.jpg, contrary to RCW 9.68A.070, with sexual motivation as defined by RCW 9.94A.030 and against
the peace and dignity of the State of Washington.

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COUNT XXV

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2 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
3 authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of
4 POSSESSION OF DEPICTIONS OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT—
5 WITH SEXUAL MOTIVATION, a crime of the same or similar character, and/or a crime based on the
6 same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,
and/or so closely connected in respect to time, place and occasion that it would be difficult to separate
proof of one charge from proof of the others, committed as follows:

7 That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
8 the 24th day of March, 2004 and the 2nd day of September, 2004, did unlawfully, feloniously, and
9 knowingly possess visual or printed matter depicting a minor engaged in sexually explicit conduct, to wit:
10 137.jpg, contrary to RCW 9.68A.070, with sexual motivation as defined by RCW 9.94A.030 and against
11 the peace and dignity of the State of Washington.

COUNT XXVI

12 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
13 authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of
14 POSSESSION OF DEPICTIONS OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT—
15 WITH SEXUAL MOTIVATION, a crime of the same or similar character, and/or a crime based on the
16 same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,
17 and/or so closely connected in respect to time, place and occasion that it would be difficult to separate
18 proof of one charge from proof of the others, committed as follows:

19 That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
20 the 24th day of March, 2004 and the 2nd day of September, 2004, did unlawfully, feloniously, and
21 knowingly possess visual or printed matter depicting a minor engaged in sexually explicit conduct, to wit:
22 161.jpg, contrary to RCW 9.68A.070, with sexual motivation as defined by RCW 9.94A.030 and against
23 the peace and dignity of the State of Washington.

COUNT XXVII

24 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of
POSSESSION OF DEPICTIONS OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT—
WITH SEXUAL MOTIVATION, a crime of the same or similar character, and/or a crime based on the
same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,

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1 and/or so closely connected in respect to time, place and occasion that it would be difficult to separate
2 proof of one charge from proof of the others, committed as follows:

3 That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
4 the 24th day of March, 2004 and the 2nd day of September, 2004, did unlawfully, feloniously, and
5 knowingly possess visual or printed matter depicting a minor engaged in sexually explicit conduct, to wit:
6 my047.jpg, contrary to RCW 9.68A.070, with sexual motivation as defined by RCW 9.94A.030 and
7 against the peace and dignity of the State of Washington.

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COUNT XXVIII

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
authority of the State of Washington, do accuse MICHAEL ALLEN BOYD of the crime of
POSSESSION OF DEPICTIONS OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT—
WITH SEXUAL MOTIVATION, a crime of the same or similar character, and/or a crime based on the
same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,
and/or so closely connected in respect to time, place and occasion that it would be difficult to separate
proof of one charge from proof of the others, committed as follows:

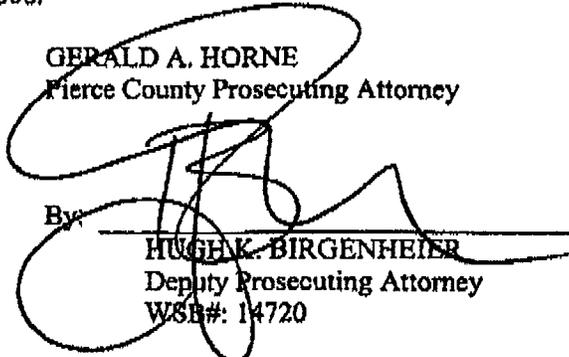
That MICHAEL ALLEN BOYD, in the State of Washington, on or about a time period between
the 24th day of March, 2004 and the 2nd day of September, 2004, did unlawfully, feloniously, and
knowingly possess visual or printed matter depicting a minor engaged in sexually explicit conduct, to wit:
naughtydaughter014.jpg, contrary to RCW 9.68A.070, with sexual motivation as defined by RCW
9.94A.030 and against the peace and dignity of the State of Washington.

DATED this 25th day of September, 2006.

WILKESON POLICE DEPARTMENT
WA02720

GERALD A. HORNE
Pierce County Prosecuting Attorney

hkb

By: 
HUGH K. BIRGENHEISER
Deputy Prosecuting Attorney
WSB#: 14720

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1 NO. 04-1-05178-1
 2 SUPPLEMENTAL DECLARATION FOR DETERMINATION OF PROBABLE CAUSE
 3

4 HUGH K. BIRGENHEIER, declares under penalty of perjury:

5 That the Declaration for Determination of Probable Cause dated the 9th day of October,
 6 2004, is by reference incorporated herein;

7 That I am a deputy prosecuting attorney for Pierce County and I am familiar with the
 8 police report and/or investigation conducted by the WILKESON POLICE DEPARTMENT,
 9 incident number 04000059 and by Investigator Frank Clark of the Pierce County Prosecutor's
 10 Office;

11 That the police report and/or investigation provided me the following information;

12 That in Pierce County, Washington, the defendant committed acts of sexual misconduct.

13 Officers of the Wilkeson Police Department learned that the defendant sexually assaulted
 14 various children the South Prairie area of Pierce County. Because of the lack of resources
 15 available to the Wilkeson Police Department the Pierce County Prosecutor's Office agreed to
 16 assist in the investigation. Investigator Frank Clark of the Pierce County Prosecutor's Office
 17 served as the lead investigator in this case. Investigator Frank Clark is a former police officer
 18 from the State of California who has investigated computer crime since 1986. Investigator Ken
 19 Swanson of the Pierce County Prosecutor's Office assisted Investigator Frank Clark. Investigator
 20 Swanson is a former Seattle Police Officer who has experience in investigating sexual offenses.

21 This declaration will list all of the charged offenses in as close to chronological order as
 22 possible. Since the defendant often sexually abused more than one child at a time it is impossible
 23 to know exactly which order these offenses occurred.

24 *Sexual abuse of D.C.*

25 D.C. was the defendant's step-daughter. She is the daughter of the defendant's ex-wife.
 26 She is currently living in the State of Idaho with her father. She previously lived in and/or visited
 27 her mother while her mother lived in Pierce County. D.C.'s date of birth is November 15, 1991.
 28 After it was discovered that the defendant had been sexually assaulting children the Idaho County
 29 Sheriff's Department was notified of the investigation. Since D.C. lived in the State of Idaho the
 Idaho County Sheriff was asked to interview D.C.. D.C. was interviewed by Det. Renshaw of the
 on October 14, 2004. During the interview D.C. made the following disclosures.

During June or July 2002 the defendant had D.C. sit on his lap at her mother's home in
 South Prairie. D.C. remembers that there was a fireworks display and that she was sitting on his
 lap. While D.C. was sitting on the defendant's lap, the defendant would point to fireworks and
 then he would lower his hands and touched her breasts over the clothing. (This is the basis of
 Count I).

D.C. reports that within a few days of the initial molestation the defendant asked the
 victim if he could rub lotion of her back. D.C. remembers that this event occurred while her mom
 was at work. While rubbing lotion of her back the defendant asked D.C. to turn over. When she
 complied the defendant rubbed her breasts with lotion. This rubbing occurred underneath D.C.'s
 clothing. (This is the basis of Count II)

29 SUPPLEMENTAL DECLARATION FOR DETERMINATION
 OF PROBABLE CAUSE -1

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 Tacoma, WA 98402-2171
 Main Office (253) 798-7400

04-1-05178-1

1 D.C.'s next memory of being sexually assaulted by the defendant occurred during the
 2 summer of 2003 when she went to stay with her mom in South Prairie. While D.C. was visiting
 3 her mom the defendant engaged in what were called "belly rubs" with D.C. and S.C. (S.C. is the
 4 younger sister of D.C. and is also the step daughter of the defendant). This activity occurred after
 5 D.C.'s mother left for work. The "belly rubs" would occur while the defendant, D.C. and S.C.
 6 were on the defendant's bed. During these "belly rubs" the defendant would place his hands
 7 under D.C.'s clothes and the defendant would rub the victim's stomach and breasts. (The
 8 touching of the victim's breasts is the basis of Count III) During this time the defendant
 9 would also touch the victim's vagina placing his finger into her vaginal area. (The touching of
 10 the victim's vagina is the basis of Count IV).

11 D.C. also reported that the defendant would give her "leg kisses". During this time the
 12 defendant would touch her vaginal area with his mouth and suck on her vagina. (This is the
 13 basis of Count V).

14 During this same time the defendant and D.C. engaged in an activity that was called
 15 "vertical". During "vertical" D.C. would touch the defendant's penis with her hands. D.C.
 16 demonstrated to the detective how she would move her hands up and down on the defendant's
 17 penis. D.C. indicated that sperm would come out of the defendant's penis while she was doing
 18 "vertical". (This is the basis of Count VI)

19 D.C. stated that the defendant would do Belly Rubs, Leg Kisses, and Vertical almost
 20 every night after her mother left for work. D.C. indicated that this activity never occurred when
 21 her mother was at home. D.C. remembered that her younger sister (S.C.) was present during
 22 these sexual assaults but she did not remember the defendant ever sexually assaulting S.C. D.C.
 23 reported that the defendant video taped her on the bed at least once but she told him she did not
 24 like that so he did not do it again. D.C. recalled that the last time the defendant sexually assaulted
 25 her was Christmas vacation 2003.

26 *Sexual abuse of S.C.*

27 S.C. was the defendant's stepdaughter and she is the younger sister of D.C. She has lived
 28 in the South Prairie area during these sexual assaults. Her date of birth is June 14, 1994. After it
 29 was discovered that the defendant was sexually assaulting children, S.C. moved to the State of
 Idaho to live with her father. Prior to moving to Idaho S.C. was interviewed by the Pierce County
 Prosecutor's Office. At that time S.C. did not make a disclosure about being sexually abused by
 the defendant.

On October 28, 2004 S.C. was interviewed by Detective Renshaw of the Idaho County
 Sheriff's Department. S.C. verified that D.C. did come to South Prairie to visit while she was
 living with her mother. S.C. was then asked about anyone touching her private parts. S.C. stated
 that the defendant had touched her private parts.

During the interview S.C. made the following disclosures. S.C. stated that the defendant
 had touched her between her legs with his hand and that at the time she did not have any
 underpants on. S.C. stated that this occurred while her mother was at work and she remembered
 that this occurred during the summer time when D.C. was visiting from Idaho. (This is the basis
 of Count VII)

The detective asked the victim about an earlier time when she denied being touched by
 the defendant and she indicated that she said she was not touched because she was scared that the
 defendant would find out and be mad at her. S.C. revealed that D.C. had previously disclosed
 that the defendant was sexually abusing her and their mother did not believe D.C. S.C. feared
 that her mother would not believe her if she reported the defendant was sexually abusing her.

S.C. also revealed that the defendant would walk around the house without clothes on and
 that she had seen him naked while he was in the bedroom with her. S.C. also revealed that she
 was not sure what to call the defendant's private area but she had heard it called a "dick". S.C.

SUPPLEMENTAL DECLARATION FOR DETERMINATION
 OF PROBABLE CAUSE -2

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1 disclosed that the defendant would have S.C. sit on his lap and he would have S.C. touch his
2 "dick" with her hand. S.C. remembered that the defendant's "dick" would be hard. (This is the
3 basis of Count VIII).

4 ***Initial sexual exploitation of D.C. and S.C.***

5 S.C. also disclosed that the defendant would take pictures of her and D.C. when they did
6 not have clothes on. S.C. described how they would sit on the floor, couch or chairs with their
7 legs spread apart. S.C. recalled that the defendant told her and D.C. not to tell anyone about him
8 taking pictures of them or the fact that he was sexually abusing them. (This is the basis of
9 Counts IX and X) The State of Washington has been unable to locate the images that the
10 defendant took showing D.C. and S.C. engaged in sexually explicit conduct in 2002 or 2003.
11 Because the defendant deleted files from his computer when he learned that law enforcement was
12 investigating the images may have been lost.

13 ***Sexual abuse and exploitation of S.R. and S.C.***

14 S.R. was a friend of S.C. and lived in the South Prairie area. Her date of birth is July 3,
15 1994. In August 2004 S.R. revealed that she had been sexually assaulted by the defendant. On
16 September 16, 2004 S.R. was interviewed by Kari Arnold-Harms of the Pierce County
17 Prosecutor's Office. During this interview S.R. made the following disclosures.

18 When she was spending the night at the defendant's house the defendant gave her alcohol
19 to drink. S.R. was able to give the interviewer details regarding the alcohol that the defendant
20 provided to S.R. and S.C. The defendant also had S.R. and S.C. pretend to perform oral sex on
21 hot dogs. Images have been recovered from the defendant's computer show what appears to be
22 these minors with hot dogs in their mouths. An example of this is located at 1240.jpg, 1297.jpg,
23 1298.jpg and 2252.jpg.

24 Also recovered from the defendant's computer were images that show both S.C. and S.R.
25 engaged in sexually explicit conduct. The images are a series and were taken beginning at 8:18
26 a.m. and ending at 10:23 a.m. During this time the defendant multiple images of S.R. and S.C.
27 (believed to be August 27, 2004). Many of these images show S.R. and/or S.C. engaged in
28 sexually explicit conduct. An example of these images is found at 168.jpg, 1292.jpg, 193.jpg,
29 585.jpg, 1107.jpg, 1110.jpg and 1214.jpg. (This is the basis of counts XI and XII). During the
afternoon the defendant took more images of S.R. The next group of images were taken in the
afternoon show S.R. on the telephone.

During the weekend of August 27-29, 2004, S.R. and S.C. slept in the tent at the
defendant's house. (This is also the house were S.C. lived) During the night the defendant came
into the tent. While in the tent the defendant had S.R. touch his penis. (This is the basis of
count XIII) S.R. also reported that the defendant made S.C touch his private area. (This is the
basis of count XIV)

A subsequent search of the defendant's computer revealed numerous images of both S.R.
and S.C. engaged in sexually explicit conduct. The camera used by the defendant to take these
images records the date and time that the image was captured. The images recovered during this
investigation indicate that the images were captured on February 18 and 19, 2003. It is believed
that the date feature on the defendant's camera was not set correctly and that these images were
taken during the weekend of August 27-29, 2004.

The images show both S.R. and S.C. engaged in various acts of sexually explicit conduct.
One of these images shows S.R. touching the defendant's penis. Another image shows S.C.
touching the defendant's penis. These images appear to be taken in the defendant's house. (This
is the basis of counts XV and XVI) Based on the information that was recorded when the

SUPPLEMENTAL DECLARATION FOR DETERMINATION
OF PROBABLE CAUSE -3

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04-1-05178-1

1 images were captured these images were taken the day after the images charged in count XI and
2 XII.

3 On the same day that the defendant had S.R. and S.C. touch his penis in the house the
4 defendant took additional images of S.C. and S.R. engaged in sexually explicit conduct. This
5 group of images begins at 8:45 a.m. and end at 10:23 a.m. During this time the defendant took
6 multiple images of S.R. and S.C. engaged in sexually explicit conduct. An example of these
7 images is found at 1.jpg, 395.jpg, 599.jpg, 667.jpg, 811.jpg and 821.jpg. (This is the basis of
8 counts XVII and XVIII)

9 During her interview S.R. reported that the defendant took pictures of the vaginal areas of
10 both S.R. and S.C. The sexual exploitation of S.R. took place after the defendant's wife left for
11 work. The defendant had both S.R. and S.C. take pictures of each other. The defendant would
12 appear in the picture with S.R. while S.C. took the picture. The defendant would then appear in
13 the picture with S.C. and S.R. would take the picture.

14 S.R. indicated that the defendant took more than one sexually explicit picture of her. S.R.
15 gave specific details of how the defendant posed her for these sexually explicit pictures. S.R.
16 described how the defendant would take his index finger and open S.C.'s vaginal opening and
17 then take a picture of S.C.'s vagina.

18 After S.C. and S.R. were sexually assaulted and exploited by the defendant they (the
19 defendant, S.R. and S.C.) all "pinky swore" that they would not tell anyone.

20 S.R. then disclosed that although the defendant did not open up her vagina like he did to
21 S.C., he did rub her private area. S.R. indicated the defendant rubbed her private area with his
22 hand. This was accomplished by the defendant putting his hands down S.R.'s pants and
23 underwear. (This is the basis of Count XIX) The defendant also told S.R. how to make
24 sperm.

25 *Sexual abuse and exploitation of B.H.*

26 In November 2004 another victim of the defendant's sexual abuse came forward. B.H.
27 was a friend of S.C. Her date of birth is July 25, 1994. She was 10 years old when the defendant
28 sexually assaulted her. On November 5, 2004 B.H. was interviewed by a child interviewer with
29 the Pierce County Prosecutor's Office. During the interview described how the defendant
30 grabbed her butt with his hand while she was at the defendant's house. B.H. indicated that the
31 grabbing was over the clothes and she described the grabbing by stating, "He did it like a
32 boyfriend girlfriend would do". B.H. indicated that the defendant grabbed her butt more then one
33 time. (This is the basis of Count XX) B.H. also disclosed that the defendant would walk around
34 the house in his underwear and she had seen his penis. B.H. indicated that she saw the
35 defendant's penis on two occasions.

36 B.H. also disclosed that the defendant would take pictures of her. B.H. told the
37 interviewer that the defendant would take pictures of purpose of her butt and other spots. This
38 would occur when the defendant's wife was at work. B.H. described how the defendant would
39 pull her underwear down really fast and take a picture. B.H. stated the defendant took more than
40 one picture. At one point B.W. stated, "I'd lay on my back and he'd pull up my dress and take
41 pictures of the upper part." She also disclosed that the defendant took pictures of, "My butt and
42 my middle part". (This is the basis of Count XXI) The defendant sometimes showed B.H. and
43 S.C. the sexually explicit pictures he had taken. The defendant told B.H. not to tell anyone.

44 *Sexual abuse of H.W.*

45 Also in November 2004 another victim of the defendant's sexual abuse came forward.
46 H.W. is the cousin of B.H. Her date of birth is September 8, 1996. On November 8, 2004 H.W.
47 was interviewed by a child interviewer of the Pierce County Prosecutor's Office. Prior to

48 SUPPLEMENTAL DECLARATION FOR DETERMINATION
49 OF PROBABLE CAUSE -4

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04-1-05178-1

1 interviewing H.W. the interviewer spoke to H.W.'s mother and grandmother. H.W.'s mother
 2 reported that the H.W. had disclosed to her that the defendant grabbed H.W.'s hand and stuck her
 3 down his pants and that her hand was there for awhile. H.W.'s mother reported that H.W. made a
 4 hand motion showing how her hand went into the defendant's pants.

5 H.W.'s mother stated she started noticing changes in H.W. during the summer of 2004.
 6 During this time H.W. became moody and indicated that she hated her life. H.W. began to have
 7 nightmares and she did not want to sleep by herself. At one point H.W. told her mother that she
 8 thought she (H.W.) was pregnant.

9 During the interview H.W. state that she had stayed the night at the defendant's house.
 10 While at the defendant's house the defendant had H.W. touch his genital area through the
 11 defendant's clothes on two occasions. H.W. disclosed that the defendant took her hand and placed
 12 in on his jeans over the area where his penis was. H.W. stated that she tried to remove her hand
 13 from the place the defendant had put her hand but the defendant would not let her. H.W. stated
 14 that no one could see what the defendant was doing because they (H.W. and the defendant) were
 15 covered with a blanket. H.W. was able to give details regarding these sexual assaults. (This is
 16 the basis of Counts XXII and XXIII)

17 *Possession of child porn*

18 A search of the defendant's computer revealed numerous commercial images of minors
 19 engaged in sexually explicit conduct. Also located on the defendant's computer were images of
 20 S.C. and S.R. engaged in sexually explicit conduct.

21 Image124.jpg depicts a young girl sitting on a red towel. The girl is naked and her
 22 vagina is visible in the image. The child does not have pubic hair. (This is the basis of Count
 23 XXIV).

24 Image 137.jpg depicts a young girl "squatting" over a toilet. The young girl is naked and
 25 she is urinating into the toilet. The young girl's vagina is visible. The child does not have pubic
 26 hair. (This is the basis of Count XXV)

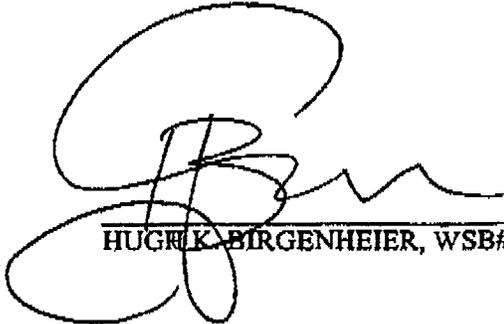
27 Image 161.jpg depicts and adult male raping a young child. The adult male is inserting
 28 his penis into the child's vagina. Both the adult and the child appear to be naked. The child does
 29 not have pubic hair. (This is the basis of Count XXVI)

Image my047.jpg depicts a young girl. Other then shoes the young girl is naked and her
 vagina is exposed. The young girl does not have pubic hair. (This is the basis of Count XXXII)

Image naughtydaughter014.jpg depicts a young girl. The young girl is naked and her
 vagina is exposed. The young girl does not have any pubic hair. (This is the basis of Count
 XXXIII).

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF
 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: September 25, 2006
 PLACE: TACOMA, WA


 HUGH K. BIRGENHEIER, WSB# 14720

SUPPLEMENTAL DECLARATION FOR DETERMINATION
 OF PROBABLE CAUSE -5

Office of the Prosecuting Attorney
 930 Tacoma Avenue South, Room 946
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APPENDIX C



04-1-05178-1 26328707 OB 10-18-06

FILED
IN COUNTY CLERK'S OFFICE

A.M. OCT 17 2006 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY DEPUTY

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

STATE OF WASHINGTON,

Plaintiff,

vs

MICHALE BOYD

Defendant.

NO. 04-1-05178-1

DEFENDANT'S OBJECTIONS TO
STATE'S PROTECTIVE ORDER

The defendant has reviewed the State's proposed protective order regarding the defendant's access to State's computer and digital image evidence. The defendant notes the following objections:

1. The defense team that shall have access to the materials in question shall include defense counsel, the investigator, the expert, and the defendant.

2. Regarding Paragraph 2, the defendant notes that the expert will require more than one day to run the desired software, including, "Forensic Tool Kit" on the hard drive. The defendant requires as much time as necessary to complete this and notes that the State's expert most assuredly did not complete his examination of the hard drive in one day. The reports of Franklin Clark, the State's expert, confirms that his examination of the computer evidence consumed many hours on at least three days November 29, 2004; December 1, 2004; December 6, 2004. The

DEFENDANT'S OBJECTIONS

BARBARA COREY, ATTORNEY, PLLC
901 South "I" St, #201
Tacoma, WA 98405
253.779.0844

ORIGINAL

1 defense is entitled to the amount of time it requires to complete its examination and should not be
2 limited by arbitrary time limits set by the prosecutor's office.

3 Further, the State's requirement that defense counsel be present for all examination is
4 unnecessary. Many of the expert's initial tests involve running programs on the hard drive. This
5 is technical work, which does not require the presence of counsel. Indeed, the State cannot
6 contend that a deputy prosecutor watched its investigator Frank Clark perform the tests on the
7 computer at issue.

8 Moreover, the State's expert, Mr. Karstetter, has previously qualified as a witness in these
9 types of cases in King County and Snohomish County. In those jurisdictions, he is allowed to
10 have the hard drives at his office. He has never had any issues in those jurisdictions regarding
11 security of the evidence.

12 3. Regarding paragraph 3, the defendant requires photographic copies of all of the
13 sequential images showing D.C, S.R. and S.C. in sexually explicit conduct as well as the other
14 images described in that paragraph. The defendant also requires photographic copies of all images
15 bearing with the same date as any of the photos in the charged counts.

16 4. Regarding paragraph 5, the defense team shall have sufficient time to review all
17 physical evidence with the defendant. The defense should not be subjected to arbitrary time limits
18 set by the prosecutor's office.

19 5. Regarding paragraph 10, the defense team shall have sufficient time to conduct and
20 complete its investigation and examination of the materials at issue. It would be unjust and unfair
21 to limit the defense access when the State has had unlimited access to the materials and when the
22 State's own investigator spent more than one day looking at the materials at issue.

23 6. Regarding paragraph 11, this paragraph should be stricken all together. As noted
24 above, the defense team is composed of professionals who will times, be performing work that
25 does not require the presence of defense counsel. In addition, the order precludes phone calls,
DEFENDANT'S OBJECTIONS

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Tacoma, WA 98405
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1 personal breaks, lunch breaks, etc. The State is acting punitively when seeking this condition
2 which lacks any rational basis:

3
4 DATED this 17th day of October, 2006.

5 
6 BARBARA COREY, WSBA #11778
7 Attorney for Defendant

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DEFENDANT'S OBJECTIONS

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APPENDIX D



04-1-05178-1 20328553 NOTE 10-18-06

FILED
IN COUNTY CLERK'S OFFICE
A.M. OCT 17 2006 P.M.
PIERCE COUNTY, WASHINGTON
BY KEVIN STOCK, County Clerk
DEPUTY

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

STATE OF WASHINGTON,

Plaintiff,

vs

MICHAEL BOYD,

Defendant.

NO. 04-1-05178-1

CURRICULUM VITAE
OF RANDALL KARSTETTER

DATED this 16th day of October, 2006.

Barbara Corey
BARBARA COREY, WSBA #11778
Attorney for Defendant

BARBARA COREY, ATTORNEY, PLLC
901 South "I" St, #201
Tacoma, WA 98405
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ORIGINAL

CURRICULUM VITAE FOR RANDALL KARSTETTER

11014 120th Ave. NE, Kirkland, WA 98033 425-576-8088 rkarstetter@computronics.net

EMPLOYMENT

CLINICAL LABORATORY SCIENTIST YEARS EMPLOYED (1974-1984)
Swedish Hospital Medical Center Laboratory Seattle, WA
Chemistry Department Technologist 1974-1978
Supervisor, Computer Operations and Outpatient Labs 1978-1984

LABORATORY COMPUTER COORDINATOR YEARS EMPLOYED (1984-1987)
King Fahad Military Hospital Riyadh, Saudi Arabia
Project Coordinator for Writing and Installing New Lab Computer System

LABORATORY COMPUTER COORDINATOR YEARS EMPLOYED (1987-1990)
King Faisal Specialist Hospital and Research Centre Riyadh, Saudi Arabia
Project Coordinator for Installing New Lab & Hospital Computer System

PRESIDENT AND CEO YEARS EMPLOYED (1991-PRESENT)
COMPUTRONICS Kirkland, WA
Owner of computer repair, networking, data recovery, computer security and forensic data analysis service company.

EDUCATION

B.A. BIOLOGY Years Attended (Bsc 1969 - 1973)
Central Washington University Ellensburg, WA

GRADUATE AND CAP CERTIFIED YEARS ATTENDED (EX: 1973 -1974)
Yakima School of Medical Technology Yakima, WA

PUBLICATIONS

LABORATORY COMPUTERIZATION 1986
Paper Presented and Published
10th Annual National Computer Conference
Ministry of Information, Al-Khobar, Kingdom of Saudi Arabia

ARTIFICIAL INTELLIGENCE IN CLINICAL LABORATORIES 1987
Paper Presented and Published
CONFERENCE ON ADVANCES IN CLINICAL MEDICINE, ANNALS OF SAUDI MEDICINE
King Faisal Specialist Hospital and Research Centre, Riyadh, Saudi Arabia

FORENSIC COMPUTER ANALYSIS FOR LAWYERS 12/2002
Presented with Richard Hansen, Atty
DEFENSE UPDATE 12.02, WA, ASSOCIATION OF CRIMINAL DEFENSE LAWYERS
Seattle, Wa

COMPUTERS FROM CHILD PORN TO WHITE COLLAR CRIME 6/2004
Presented with Cassandra Stamm, Atty
2004 ANNUAL CONFERENCE, WA, ASSOCIATION OF CRIMINAL DEFENSE LAWYERS
Chehal, Wa

SPECIAL SKILLS AND INTERESTS

1976-Present Programmer and Program Development
 Languages: MUMPS, BASIC, ASSEMBLER, DBC BASIC, dBase, Foxbase, LTSP,
 PROLOG, UNIX, HTML, ASP, PERL

1994-Present Website Developer and System Admin
 www.computronics.net, www.sahalic.org, www.twistedtech.com, as well as maintenance of
 other websites

1991-Present Disaster Recovery and Data Recovery Specialization
 Notable Clients: City of Mercer Island, UW Horticulture Dept. Ecoterrorism Arson Attack

1992-Present Forensic and Corporate Data Acquisition and Analysis
 Cases: Missing persons, Employee Sabotage, Corporate Espionage, Divorce Proceedings,
 Criminal Defense, Sexual Harassment, Internet and Email Activity Analysis

1978-Present Network, Workstation and Data Security
 Cases: Detecting and Blocking Unauthorized Entry (Hacker Attacks), Firewall Security, Virus
 Attacks, Web Site Security, Password Protection and Circumvention, Detection and Removal
 of Spyware

Accepted as Expert Computer Witness Testifying in King County Superior Court.
 2002 State vs. Workman (Rape & Assault-Defense), 2004 NTSI vs. Lorraine Nelson, et al
 (Civil suit-Plaintiff), 2004 State vs. Parmelee (Arson, Jury Tampering-Defense), 2004 State
vs. Ager (Child Molestation, Communicating with a Minor for Immoral Purposes-Defense)

Accepted as Expert Computer Witness Testifying in Snohomish District Court
 2004 State vs. Risher (Possession of Child Pornography-Defense)

Cases Engaged as an Expert Computer Consultant for the Defense
 2002 State vs. Cherry (Possession of Child Pornography), 2003 USA vs. Dr. Couser,
University of Washington, et al (Medicare/Medicaid Fraud), 2003 State vs. Hutchinson
 (Possession of Child Pornography), 2004 State vs. Perry (Murder, First Degree), 2004 State
vs. Crockett (Possession of Child Pornography), 2004 State vs. Lester (Possession of Child
 Pornography), 2004 USA vs. Patterson (Possession of Child Pornography), 2004 Barry
Hammer Bankruptcy, U.S. Bankruptcy Court (Forensic Recovery of Financial Data), 2005
USA vs. Proff (Interstate Trafficking in Child Pornography), 2005 State vs. Bentley (Fraud,
 Conspiracy).

Cases Engaged as an Expert Computer Consultant for the Plaintiff
 2005 Kambel vs. Kent (Wrongful Death)

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7 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
8 **IN AND FOR PIERCE COUNTY**

9 STATE OF WASHINGTON,

10 Plaintiff,

NO. 04-1-05178-1

11 vs

12 MICHAEL ALLEN BOYD,

NOTICE FOR DISCRETIONARY
REVIEW TO THE SUPREME COURT
OF WASHINGTON

13 Defendant.

14 TO: C.J Merit, Clerk, Supreme Court of Washington,

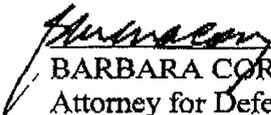
15 P.O. Box 40929, Olympia, WA 98504-0929.

16 AND TO: Kathleen Proctor, Deputy Prosecuting Attorney,
17 Pierce County Prosecuting Attorneys Office
18 930 Tacoma Ave. S.
Tacoma, WA 98402
Representing the State of Washington

19 Michael Allen Boyd, defendant, seeks review by the designated appellate court of the
20 Protective Order Regarding the Defendant's Access to Child Pornography and Order Regarding
21 Child Victim Interviews, entered in writing on October 17, 2006, by the Honorable Thomas
Larkin.

Copies of the orders are attached to this notice.

22 DATED: October ~~22~~²³, 2006.

24 
25 BARBARA COREY, WSBA #11778
Attorney for Defendant

NOTICE FOR DISCRETIONARY
REVIEW TO THE SUPREME COURT
OF WASHINGTON

BARBARA COREY, ATTORNEY, PLLC
901 South "I" St, #201
Tacoma, WA 98405
253.779.0844

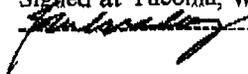
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Certificate of Service:

The undersigned certifies that on this day she delivered via facsimile to the attorney of record for the State of Washington true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury under the laws of the State of Washington.

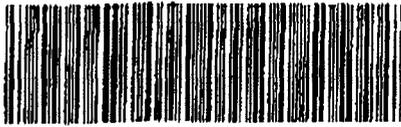
Signed at Tacoma, Washington on 10/24/2006.



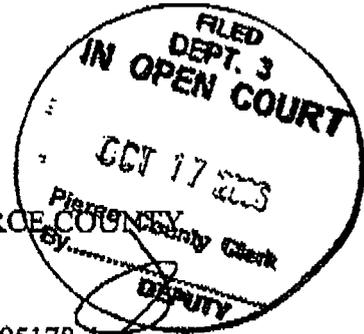
NOTICE FOR DISCRETIONARY
REVIEW TO THE SUPREME COURT
OF WASHINGTON

Page 2 of 2

BARBARA COREY, ATTORNEY, PLLC
901 South "J" St, #201
Tacoma, WA 98405
253.779.0844



04-1-05178-1 26330364 PORD 10-18-06



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-05178-1

vs.

MICHAEL ALLEN BOYD,

Defendant.

PROTECTIVE ORDER REGARDING THE DEFENDANT'S ACCESS TO CHILD PORNOGRAPHY

This matter having come before the court on October 10, 2006 for the defendant's motion to seek unrestricted access to images that depict minors engaged in sexually explicit conduct and the defendant having been present represented by Attorney Barbara Corey and the State of Washington having been represented by Hugh K. Birgenheier, Deputy Prosecuting Attorney and the court having reviewed the materials submitted by the parties including the applicable case law, CrR 4.7(a); CrR 4.7(e); CrR 4.7(h) and 18 U.S.C. 504(m) and having heard the argument of counsel and being in all matters fully advised, it is hereby:

ORDERED, ADJUDGED AND DECREED as follows:

- 1) The court finds that the defendant has provided Investigator Clark of the Pierce County Prosecutor's Office with blank a 200 gigabyte hard drive on October 12, 2006. Investigator Clark has created a mirrored image of the defendant's hard drive (hereafter referred as the "mirrored image") pursuant to Ms. Corey's request.
2) The completed mirrored image is ready for Ms. Corey, defense investigator Bob Crow and the defense expert to begin their forensic examination. Investigator Clark shall provide Ms. Corey, defense investigator Bob Crow and the defense expert a secured room within the Investigative Services of the Pierce County Prosecutor's Office to conduct the defense's forensic evaluation of the mirrored image. Investigator Clark shall also provide Ms. Corey, defense investigator Bob Crow and the defense expert, at the secured location, with a tower, monitor, keyboard, mouse and operating system/software for viewing graphics. The defense may use any data recovery software that they choose during their forensic evaluation of the mirrored image. Ms. Corey, defense investigator Bob Crow and the defense expert shall also have a substantial amount of time, during this session, to complete the forensic evaluation of the mirrored image. Investigator Clark is

PROTECTIVE ORDER-1

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1 authorized to be present in another room during the defense's forensic evaluation of the
2 mirrored image. Investigator Clark shall not interfere with Ms. Corey's forensic
3 evaluation of the mirrored image. Neither Ms. Corey, defense investigator Bob Crow or
4 the defense expert shall remove any data recovered during their forensic evaluation of the
5 mirrored image of the defendant's computer from the secured location where the forensic
6 evaluation is conducted. Once Ms. Corey, defense investigator Bob Crow and the
7 defense expert have completed their forensic evaluation of the mirrored image they shall
8 notify Investigator Clark. Investigator Clark will then provide the defense with a storage
9 device so they data retrieved from the mirrored image can be stored. The storage device
10 shall be retained by Investigator Clark. Investigator Clark is prohibited from viewing any
11 data that the defense has retrieved.

- 12 3) In addition to the items listed in paragraph 2, Investigator Clark shall provide Ms. Corey,
13 defense investigator Bob Crow and the defense expert photographic copies of the images
14 showing S.R. and S.C. as well as photographic copies of the five images that depict
15 unnamed minors engaged in sexually explicit conduct. The photographic copies that
16 Investigator Clark provides to the defense shall be numbered and placed in numerical
17 order. Ms. Corey, defense investigator Bob Crow and the defense expert are not allowed
18 to retain any of these images.
- 19 4) Neither Ms. Corey nor her expert shall remove any of the images (in any form including
20 data or photographic) from the secured location where the viewing is conducted.
- 21 5) After Ms. Corey, defense investigator Bob Crow and the defense expert complete the
22 forensic evaluation of the mirrored image Ms. Corey can arrange for a time for her,
23 defense investigator Bob Crow and the defense expert to meet with the defendant in the
24 Pierce County Jail. At that time Investigator Clark will provide the defense with laptop
25 computer and a mouse. Investigator Clark shall also provide Ms. Corey, defense
investigator Bob Crow and the defense expert with the storage device which contains the
data that the defense previously recovered from the mirrored image. Investigator Clark
will also again provide Ms. Corey, defense investigator Bob Crow and the defense expert
with copies of the images discussed in paragraph 3. During this session, Ms. Corey,
defense investigator Bob Crow and the defense expert will have a substantial amount of
time to meet with the defendant to review the data that they have recovered from the
mirrored image as well as the images discussed in paragraph 3. Ms. Corey or Defense
Investigator Bob Crow must be present at all times when the defendant is viewing the
data the defense recovered from the mirrored image as well as the images discussed in
paragraph 3.
- 6) The data recovered by Ms. Corey, defense investigator Bob Crow and the defense expert
during their forensic evaluation of the mirrored image shall only be viewed by Ms.
Corey, defense investigator Bob Crow, the defense expert and the defendant. The data
recovered from the mirrored image as well as the photographic images shall not be used
by the defendant for any purpose other than preparation for trial.

PROTECTIVE ORDER-2

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- 1 7) Under no circumstances shall Ms. Corey, defense investigator Bob Crow, the defense expert or the defendant be allowed to retain any graphic images recovered from the mirrored image. Under no circumstances shall Ms. Corey, defense investigator Bob Crow, the defense expert or the defendant be allowed to retain the photographic images provide to the defense by Investigator Clark.
- 2
- 3
- 4 8) The computer into which the mirrored image of the defendant's hard drive is inserted for access and operation shall not be connected to a network while the mirrored image is installed. The computer into which the mirrored image is inserted for access and operation shall not be connected to a printer.
- 5
- 6
- 7 9) In no event shall graphic files containing images of minors engaged in sexually explicit conduct or which could reasonably be construed as constituting images of minors engaged in sexually explicit conduct, be copied, duplicated or replicated, in whole or part, onto any external media by the defense, without a court order.
- 8
- 9
- 10 10) Ms. Corey is granted at least two opportunities to have access to the mirrored image and/or the photographic images. If Ms. Corey determines that she needs additional access to either the mirrored image or to the photographic images she shall, with notice to the State, move the court to allow additional access to the images.
- 11
- 12 11) Ms. Corey, defense investigator Bob Crow and the defense expert are prohibited, absent a court order, from showing any of the images that depict minors engaged in sexually explicit conduct to any of the victims in this case.
- 13

14 DONE IN OPEN COURT this 17th day of October, 2006.

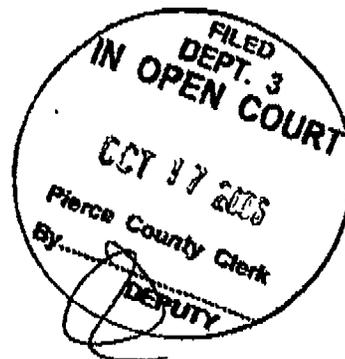
15 
16 JUDGE

17 Presented by:

18 
19 Hugh K. Birgenheier
20 Deputy Prosecuting Attorney
WSB# 14720

21 Approved as to Form:

22
23 
24 Barbara Corey
25 Attorney for Defendant
WSB# 11770



PROTECTIVE ORDER-3

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Tacoma, Washington 98402-2171
Main Office: (253) 798-7400



IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff

vs.

BOYD, MICHAEL ALLEN,

Defendant

Cause No: 04-1-05178-1

ORDER REGARDING
CHILD VICTIM INTERVIEWS

The court orders the following interview schedule:

① Alleged victims SR, BW, and HW shall be interviewed on Nov. 1, 2006 from 9 am - 4 pm. (The defense provides notice of its intent to ^{audio} tape record these interviews).

② Alleged victims DC and SR shall be interviewed on Nov. 9, 2006, from 9:30 ^{am} to 4 pm. (The defense provides notice of its intent to ^{audio} tape record these interviews).

The court further orders that no photos that form the basis for the charges of sexual exploitation/possession of depictions of minors may be shown to any of the alleged victims without prior order of the court. The defense

DATED this 17th day of Oct., 2006.

[Signature]
HUGH K. BIRGENHEIER
Attorney for Plaintiff
WSBA# 14720

[Signature]
JUDGE

[Signature]
BARBARA L. COREY
Attorney for Defendant
WSBA# 11778

must provide appropriate notice to the State prior to making such motion.

△ Must give fee Saw notice of any motion by 10/25/06.

The state shall be permitted to argue regarding the conduct of the defense pretrial interviews (no later than...)