

2010 MAY 14 AM 11:36

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION

In re Personal Restraint )  
 )  
Petition of )  
Jose Toledo-Sotelo )  
 )

85377-1

NO. 05-1100-8

PERSONAL RESTRAINT PETITION

Petitioner's Full Name

If there is not enough room on this form, use the back of these pages or use other paper. Fill out all of the form and other papers you are attaching before you sign this form in front of a notary.

A. STATUS OF PETITIONER

I, Jose Toledo-Sotelo Clallam Bay Correction Center 1830  
(Full name and current address)

Eagle Crest Way Clallam Bay, WA 98326

Apply for relief from confinement. I am  am not  now in custody serving a sentence upon conviction of a crime. (If not serving a sentence upon conviction of a crime) I am now in custody because of the following type of court order:

(Identify type of court order)

1. The court in which I was sentenced is: King County Superior Court

2. I was convicted of the crime of: Child Molestation And Bail Jumping.

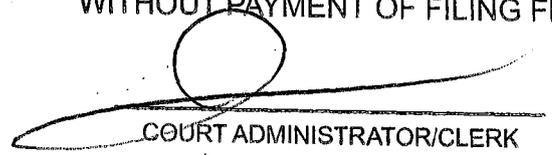
3. I was sentenced after (check one) Trial  Plea of Guilty  on 9-10-2007; 10-16-2007.  
Date of Sentence

4. The Judge who imposed sentence was Judge Mattson

5. My lawyer at trial court was Barry J. Wallis 9615 Bridgeport Way,  
Name and Address if known

SW Lakewood, WA 98499

PETITIONER MAY FILE PETITION WITHOUT PAYMENT OF FILING FEE

  
COURT ADMINISTRATOR/CLERK

6. I did  did not  appeal from the decision of the trial court. (If the answer is that I did), I appealed to: \_\_\_\_\_  
Name of court or courts to which appeal took place

7. My lawyer for my appeal was: \_\_\_\_\_  
Name and address if known or write "none"

The decision of the appellate court was \_\_\_\_\_ was not \_\_\_\_\_ published. (If the answer is that it was published, and I have this information) the decision is published in \_\_\_\_\_  
\_\_\_\_\_

8. Since my conviction I have  have not  asked a court for some relief from my sentence other than I have already written above. (If the answer is that I have asked, the court I asked was \_\_\_\_\_ . Relief was denied on \_\_\_\_\_  
Name of court

\_\_\_\_\_ Date of Decision or, if more than one, all dates)

(If you have answered in question 7 that you did ask for relief), the name of your lawyer in the proceedings mentioned in my answer was \_\_\_\_\_  
Name and address if known

9. If the answers to the above questions do not really tell about the proceedings and the courts, judges and attorneys involved in your case, tell about it here: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**B. GROUNDS FOR RELIEF:**

(If I claim more than one reason for relief from confinement, I will attach sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground", "Second Ground", "Third Ground", etc). I claim that I have 2 reason(s) for this court to grant me relief from the conviction and sentence described in Part A.

1 Ground  
(First, Second, etc)

1. I should be given a new trial or released from confinement because (State legal reasons why you think there was some error made in your case which gives you the right to a new trial or release from confinement): Both trial counsel and the state

misinformed me about the consequences of my guilty Plea; the seriousness level; and my offender score.

2. The following facts are important when considering my case. (After each fact statement put the name of the person or persona who know the fact and will support your statement of the fact. If the fact is already in the record of your case, indicate that also) \_\_\_\_\_

Please see attach P, R, P

3. The following reported court decisions (indicate citations if possible) in cases similar to mine show the error I believed happened in my case. (If none are known, state "None Known". \_\_\_\_\_

Please See attach P, R, P

4. The following statutes and constitutional provisions should be considered by the court. (If none are now, state, "None Known") \_\_\_\_\_

Please see attach P, R, P

5. This petition is the best way I know to get the relief I want, and not other way will work as well because: Pursuant to RAP 2.5 I have a right to challenge my plea of guilty. ~~There~~

#### C. STATEMENT OF FINANCES:

If you cannot afford to pay the \$250 filing fee or cannot afford to pay an attorney to help you, fill out this form. If you have enough money for these, do not fill this part of the form. If currently in confinement you will need to attach a copy of your prison finance statement.

1. I do  do not \_\_\_\_\_ ask the court to file this without making me pay the \$250 filing fee because I am so poor and cannot pay the fee.

2. I have \$ \_\_\_\_\_ in my prison or institution account. See attach PLRA.

3. I do  do not  ask the court to appoint a lawyer for me because I am so poor and cannot afford to pay a lawyer.

4. I am  am not  employed. My salary or wages amount to \$ \_\_\_\_\_ a month. My employer is \_\_\_\_\_  
Name and address of employer

5. During the past 12 months I did  did not  get any money from a business, profession or other form of self-employment. (If I did, it was \_\_\_\_\_  
Type of self-employment  
And the total income I received was \$ \_\_\_\_\_.

6. During the past 12 months I:

Did  Did Not  Receive any rent payments. If so, the total I received was \$ \_\_\_\_\_

Did  Did Not  Receive any interest. If so, the total I received was \$ \_\_\_\_\_

Did  Did Not  Receive any dividends. If so, the total I received was \$ \_\_\_\_\_

Did  Did Not  Receive any other money. If so the total I received was \$ \_\_\_\_\_

Do  Do Not  Have any cash except as said in question 2 of Statement of Finances. If so the total amount of cash I have is \$ 0.

Do  Do Not  Have any savings or checking accounts. If so, the total amount in all accounts is \$ 0.

Do  Do Not  Own stocks, bonds or notes. If so, their total value is: \$ 0.

7. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what item or property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

Items

Value

N/A

8. I am  am not  married. If I am married, my wife or husband's name and address is:

9. All of the persons who need me to support them are listed below:

Name & Address	Relationship	Age
N/A		

10. All the bills I owe are listed here:

Name & Address of Creditor	Amount
L.F.O'S	444.12
L.F.O'S	600.00

D. REQUEST FOR RELIEF:

I want this court to:

- Vacate my conviction and give me a new trial
- Vacate my conviction and dismiss the criminal charges against me without a new trial
- Other: \_\_\_\_\_  
(Please Specify)

E. OATH OF PETITIONER

STATE OF WASHINGTON )

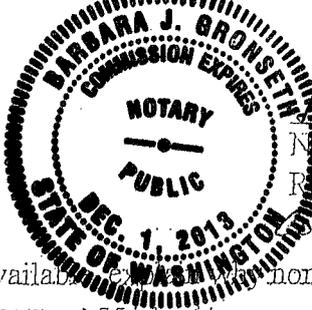
) ss.

COUNTY OF Clallam )

After being first duly sworn, on oath, I depose and say: That I am the petitioner, that I have read the petition, know its contents, and I believe the petition is true.

[Signature]  
(Signature Here)

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of May  
200 2010



Barbara J. Gronseth  
Notary Public in and for the State of Washington  
Residing at Clallam Bay  
COMMISSION EXPIRES: Dec. 1, 2013

If a notary is not available, or if none is available and indicate who can be contacted to help you find a notary: Affidavit pursuant to 28 U.S.C. § 1746 and DICKINSON V. WAINWRIGHT, 626 F.2d 1184 (1980) sworn as true and correct under penalty of perjury has full force of and does not have to be verified by notary public.

Then sign below:

I declare under penalty of perjury under the laws of the State of Washington, pursuant to RCW 9A.72.085, and the laws of the United States, pursuant to Title 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Dated at Clallam Bay, Wa.

\_\_\_\_\_  
Pro se  
Clallam Bay Corrections Center  
1830 Eagle Crest Way  
Clallam Bay, WA 98326-9723

04/27/2010  
DDKEYS

DEPARTMENT OF CORRECTIONS  
CLALLAM BAY CORRECTIONS CENTER

Page 1 of 1  
OIRPLRAR  
6.03.1.0.1.2

PLRA IN FORMA PAUPERIS STATUS REPORT  
FOR DEFINED PERIOD : 10/01/2009 TO 03/31/2010

DOC : 0000311886      NAME : TOLEDOSOTELO JOSE      ADMIT DATE :06/17/2008  
DOB : 01/27/1966      ADMIT TIME :00:00

---

AVERAGE MONTHLY RECEIPTS	20% OF RECEIPTS	AVERAGE SPENDABLE BALANCE	20% OF SPENDABLE
72.55	14.51	34.82	6.96

---

COURT FILED  
2010 MAY 14 AM 11:36

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

---

IN RE PERSONAL RESTRAINT PETITION OF  
JOSE TOLEDO-SOTELO

---

PERSONAL RESTRAINT PETITION

---

JOSE TOLEDO-SOTELO#311886  
Clallam Bay Corr. Cntr.  
1830 Eagle Crest Way  
Clallam Bay, WA 98326

**APPENDIX**

1. JUDGMENT AND SENTENCE FOR CHILD MOLESTATION IN THE FIRST DEGREE.
2. JUDGMENT AND BAIL JUMPING.
3. SENTENCING ORDER BY THE HONORABLE JUDGE GEORGE T. MATTSON.
4. JAIL CERTIFICATION AUTHORIZATION FOR EARNED EARLY RELEASE CREDIT  
WASHINGTON STATE DEPARTMENT OF CORRECTIONS

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**1). MR.TOLEDO-SOTELO REQUEST TO WITHDRAW HIS  
PLEA OF GUILTY BASED ON A MISINFORMATION  
OF THE STANDARD SENTENCING RANGE.**

a). A defendant may withdraw his plea of guilty  
that is based on misinformation of the standard  
sentencing range.

**2). THE KING COUNTY ADMINISTRATOR MCLELLAN  
FAILED TO CREDIT MR.TOLEDO-SOTELO 855  
DAYS OF PHYSICAL INCARCERATION**

b). Mr.Toledo-Sotelo is entitled to the 855 days  
of physical incarceration granted by the Honorable Judge  
Mattson.

F. RELIEF REQUESTED.....11

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A. SUMMARY OF ARGUMENT.

Mr.Toledo-Sotelo was misinformed by trial counsel and the state about the seriousness level, the standard sentencing range and the consequences of his plea.

Mr.Toledo-Sotelo was sentence to 13 to 17 months under 07-1-103615-KNT to count I for bail jumping, with a offender score of two and a seriousness level V.

Mr.Toledo-Sotelo was also misinformed by by trial counsel and the state about the seriousness level, and the standard sentencing range for child molestation in the first degree. Mr.Toledo-Sotelo was sentence to 72 to 96 months under cause 00-1-05743-8-KNT to count III and IV for child molestation in the first degree with a offender score of three and a seriousness level XII.

Mr.Toledo-Sotelo was credited by the court for 855 days spent in the King County Jail from February 13,2006, to June 16,2008, however, Mr.Toledo-Sotelo's Jail Certification and Authorization for Earned Early Release Credit do not reflect the credit given by the court. Mr.Toledo-Sotelo has not filed any motions or petition regrading his current restraint.

B. ASSIGNMENT OF ERROR.

1). Mr.Toledo-Sotelo had been misinformed of the sentencing consequences which render his plea involuntary when he found out that his standard range sentence is lower than he was informed by both counsel and the prosecutor.

2). The sentencing court granted Mr.Toledo-Sotelo 855 days of physical incarceration and the administrator McLellan failed to certify Mr.Toledo-Sotelo's time.

C. ISSUES PERTAINING TO ASSIGNMENT OF ERROR.

1). A claim by a defendant that he was misinformed of the sentencing consequences when he plead guilty constitutes a manifest error affecting a constitutional right.

Does Mr. Toledo-Sotelo have a right to withdraw his plea of guilty when both trial counsel and the prosecutor misinformed him of the standard sentencing range, the seriousness level, and the offender score?

2). An inmate has a constitutionally protected liberty interest in good time credit and the county jail is required to certify an inmate's physical incarceration.

Did the county administrator Mclellan error by not calculating Mr. Toledo-Sotelo 855 days granted by the court?

D.STATEMENT OF FACTS.

Jose Toledo-Sotelo was charge by information with two count of Rape of a Child on August 31,2000. Mr.Toledo-Sotelo was arraigned on September 11,2000, and an omnibus date was set. Mr.Toledo-Sotelo bailed out and went to Canada for several years. Mr.Toledo-Sotelo was located by the authorities and was extradited from Canda on Febru- rary 13,2006. The State amended to add two counts of Child Molestation and one count of bail jumping Februray 13,2006. Mr.Toledo-Sotelo's trial counsel Barry J. Wallis made a motion for severance of the bail jumping and the motion was granted and the bail jumping was tried sparately from the other counts. Mr.Toledo-Sotelo went to trial on the bail jumping and was found guilty on September 9, 2007, by a jury. Mr.Toledo-Sotelo and both trial counsel and the State agreed to dis- miss count I and II, Rape of a Child in the First Degree inexchange for Mr.Toledo-Sotelo to plead guilty to Child Molestation in the First degree with the understanding that the proper seriousness level was XII and the standard sentencing range as 72 to 96 months with an offender score of three points. Mr.Toledo-Sotelo is a National who speaks spanish and does not have a proper understanding of the English language. Mr.Toledo-Sotelo is a first time offender and has no previous criminal history.

E. ARGUMENT.

Personal restraint petitioners raising most constitutional claims bear the burden to show that the constitutional error caused "actual prejudice." In re Cook, 114 Wn.2d 802, 810-11, 792 P.2d 506 (1990), and cases cited therein. This standard implies two key issues discussed here: what "actual prejudice" means, and on what constitutional claims is the petitioner relieved from showing "actual prejudice". "Actual prejudice" has not been defined in great, other than to be described in such formulations as "proof that more likely than not the defendant's right to a fair trial was actually and substantially prejudice." State v. Kitchen, 110 Wn.2d 403, 413, 756 P.2d 105 (1988). (citation omitted). The "actual prejudice" standard is best understood as a burden shifting device, it is a shift [of] one element of the burden of proof onto the petitioner. On direct appeal, the burden is on the State to establish beyond a reasonable doubt that any error of constitutional dimensions is harmless.... On collateral review, we shift the burden to the petitioner to establish that the error was not harmless; in other words, to establish that the error was prejudicial. In re Hagler, 97 Wn.2d 818, 825-26, 650 P.2d 1103 (1982) (citation omitted). "Actual prejudice" is to be determined by considering "the totality of the circumstances." In re Music, 104 Wn.2d 189, 191, 704 P.2d 144 (1985). RAP 16.4(a), (b), and (c), (2), (5).

Mr. Toledo-Sotelo request this Honorable court to liberally construe his pro se pleadings pursuant to Haines v. Kerner, 404 U.S. 520,

925 S.Ct. 595. Estelle v. Gamble, 492 U.S. 97, 50 L.Ed.2d 251, 97 S.Ct 285.

Mr. Toledo-Sotelo has not filed any motions or petition regarding his current restraint.

1). **MR. TOLEDO-SOTELO REQUEST TO WITHDRAW HIS PLEA OF GUILTY BASED ON THE FACT THAT TRIAL COUNSEL AND THE STATE MISINFORMED HIM OF THE STANDARD SENTENCING RANGE**

A. Mr. Toledo-Sotelo is entitled to withdraw his plea of guilty when trial counsel and the state misinformed him of the sentencing consequences.

Mr. Toledo-Sotelo's trial counsel and the state misinformed him of the standard sentencing range. Mr. Toledo-Sotelo did not fully understand at the time of pleading guilty that he would be pleading to a sentence that was out side the standard sentencing range.

A defendant must understand the sentencing consequences for a guilty plea to be valid. Wood v. Morris, 87 Wn.2d 501, 503, 554 P.2d 1032(1975). The trial court sentence Mr. Toledo-Sotelo to a term of 84 months to count III, IV, and 13 months for the bail jumping with 36 to 48 months of community coustody.

Mr. Toledo-Sotelo, was sentence out sided the standard and was misinformed about the consequences of the standard range and the seriousness level. Mr. Toledo-Sotelo is entitle to have his plea of guilty withdrawn and a plea of not guilty entered.

A plea agreement conforms to RCW 9.94A.080, which authorizes a prosecutor to agree to dismissal of other counts and to recommend a

particular sentence within the sentence range. Pursuant to CrR 4.2(d), the court "shall not accept a plea of guilty, without first determining that it is made voluntarily, competently and with an understanding of the nature of the charge and the consequences of the plea." see State v. Wakefield, 130 Wn.2d 464, 472, 925 P.2d 183(1996); State v. Miller, 110 Wn.2d 528, 531, 756 P.2d 122(1988). There is a strong public interest in enforcement of plea agreements that are voluntarily and intelligently made. In re Pers. Restraint of Breedlove, 138 Wn.2d 298, 309, 979 P.2d 417 (1997). However, a trial court must allow withdrawal of a guilty plea "to correct a manifest injustice." CrR 4.2(f), Nonexclusive criteria as to what constitutes manifest injustice include (1), the denial of effective counsel; (2), the defendant or one authorized by the defendant did not ratify the plea; (3), the plea was involuntary; or (4), the prosecution breach the plea agreement. Wakefield, 130 Wn.2d at 472; State v. Saas, 118 Wn.2d 37, 42, 820 P.2d 505(1991); State v. Walsh, 143 Wn.2d 1, 6, 17 P.3d 591(2001).

Mr. Toledo-Sotelo argues that the plea was not voluntary because of a misunderstanding of the seriousness level, the standard sentencing range, and the offender score. Mr. Toledo-Sotelo seriousness level should have been a level X and his standard sentencing range should have been 51 to 68 months, with an offender score as 0 because this first offense. Mr. Toledo-Sotelo do not have any prior criminal history or convictions and therefore he should be entitled to withdraw his plea of guilty. Mr. Toledo-Sotelo did not waive the error by electing to proceed with sentencing and failing to move the court for a withdrawal of his plea. In re Restraint of Hew, 99 Wn.2d 80, 660 P.2d 263(1983). The court will review a challenge to the voluntariness of a plea agreement which

was raised for the first time by way of a personal restraint petition. It follows that the issue can be raised for the first time on appeal. see also In re Pers. Restraint of James, 96 Wn.2d 847, 849, 640 P.2d 18 (1982).

State v. Skiggn, 58 Wn.App. 836, 795 P.2d 169 (1990), as in the present case, an error was made in calculating the standard range, the seriousness level and Mr. Toledo-Sotelo's offender score because, counsel and the State misinformed Mr. Toledo-Sotelo he is entitled to raise the issue of the validity of his plea for the first time in his P.R.P. Moreover, RAP 2.5(a), (3), provides that "manifest error affecting a constitutional right" may be raised for the first time on appeal. Division II of the Court of Appeals recently discussed the rule in the context of a claim raised for the first time on appeal that the prosecution breached a plea agreement and arguing for a sentence greater than the agreed-to recommendation. As that court noted, a defendant gives up constitutional rights by agreeing to a plea agreement and, because fundamental rights of the accused are at issue, due process considerations come into play. State v. Van Buren, 101 Wn.App. 206, 211, 2 P.3d 991 (2000); see State v. Tourtellotte, 88 Wn.2d 579, 583, 564 P.2d 799 (1977). [A] plea of guilty constitutes a waiver of significant right by the defendant, among which are the right to a jury trial, to confront one's accusers, to present witnesses in one's defense, to remain silent, and to be convicted by proof beyond all reasonable doubt. State v. Sledge, 133 Wn.2d 828, 839, 947 P.2d 1199 (1997). (due process requires that a guilty plea be knowing, intelligent and voluntary); State v. Lewis, 16 Wn.App. 132, 135, 553 P.2d 127 (1976). (citing, among other cases Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); see also Santobello v. New York, 404 U.S. 275, 92 S.Ct. 495, 30 L.Ed.2d 427 (1971). Mr. Toledo-Sotelo argues that

his plea is not voluntary, because Mr. Toledo-Sotelo would not have plead guilty to a sentence out side the standard range neither would he have knowingly and voluntary plead to an offender score of three points when his offender score should have been one point. The State miscalculated Mr. Toledo-Sotelo offender score for the bail jumping as two points, when it should have been calculated as one point. The State also miscalculated Mr. Toledo-Sotelo offender score for the child molestation as three points when it should have been calculated as one point, as a first time offender and ran together with the bail jumping and a seriousness level X with the proper sentencing 57 to 75 months.

"A defendant must understand the sentencing consequences for a guilty plea to be valid." Miller, 110 Wn.2d at 531; see also Skiggn, 58 Wn.App.831.

Mr. Toledo-Sotelo has established that his guilty plea was involuntary based upon both trial counsel and the State misinforming Mr. Toledo-Sotelo of the (1), the miscalcuation of his offender scroe, (2), being misinformed about the standard sentencing range, and (3), being misinformed about the seriousness level. "Where a plea agreement is based on misinformation, as in this case, generally the defendant may choose specific enforcement of the agreement or withdrawal of the guilty plea." Miller, 110 Wn.2d at 528.

Mr. Toledo-Sotelo chooses to withdraw his plea of guilty. The prosecutor bears the burden of demonstrating that the defendant's choice of remedy is unjust. Miller, 110 Wn.2d at 536.

Mr. Toledo-Sotelo was misinformed about the sentencing consequences, his offender score and the seriousness level. His guilty plea was not knowingly, intelligently, and voluntary.

2). THE KING COUNTY ADMINISTRATOR MCLELLAN  
FAILED TO CREDIT MR. TOLEDO-SOTELO 855  
DAYS OF PHYSICAL INCARCERATION

a). Mr. Toledo-Sotelo is entitled to the 855 days physical incarceration granted by the Honorable Judge Mattson.

Judge Mattson ORDERED on June 17, 2008, that Mr. Toledo-Sotelo "shall receive credit for his incarceration from the moment he was taken into custody in Canada on February 13th 2006 until the present day. This period shall be understood to include the period while he was being detained within the United States after the Canadian government extradited him to this country. Thus sentencing order is originally drafted on Monday June 16th 2008. As of today's drafting date, and including today's date, Mr. Toledo-Sotelo has served the following amount of time: 855 days." (see attach sentencing order).

Administrator McLellan failed to credit Mr. Toledo-Sotelo with his 855 days order by the court. (see attach Jail Certifications). Pursuant to RCW 9.94A.728(1), prescribes the contents of a jail certification and states in relevant part: If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time.

The statutory requirement codified in former RCW 9.94A.120(17), that an offender receive credit for all pretrial detention time served, reflects a constitutional mandate. State v Speaks, 119 Wn.2d 204,

206, 829 P.2d 1096(1992). Failure to allow such credit violates due process, denies equal protection, and offends the prohibition against multiple punishments. State v. Cook, 37 Wn.App 269,271, 679 P.2d 413(1984). In addition, an inmate has a constitutionally protected though limited, liberty interest in good-time credit. In re Pers. of Dutcher, 114 Wn.App 755,758, 60 P.3d 635(2002). Administrator McLellan's action that wrongfully denied Mr.Toledo-Sotelo his 855 days of credit for time served or good-time earned results in the unlawful restraint of Mr.Toledo-Sotelo.

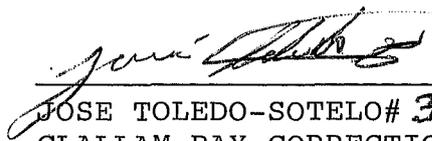
F. RELIEF REQUESTED.

Mr.Toledo-Sotelo request this court to grant his petition and allow him to withdraw his plea of guilty and grant a new trial based on the trial counsel and the State misinforming him of the standard sentencing range, the seriousness level and his points.

Mr.Toledo-Sotelo also request this court to find that he was not credited the 855 days granted by the sentencing judge and to grant Mr.Toledo-Sotelo his 855 days.

Mr.Toledo-Sotelo request this court to grant any other relief this court may deem proper in the interest of justice.

RESPECTFULLY, SUBMITTED

  
\_\_\_\_\_  
JOSE TOLEDO-SOTELO# 311886  
CLALLAM BAY CORRECTION CENTER  
1830 EAGLE CREST WAY  
CLALLAM BAY, WA 98326

**APPENDIX-1**

**JUDGMENT AND SENTENCE FOR CHILD MOLESTATION IN THE FIRST DEGREE**

FILED

08 MAY 16 AM 9:48

KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WA

PRESENTENCING STATEMENT & INFORMATION ATTACHED

COMMITMENT ISSUED MAY 16 2008

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

Vs.

JOSE TOLEDO-SOTELO,

Defendant,

No. 00-1-05743-8 KNT

JUDGMENT AND SENTENCE  
FELONY

311850  
6708

CLERK'S ACTION REQUIRED (P3 \$6)

I. HEARING

I.1 The defendant, the defendant's lawyer, BARRY J. WALLIS, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: victim's family  
defendant's significant other

II. FINDINGS

There being no reason why judgment should not be pronounced, the court finds:  
2.1 CURRENT OFFENSE(S): The defendant was found guilty on 10/16/2007 by plea of:

Count No.: III Crime: CHILD MOLESTATION IN THE FIRST DEGREE  
RCW 9A.44.083 Crime Code: 01064  
Date of Crime: 04/25/1995 THROUGH 08/31/1996 Incident No. \_\_\_\_\_

Count No.: IV Crime: CHILD MOLESTATION IN THE FIRST DEGREE  
RCW 9A.44.083 Crime Code: 01064  
Date of Crime: 04/25/1995 THROUGH 08/31/1996 Incident No. \_\_\_\_\_

Count No.: \_\_\_\_\_ Crime: \_\_\_\_\_  
RCW \_\_\_\_\_ Crime Code: \_\_\_\_\_  
Date of Crime: \_\_\_\_\_ Incident No. \_\_\_\_\_

Count No.: \_\_\_\_\_ Crime: \_\_\_\_\_  
RCW \_\_\_\_\_ Crime Code: \_\_\_\_\_  
Date of Crime: \_\_\_\_\_ Incident No. \_\_\_\_\_

[ ] Additional current offenses are attached in Appendix A

**SPECIAL VERDICT or FINDING(S):**

- (a)  While armed with a **firearm** in count(s) \_\_\_\_\_ RCW 9.94A.510(3).
- (b)  While armed with a **deadly weapon** other than a firearm in count(s) \_\_\_\_\_ RCW 9.94A.510(4).
- (c)  With a **sexual motivation** in count(s) \_\_\_\_\_ RCW 9.94A.835.
- (d)  A V.U.C.S.A offense committed in a **protected zone** in count(s) \_\_\_\_\_ RCW 69.50.435.
- (e)  **Vehicular homicide**  Violent traffic offense  DUI  Reckless  Disregard.
- (f)  **Vehicular homicide** by DUI with \_\_\_\_\_ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.510(7).
- (g)  **Non-parental kidnapping** or unlawful imprisonment with a minor victim. RCW 9A.44.130.
- (h)  **Domestic violence** offense as defined in RCW 10.99.020 for count(s) \_\_\_\_\_.
- (i)  Current offenses **encompassing the same criminal conduct** in this cause are count(s) \_\_\_\_\_ RCW 9.94A.589(1)(a).

2.2 **OTHER CURRENT CONVICTION(S):** Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): \_\_\_\_\_

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

- Criminal history is attached in **Appendix B**.
- One point added for offense(s) committed while under community placement for count(s) \_\_\_\_\_

**2.4 SENTENCING DATA:**

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count III	3	XII			<del>120 TO 168</del> MONTHS 72-96mo	LIFE AND/OR \$50,000
Count IV	3	XII			<del>120 TO 168</del> MONTHS 72-96mo	LIFE AND/OR \$50,000
Count						
Count						

Additional current offense sentencing data is attached in **Appendix C**.

2.5 **EXCEPTIONAL SENTENCE (RCW 9.94A.535):**

Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) \_\_\_\_\_. Findings of Fact and Conclusions of Law are attached in Appendix D. The State  did  did not recommend a similar sentence.

**III. JUDGMENT**

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and **Appendix A**.  
 The Court **DISMISSES** Count(s) I & II

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
  - Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(2), sets forth those circumstances in attached Appendix E.
  - Restitution to be determined at future restitution hearing on (Date) \_\_\_\_\_ at \_\_\_\_\_ m.
  - Date to be set.
  - Defendant waives presence at future restitution hearing(s).
  - Restitution is not ordered.
- Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500.

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a)  \$ \_\_\_\_\_, Court costs;  Court costs are waived; (RCW 9.94A.030, 10.01.160)
- (b)  \$100 DNA collection fee;  DNA fee waived (RCW 43.43.754)(crimes committed after 7/1/02);
- (c)  \$ \_\_\_\_\_, Recoupment for attorney's fees to King County Public Defense Programs;  
 Recoupment is waived (RCW 9.94A.030);
- (d)  \$ \_\_\_\_\_, Fine;  \$1,000, Fine for VUCSA;  \$2,000, Fine for subsequent VUCSA;  
 VUCSA fine waived (RCW 69.50.430);
- (e)  \$ \_\_\_\_\_, King County Interlocal Drug Fund;  Drug Fund payment is waived;  
(RCW 9.94A.030)
- (f)  \$ \_\_\_\_\_, State Crime Laboratory Fee;  Laboratory fee waived (RCW 43.43.690);
- (g)  \$ \_\_\_\_\_, Incarceration costs;  Incarceration costs waived (RCW 9.94A.760(2));
- (h)  \$ \_\_\_\_\_, Other costs for: \_\_\_\_\_

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 500.00. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:  Not less than \$ \_\_\_\_\_ per month;  On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. **The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied.** Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

- Court Clerk's trust fees are waived.
- Interest is waived except with respect to restitution.

4.4 The defendant, having been convicted of a FELONY SEX OFFENSE, is sentenced to the following:

(a) **DETERMINATE SENTENCE** : Defendant is sentenced to a term of confinement in the custody of the  
 King County Jail  King County Work/Education Release (subject to conditions of conduct ordered  
this date)  Department of Corrections, as follows, commencing:  immediately;  
 Date: \_\_\_\_\_ by \_\_\_\_\_ a.m. / p.m.

84 months/days on count III; \_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/days on count \_\_\_\_\_;  
84 months/days on count IV; \_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/days on count \_\_\_\_\_;  
\_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/days on count \_\_\_\_\_.

**ALTERNATIVE CONVERSION - RCW 9.94A.680 (LESS THAN ONE YEAR ONLY):**

\_\_\_\_\_ days of total confinement are hereby converted to:

\_\_\_\_\_ days of partial confinement to be served subject to the requirements of the King County Jail.  
 \_\_\_\_\_ days/hours community restitution under the supervision of the Department of Corrections to  
be completed as follows:

on a schedule established by the defendant's Community Corrections Officer;

\_\_\_\_\_

Alternative conversion was not used because:  Defendant's criminal history,  Defendant's  
failure to appear,  Other: \_\_\_\_\_

**COMMUNITY CUSTODY for FAILURE TO REGISTER AS A SEX OFFENDER under RCW  
9A.44.130(11)(a) committed on or after 6-7-2006 as to Counts \_\_\_\_\_ (regardless of length of  
confinement) is ordered pursuant to RCW 9.94A.545(2) and RCW 9.94A.715 for the range of 36 to 48  
months.**

**FOR CONFINEMENT LESS THAN ONE YEAR (except for Failure to Register as a Sex  
Offender under RCW 9A.44.130(11)(a) committed on or after 6-7-06) as to Counts \_\_\_\_\_:  
COMMUNITY  SUPERVISION, for crimes committed before 7-1-2000,  CUSTODY, for  
crimes committed on or after 7-1-2000, is ordered pursuant to RCW 9.94A.545 for a period of 12 months.  
The defendant shall report to the Department of Corrections within 72 hours of this date or of his/her  
release if now in custody; shall comply with all the rules, regulations and conditions of the Department for  
supervision of offenders (RCW 9.94A.720); shall comply with all affirmative acts required to monitor  
compliance; and shall otherwise comply with terms set forth in this sentence.**

**APPENDIX \_\_\_\_\_: Additional Conditions** are attached and incorporated herein.

**COMMUNITY PLACEMENT (CONFINEMENT OVER ONE YEAR) as to Counts \_\_\_\_\_:**  
pursuant to RCW 9.94A.700, for **qualifying crimes committed before 6-6-1996**, is ordered for  
\_\_\_\_\_ months or for the period of earned early release awarded pursuant to RCW 9.94A.728,  
whichever is longer. [24 months for any serious violent offense, vehicular homicide, vehicular assault, or  
sex offense prior to 7-6-96; 12 months for any assault 2°, assault of a child 2°, felony violation of RCW  
69.50/52, any crime against person defined in RCW 9.94A.440 not otherwise described above.]

**APPENDIX H, Community Placement conditions**, is attached and incorporated herein.

**COMMUNITY CUSTODY (CONFINEMENT OVER ONE YEAR) as to Counts \_\_\_\_\_:**  
pursuant to RCW 9.94A.710 for any **SEX OFFENSE committed on or after 6-6-1996 but before 7-1-  
2000**, is ordered for a period of 36 months or for the period of earned early release awarded under RCW  
9.94A.728 whichever is longer.

**APPENDIX H, Community Custody conditions**, is attached and incorporated herein.

**COMMUNITY CUSTODY (CONFINEMENT OVER ONE YEAR)** as to Counts III, IV: pursuant to RCW 9.94A.715 for qualifying crimes (non RCW 9.94A.712 offenses) committed after 6-30-2000 is ordered for the following established range:

- Sex Offense, RCW 9.94A.030(38): 36 to 48 months
- Serious Violent Offense, RCW 9.94A.030(37): 24 to 48 months
- Violent Offense, RCW 9.94A.030(45): 18 to 36 months
- Crime Against Person, RCW 9.94A.411: 9 to 18 months
- Felony Violation of RCW 69.50/52: 9 to 12 months

or for the entire period of earned early release awarded under RCW 9.94A.728, whichever is longer. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.737.

APPENDIX H, Community Custody conditions, is attached and incorporated herein.

(b) **INDETERMINATE SENTENCE – QUALIFYING SEX OFFENSES occurring after 9-1-2001:**

The Court having found that the defendant is subject to sentencing under RCW 9.94A.712, the defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing:  immediately;  (Date): \_\_\_\_\_ by \_\_\_\_\_ m.

Count \_\_\_\_: Minimum Term: \_\_\_\_\_ months/days; Maximum Term: \_\_\_\_\_ years/life;

Count \_\_\_\_: Minimum Term: \_\_\_\_\_ months/days; Maximum Term: \_\_\_\_\_ years/life;

Count \_\_\_\_: Minimum Term: \_\_\_\_\_ months/days; Maximum Term: \_\_\_\_\_ years/life;

Count \_\_\_\_: Minimum Term: \_\_\_\_\_ months/days; Maximum Term: \_\_\_\_\_ years/life.

**COMMUNITY CUSTODY:** pursuant to RCW 9.94A.712 for qualifying SEX OFFENSES committed on or after September 1, 2001, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence as set forth above. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.713, 9.94A.737.

APPENDIX H: Community Custody conditions are attached and incorporated herein.

4.5 **ADDITIONAL CONDITIONS OF SENTENCE**

The above terms for counts 071103615 KNT are consecutive / concurrent.

The above terms shall run  CONSECUTIVE  CONCURRENT to cause No.(s) \_\_\_\_\_

The above terms shall run  CONSECUTIVE  CONCURRENT to any previously imposed sentence not referred to in this order.

In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special WEAPON finding(s) in section 2.1: \_\_\_\_\_

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (For crimes committed after 6-10-1998.)

The enhancement term(s) for any special WEAPON findings in section 2.1 is/are included within the term(s) imposed above. (For crimes before 6-11-1998 only, per In Re Charles)

The TOTAL of all terms imposed in this cause is 84 months.

*Yunk* defendant may by motion address the court for consideration of time spent in (Canada), in custody

Credit is given for  607 days served ~~100~~ days as determined by the King County Jail, solely for confinement under this cause number pursuant to RCW 9.94A.505(6).  Jail term is satisfied and defendant shall be released under this cause.

*WJBT 1096T + 212 cause credits / 855 total / 1096T*

4.6 NO CONTACT: For the maximum term of 99 years, defendant shall have no contact, direct or indirect, in person, in writing, by telephone, or through third parties with: [REDACTED]

Any minors without supervision of a responsible adult who has knowledge of this conviction.

4.7 DNA TESTING: The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing, as ordered in APPENDIX G.

HIV TESTING: For sexual offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in APPENDIX G.

4.8 SEX OFFENDER REGISTRATION:  
The defendant shall register as a sex offender as ordered in APPENDIX J.

4.9  ARMED CRIME COMPLIANCE, RCW 9.94A.475, 480. The State's plea/sentencing agreement is  attached  as follows:

The defendant shall report to an assigned Community Corrections Officer within 72 hours of release from confinement for monitoring of the remaining terms of this sentence.

Date: ~~2/1/08~~ May 13 08

[Signature]  
JUDGE  
Print Name:

Presented by:  
[Signature]  
Deputy Prosecuting Attorney, WSBA# 31600  
Print Name: Jenn Miller

Approved as to form:  
[Signature]  
Attorney for Defendant, WSBA# 37425  
Print Name: BASILY WALLIS

**APPENDIX-2**

**JUDGMENT AND SENTENCE FOR BAIL JUMPING**

FILED

FAX HIV

08 MAY 16 AM 9:50

KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WA

PRESENTENCING STATEMENT & INFORMATION ATTACHED

CERTIFIED COPY TO COUNTY JAIL MAY 16 2008

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

Vs.

JOSE TOLEDO-SOTELO

Defendant,

No. 07-1-103615-KNT

JUDGMENT AND SENTENCE  
FELONY

311880  
6-17-08  
BCC

\* CLERK'S ACTION REQUIRED (p3)

I. HEARING

I.1 The defendant, the defendant's lawyer, BARRY WALLIS, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: NICH'S family,

defendant's significant other - WIFE

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 9/10/2007 by jury verdict of:

Count No.: I Crime: BAIL JUMPING  
RCW 9A.76.170 Crime Code: 05156  
Date of Crime: 9/21/2000 Incident No. \_\_\_\_\_

Count No.: \_\_\_\_\_ Crime: \_\_\_\_\_  
RCW \_\_\_\_\_ Crime Code: \_\_\_\_\_  
Date of Crime: \_\_\_\_\_ Incident No. \_\_\_\_\_

Count No.: \_\_\_\_\_ Crime: \_\_\_\_\_  
RCW \_\_\_\_\_ Crime Code: \_\_\_\_\_  
Date of Crime: \_\_\_\_\_ Incident No. \_\_\_\_\_

Count No.: \_\_\_\_\_ Crime: \_\_\_\_\_  
RCW \_\_\_\_\_ Crime Code: \_\_\_\_\_  
Date of Crime: \_\_\_\_\_ Incident No. \_\_\_\_\_

[ ] Additional current offenses are attached in Appendix A

**SPECIAL VERDICT or FINDING(S):**

- (a)  While armed with a **firearm** in count(s) \_\_\_\_\_ RCW 9.94A.510(3).
- (b)  While armed with a **deadly weapon** other than a firearm in count(s) \_\_\_\_\_ RCW 9.94A.510(4).
- (c)  With a **sexual motivation** in count(s) \_\_\_\_\_ RCW 9.94A.835.
- (d)  A V.U.C.S.A. offense committed in a **protected zone** in count(s) \_\_\_\_\_ RCW 69.50.435.
- (e)  **Vehicular homicide**  Violent traffic offense  DUI  Reckless  Disregard.
- (f)  **Vehicular homicide** by DUI with \_\_\_\_\_ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.510(7).
- (g)  **Non-parental kidnapping** or unlawful imprisonment with a minor victim. RCW 9A.44.130.
- (h)  **Domestic violence** offense as defined in RCW 10.99.020 for count(s) \_\_\_\_\_.
- (i)  Current offenses **encompassing the same criminal conduct** in this cause are count(s) \_\_\_\_\_ RCW 9.94A.589(1)(a).

2.2 **OTHER CURRENT CONVICTION(S):** Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): 00-1-05743-8KNT ~~000~~-1(2 COUNTS)  
CM

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):  
 Criminal history is attached in **Appendix B**.  
 One point added for offense(s) committed while under community placement for count(s) \_\_\_\_\_

**2.4 SENTENCING DATA:**

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count I	X 2	V			<del>6-18</del> MONTHS 13-17	5 YRS AND/OR \$10,000
Count						
Count						
Count						

Additional current offense sentencing data is attached in **Appendix C**.

**2.5 EXCEPTIONAL SENTENCE (RCW 9.94A.535):**

Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) \_\_\_\_\_. Findings of Fact and Conclusions of Law are attached in **Appendix D**. The State  did  did not recommend a similar sentence.

**III. JUDGMENT**

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and **Appendix A**.  
 The Court **DISMISSES** Count(s) \_\_\_\_\_

4.4 **CONFINEMENT OVER ONE YEAR:** Defendant is sentenced to a term of total confinement in the custody of the **Department of Corrections** as follows, commencing:  immediately; [ ] (Date): \_\_\_\_\_ by \_\_\_\_\_ m.

13 months/days on count I; \_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/day on count \_\_\_\_\_  
\_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/day on count \_\_\_\_\_

The above terms for counts \_\_\_\_\_ are consecutive / concurrent.

The above terms shall run [ ] CONSECUTIVE  CONCURRENT to cause No.(s) 001057438KNT

The above terms shall run [ ] CONSECUTIVE  CONCURRENT to any previously imposed sentence not referred to in this order.

[ ] In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special **WEAPON** finding(s) in section 2.1: \_\_\_\_\_

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (Use this section only for crimes committed after 6-10-98)

[ ] The enhancement term(s) for any special **WEAPON** findings in section 2.1 is/are included within the term(s) imposed above. (Use this section when appropriate, but for crimes before 6-11-98 only, per In Re Charles)

The **TOTAL** of all terms imposed in this cause is 13 months.

Credit is given for  252 days served 288 JT MUST [ ] days as determined by the King County Jail, solely for confinement under this cause number pursuant to RCW 9.94A.505(6).

4.5 **NO CONTACT:** For the maximum term of 000 years, defendant shall have no contact with \_\_\_\_\_  
anyone

4.6 **DNA TESTING.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing, as ordered in **APPENDIX G.**

[ ] **HIV TESTING:** For sex offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in **APPENDIX G.**

4.7 (a) [ ] **COMMUNITY PLACEMENT** pursuant to RCW 9.94A.700, for **qualifying crimes committed before 7-1-2000**, is ordered for \_\_\_\_\_ months or for the period of earned early release awarded pursuant to RCW 9.94A.728, whichever is longer. [24 months for any serious violent offense, vehicular homicide, vehicular assault, or sex offense prior to 6-6-96; 12 months for any assault 2°, assault of a child 2°, felony violation of RCW 69.50/52, any crime against person defined in RCW 9.94A.411 not otherwise described above.] **APPENDIX H** for Community Placement conditions is attached and incorporated herein.

(b) [ ] **COMMUNITY CUSTODY** pursuant to RCW 9.94.710 for any **SEX OFFENSE committed after 6-5-96 but before 7-1-2000**, is ordered for a period of 36 months or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. **APPENDIX H** for Community Custody Conditions and **APPENDIX J** for sex offender registration is attached and incorporated herein.

- (c)  **COMMUNITY CUSTODY** - pursuant to RCW 9.94A.715 for qualifying crimes committed after 6-30-2000 is ordered for the following established range:
  - Sex Offense, RCW 9.94A.030(38) - 36 to 48 months—when not sentenced under RCW 9.94A.712
  - Serious Violent Offense, RCW 9.94A.030(37) - 24 to 48 months
  - Violent Offense, RCW 9.94A.030(45) - 18 to 36 months
  - Crime Against Person, RCW 9.94A.411 - 9 to 18 months
  - Felony Violation of RCW 69.50/52 - 9 to 12 months

n/a

or for the entire period of earned early release awarded under RCW 9.94A.728, whichever is longer. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.737.

- APPENDIX H for Community Custody conditions is attached and incorporated herein.
- APPENDIX J for sex offender registration is attached and incorporated herein.

4.8  **WORK ETHIC CAMP:** The court finds that the defendant is eligible for work ethic camp, is likely to qualify under RCW 9.94A.690 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the defendant shall be released to community custody for any remaining time of total confinement. The defendant shall comply with all mandatory statutory requirements of community custody set forth in RCW 9.94A.700. **Appendix H** for Community Custody Conditions is attached and incorporated herein.

n/a

4.9  **ARMED CRIME COMPLIANCE, RCW 9.94A.475, 480.** The State's plea/sentencing agreement is  attached  as follows:

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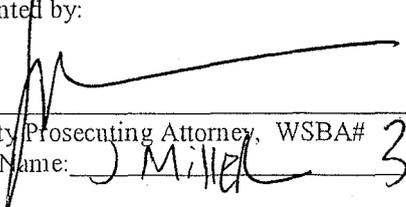


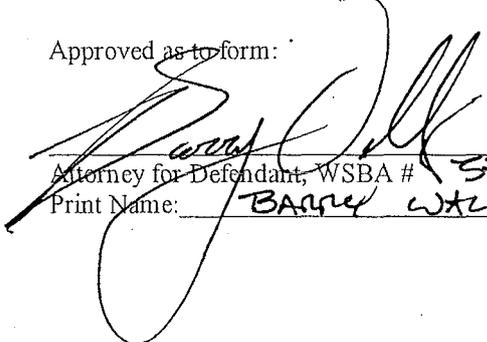
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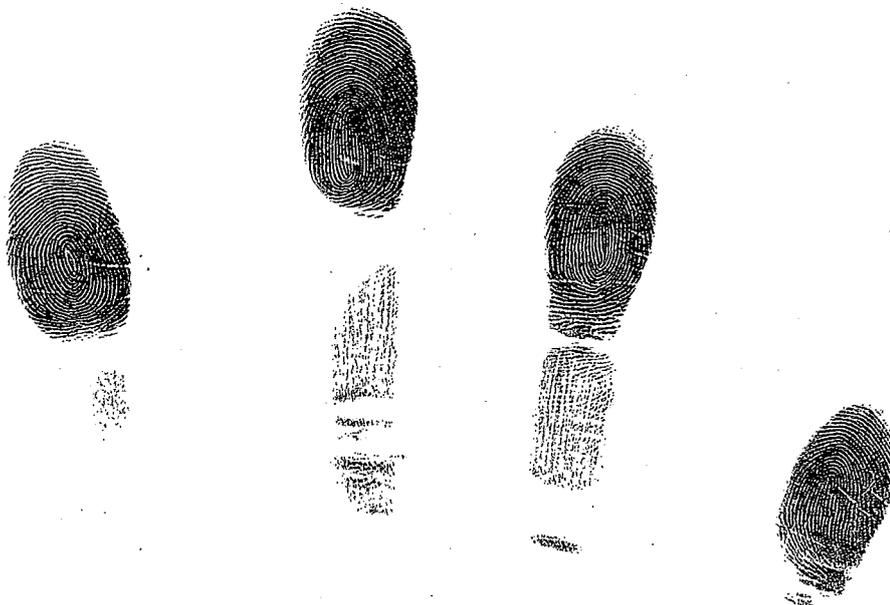
The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

Date: May 13 08

  
 JUDGE  
 Print Name: \_\_\_\_\_

Presented by:  
  
 Deputy Prosecuting Attorney, WSBA# 31600  
 Print Name: J Miller

Approved as to form:  
  
 Attorney for Defendant, WSBA # 57425  
 Print Name: Barry Walker



RIGHT HAND  
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE: \_\_\_\_\_  
DEFENDANT'S ADDRESS: \_\_\_\_\_

JOSE TOLEDO-SOTELO

DATED: 05/13/08

[Signature]  
JUDGE, KING COUNTY SUPERIOR COURT

ATTESTED BY: BARBARA MINER,  
SUPERIOR COURT CLERK

BY: [Signature]  
DEPUTY CLERK

CERTIFICATE

I, \_\_\_\_\_,  
CLERK OF THIS COURT, CERTIFY THAT  
THE ABOVE IS A TRUE COPY OF THE  
JUDGEMENT AND SENTENCE IN THIS  
ACTION ON RECORD IN MY OFFICE.  
DATED: \_\_\_\_\_

OFFENDER IDENTIFICATION

S.I.D. NO. WA19665588  
DOB: JANUARY 27, 1966  
SEX: M  
RACE: W

\_\_\_\_\_  
CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK



SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

JOSE TOLEDO-SOTELO

Defendant,

No. 07-1-103615-KNT

APPENDIX G  
ORDER FOR BIOLOGICAL TESTING  
AND COUNSELING

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

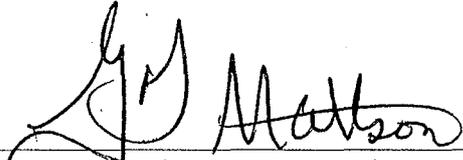
(2)  HIV TESTING AND COUNSELING (RCW 70.24.340):

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 205-7837 to make arrangements for the test to be conducted within 30 days.

If (2) is checked, two independent biological samples shall be taken.

Date: May 13 '08

  
\_\_\_\_\_  
JUDGE, King County Superior Court



**APPENDIX-3**

**SENTENCING ORDER BY THE HONORABLE JUDGE GEORGE T. MATTSON**

311836

FILED

08 JUN 18 AM 9:37

KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WA

RECEIVED

SEP 24 2008

CBCC RECORDS OFFICE

SEP 18 2008

CERTIFIED COPY TO COUNTY JAIL

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY  
 STATE OF WASHINGTON, ) NO. 00-105743-8-KNT & 07-1-10361-5 KNT  
 )  
 Plaintiff, ) SENTENCING ORDER  
 )  
 vs. ) *W/ regard to credit for*  
 ) *time served*  
 )  
 JOSE TOLEDO-SOTELO, )  
 )  
 Defendant )

IT IS HEREBY ORDERED that Mr. JOSE TOLEDO-SOTELO ~~will serve a total of 8~~ *He*  
~~months in Prison as punishment for his crimes in the above noted cases and he shall receive~~  
 credit for his incarceration from the moment he was taken into custody in Canada on February  
 13<sup>th</sup> 2006 until the present day. This period shall be understood to include the period while he  
 was being detained within the United States after the Canadian government extradited him to  
 this country. ~~This sentencing order is originally drafted on Monday, June 16<sup>th</sup> 2008. As of~~ *He*  
 today's drafting date, and including today's date, Mr. TOLEDO-SOTELO has served the  
 following amount of time: 855 days. ~~This can also be understood as 6 years, 4 months, and 4~~ *He*  
~~days (including the end date). This can also be understood as 12 weeks (rounded down). It is~~

SENTENCING ORDER  
Page 1 of 2

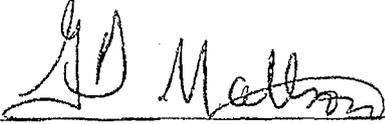
BARRY J. WALLIS  
WALLIS LAW FIRM, PLLC.  
9615 Bridgeport Way SW  
Lakewood, Washington 98499  
Telephone: (253) 584-1110  
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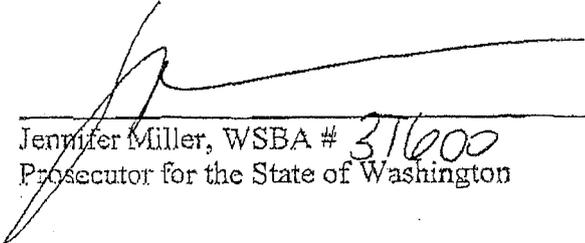


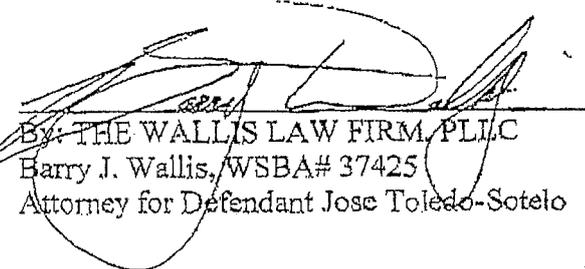
SCANNED

1 hereby ordered that Mr. Toledo-Sotelo shall receive credit for 855 days of physical  
2 incarceration as of June 16<sup>th</sup>, 2008 at midnight. ~~The total sentence for all of his above noted~~ *Jose*  
3 ~~changes is 84 months to be served concurrently.~~  
4

5  
6 DONE IN OPEN COURT THIS 17 day of June 2008.  
7

8   
9 \_\_\_\_\_  
10 Honorable Judge George T. Mattson

11  
12   
13 \_\_\_\_\_  
14 Jennifer Miller, WSBA # 31600  
15 Prosecutor for the State of Washington

16  
17   
18 \_\_\_\_\_  
19 By: THE WALLIS LAW FIRM, PLLC  
20 Barry J. Wallis, WSBA# 37425  
21 Attorney for Defendant Jose Toledo-Sotelo  
22  
23  
24  
25

**APPENDIX-4**

**JAIL CERTIFICATION AUTHORIZATION FOR EARNED EARLY RELEASE CREDIT**

**WASHINGTON STATE DEPARTMENT OF CORRECTIONS**

- 1). bail jumping
- 2). child molestation



