

RECEIVED  
SUPREME COURT  
STATE OF WASHINGTON  
Sep 04, 2014, 4:25 pm  
BY RONALD R. CARPENTER  
CLERK

E      CRF  
RECEIVED BY E-MAIL

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,  
  
Respondent,  
  
v.  
  
CASMER VOLK,  
  
Appellant.

CAUSE NO. 89926-6  
~~90005-1~~

MOTION TO SUPPLEMENT  
RECORD

MOTION

The Respondent moves the court pursuant to RAP 1.2 (a) and 9.10 for an Order Supplementing the Appellate Record before the Court.

FACTS

On June 4, 2014 this Court accepted review of this case to determine whether written findings should have been entered when the trial court imposed an exceptional sentence pursuant to RCW 9.94A.535. Subsequent to this Court accepting review, the Respondent, State of Washington, moved the trial court to enter written findings. SEE Note for Motion & Affidavit in Support & (Attachments A-E) and Note for Motion. On August 11, 2014, Mr. Volk appeared before Kittitas County Superior Court. However, the trial court declined to enter written findings for want of authority per RAP 7.2 – even though the trial court found that the State of Washington’s Proposed Written Findings (Attachment “A”) accurately

1 reflected its sentencing of Mr. Volk, per RCW 9.94A.535, and the trial court's oral ruling  
2 (Attachment "B"), embodied by the Pre-Sentence Investigation (Attachment "C"), Judgment  
3 and Sentence (Attachment "D"), and Special Verdict (Attachment "E") all documents of which  
4 are already part of the record on review.

5  
6 Following the hearing, the trial court entered its Ruling on State's Motion to Enter Findings  
7 while Case is on Appeal. (CP 145). The State of Washington has filed the attached Plaintiff's  
8 Designation of Clerk's Paper's, designating Note for Motion & Affidavit in Support &  
9 (Attachments A-E) (CP 137), Note for Motion (CP 139), and Ruling on State's Motion to  
10 Enter Findings while Case is on Appeal (CP 145). The State of Washington believes that  
11 supplementing the appellate record with these documents is appropriate because the issue of  
12 written findings is at issue before this Court, even though the trial court denied the State of  
13 Washington's motion to enter written findings pending appeal.

14  
15 RAP 1.2 states that the Rule of Appellate Procedure "will be liberally interpreted to  
16 promote justice and facilitate the decision of cases on the merits. Cases and issues will not be  
17 determined on the basis of compliance of noncompliance with these rules except in compelling  
18 circumstances where justice demands, subject to the restrictions in Rule 18.8(b)."

19  
20 The State of Washington's efforts to have the trial court enter written findings,  
21 memorializing its sentence of Mr. Volk, after this Court accepted review, does not violate RAP  
22 18.8(b).

23  
24 It merely demonstrates the State of Washington's good faith efforts to enter written  
25 findings, the lack of which Mr. Volk has raised on appeal, even though the State of  
26 Washington maintains its position, summarized in its Response Opposing Petition for Review,

1 that the Court of Appeal's (Division III) correctly found that written findings are a mere  
2 formality when the trial record satisfies the requirements under RCW 9.94A.585.

3 However, justice to the 4-year-old victim (now 7) of Mr. Volk's crime supports  
4 incorporating the above referenced documents as part of the complete record on review in  
5 order for this Court to determine what issue, if any, exists, evidenced by the State of  
6 Washington's intent to enter written findings.  
7

8 Justice to Mr. Volk supports this Court providing him with the opportunity to demonstrate  
9 why there remains an issue and/or why the trial court record does not satisfy the requirements  
10 under RCW 9.94A.585 when the State of Washington does not disagree that the trial court  
11 should have entered written findings following its sentence of Mr. Volk even though the trial  
12 court record supports his sentence under RCW 9.94A.585.  
13

14 **RELIEF REQUESTED**

15 Therefore, the State of Washington respectfully requests that this Court enter an order  
16 pursuant to RAPs 1.2 (a) and 9.10 allowing the appellate record to be supplemented with Note  
17 for Motion & Affidavit in Support & (Attachments A-E) (CP 137), Note for Motion (CP 139),  
18 and Ruling on State's Motion to Enter Findings while Case is on Appeal (CP 145).  
19

20  
21 Respectfully submitted this 4<sup>th</sup> day of September 2014.

22  
23 

24 Chris Herion  
25 Kittitas County Deputy Prosecutor  
26 WSBA #30417  
Attorney for Respondent

## OFFICE RECEPTIONIST, CLERK

---

**To:** Chris Herion  
**Cc:** 'Marie Trombley'; Sarah Keith; Theresa Larsen  
**Subject:** RE: Casmer Volk 90005-1

Received 9/4/14

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

**From:** Chris Herion [mailto:Chris.Herion@co.kittitas.wa.us]  
**Sent:** Thursday, September 04, 2014 4:23 PM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Cc:** 'Marie Trombley'; Sarah Keith; Theresa Larsen  
**Subject:** Casmer Volk 90005-1

Supreme Court Administrator,

In advance of oral argument on September 16, 2014, please find the State of Washington's Motion to Supplement the Record with designated Clerk's Papers 137, 139, and 145.

I have included Appellant's counsel Marie Trombley on this email.

We will send the same to Mr. Volk at Airway Heights.

Thank you,

/s/

Chris Herion  
Kittitas County Deputy Prosecutor

---

Notice: All email sent to this address will be received by the Kittitas County email system and may be subject to public disclosure under Chapter 42.56 RCW and to archiving and review.

message id: 38eb45916c6dcbdac24bb8719d004a14

RECEIVED  
SUPREME COURT  
STATE OF WASHINGTON  
Sep 04, 2014, 4:25 pm  
BY RONALD R. CARPENTER  
CLERK

FILED

JUL 22 2014

JOYCE L. JULSRUD, CLERK  
KITITAS COUNTY, WASHINGTON

RECEIVED BY E-MAIL

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

STATE OF WASHINGTON,

Plaintiff,

v.

CASMER VOLK,

Defendant.

CAUSE NO. 11-1-00084-1

NOTE FOR MOTION &  
AFFIDAVIT IN SUPPORT &  
(ATTACHMENTS A-E)

TO THE CLERK OF THE COURT and TO:

Casmer Volk  
Airway Heights Corrections Center  
PO Box 1899  
Airway Heights, WA 99001-1899

Marie Trombley  
Appellate Counsel  
PO Box 829  
Graham, WA 98338-0829

PLEASE TAKE NOTICE that on Monday, September 8, 2014 at 0900, the State of Washington will move the trial court to enter the attached proposed written findings of fact and conclusions of law (SEE Attachment "A") regarding the trial court's imposition of an exceptional sentence on March 12, 2012 based upon the attached affidavit.

AFFIDAVIT

1  
2 1. I am the attorney for the State of Washington.

3 2. I am familiar with the facts and circumstances of this case.

4 3. On January 20, 2012, a Kittitas County jury found the defendant guilty of Rape of a  
5 Child in the First Degree.

6 4. The jury also made the special finding, by affirmatively answering a special verdict  
7 form, that "yes" the defendant knew of or should have known that the 4-year-old victim was  
8 particularly vulnerable or incapable of resistance when he anally raped him.

9 5. On March 12, 2012, the trial court, per RCW 9.94A.535 and 9.94A.507, imposed an  
10 exceptional sentence outside the standard range for the crime of Rape of a Child in the First  
11 Degree: 162-216 months based upon an offender score of 6.

12 6. The trial court sentenced the defendant to a minimum sentence of 336 months (216  
13 months plus 120 months based upon the aggravating factor) to a maximum sentence of life  
14 in imprisonment.

15 7. The trial court signed a written Judgment and Sentence and attached the jury's special  
16 verdict form. SEE Attachments "D" and "E."

17 8. The trial court did not enter written findings of fact and conclusions of law.

18 9. The defendant appealed to Division III Court of Appeals.

19 10. Among the many issues the defendant raised on appeal, he argued that the trial  
20 court should have entered written findings of fact and conclusions of law.

21 11. On February 4, 2014, in an unpublished opinion, Division III Court of  
22 Appeals ruled that written findings of fact and conclusions of law are a mere formality and  
23 constitute harmless error when the trial court's oral opinion and the hearing record are  
24 sufficiently comprehensive and clear. SEE State v. Volk, No. 30707-7-III.

1           12.       The Washington Supreme has accepted review to determine if written  
2 findings of fact and conclusions of law are required.

3           13.       Oral argument is scheduled for September 16, 2014.

4           14.       In general, RAP 7.2 limits a trial court's authority once a matter is on appeal.

5           15.       However, per RAP 7.2 (e), a trial court has authority to hear postjudgment  
6 motions and actions unless it will change a decision then being reviewed by the appellate  
7 court, in which case, the permission of the appellate court must be obtained prior to the  
8 formal entry of the trial court decision.

9           16.       Entry of written findings of fact and conclusions of law does not change a  
10 decision being reviewed, thereby requiring approval of the Court of Appeals under RAP 7.2  
11 (e) provided the findings do not require additional evidence and do not impact the judgment  
12 in a substantive manner. SEE *Olsen Media v. Energy Sciences*, 32 Wash.App. 579, 648 P.2d  
13 493 (1982) cited by Washington Court Rules Annotated Second Edition, Volume One 2013  
14 – 2014 at 1137.

15          17.       In this case, the State of Washington's proposed written findings of fact and  
16 conclusions of law are based upon the attached transcript of the defendant's sentencing  
17 hearing, the Department of Correction's Pre-Sentence Investigation, the judgment and  
18 sentence, and the jury's special verdict. SEE Attachments "B," "C," "D," and "E."

19          18.       Therefore, the proposed written findings of fact and conclusions of law do not  
20 change the decision being reviewed because they merely memorialize the trial court's  
21 sentence on March 12, 2012.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

DATED this 22nd day of July 2014

AFFIANT:

Chris Herion  
Chris Herion  
Kittitas County Deputy Prosecutor  
WSBA #30417

SIGNED AND SWORN to (or affirmed) before me this 22nd day of  
July 2014.

Robin Kaap  
NOTARY PUBLIC in the  
State of Washington.  
My commission expires: 1/15/17

Attachment "A"  
Proposed Written Findings



1           3. Based upon the special special verdict by the jury, the court, pursuant to RCW  
2 9.94A.535, is authorized to impose a sentence outside of the standard range.

3           4. At sentencing, the court heard argument from Deputy Prosecutor Chris Herion who  
4 provided the legal basis for the sentence to include the defendant's offender score of "6" based  
5 upon the defendant's two prior sex offense convictions, out of North Dakota for "Surreptitious  
6 Instruction," the equivalent of Washington's felony crime of Voyeurism.

7           5. The State of Washington recommended a sentence of 600 months to a maximum of  
8 life imprisonment, noting that the defendant committed the worst crime he could have  
9 committed against a 4-year-old child short of killing the child.

10           6. The court also heard from Department of Correction's (DOC) Community  
11 Correction's Officer Simon Barr who submitted a Pre-Sentence Investigation (PSI).

12           7. DOC recommended a sentence of 400 months to life based upon the defendant's  
13 prior criminal convictions for sex offenses and the particular vulnerability of the 4-year-old  
14 child victim.

15           8. The court heard from the 4-year-old child victim's parents.

16           9. They described the complete betrayal of trust and guilt they felt after entrusting the  
17 defendant and his girlfriend to babysit their child while they went on vacation to the Oregon  
18 coast.

19           10. They were incredulous that this crime could have been perpetrated upon their son  
20 by a person they trusted.

21           11. The defendant, his wife, mother, and attorney also addressed the court at  
22 sentencing.

1 12. The defendant took no responsibility for the crime to which the jury found his  
2 guilty.

3 13. He told the court that the facts in evidence supported that the child was "lying . . .  
4 against my side of the truth."

5 14. The court found the child victim to be extremely bright and energetic.

6 15. The child demonstrated intelligence and bravery when he testified against the  
7 defendant in court -- a forum which can be intimidating to everyone, adult or child.

8 16. The defendant had criminal history of prior sex offenses, which counted against  
9 him.

10 17. The jury found the defendant guilty of the crime of Rape of a Child in the First  
11 Degree.

12 18. The jury made the special finding that the defendant knew or should have known  
13 that the 4-year-old victim was particularly vulnerable or incapable of resistance

14  
15  
16 **II. CONCLUSIONS OF LAW**

17 1. Therefore, based upon the above findings of fact, made at the defendant's  
18 sentencing on March 12, 2012 and contained with the written Judgment and Sentence to  
19 include the jury's special verdict, the court imposes a sentence of 216 months (the top of the  
20 sentence range for the crime of Rape of a Child in the First Degree based upon an offender  
21 score of 6), plus 120 months based upon the aggravating factor for a minimum sentence of 336  
22 months or 28 years to a maximum of life in prison.  
23  
24  
25  
26

1 DATED this \_\_\_ day of September 2014

2  
3 Judge \_\_\_\_\_

4  
5 Presented by:

6  
7 \_\_\_\_\_  
8 Chris Herion  
9 Deputy Prosecuting Attorney  
10 WSBA #30417

11 Approved as to form:

12 \_\_\_\_\_  
13 Casmer Volk  
14 Defendant

Attachment "B"

Transcript of Sentencing Hearing

March 12, 2012

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

STATE OF WASHINGTON,  
Plaintiff,

v.

CASMER VOLK,  
Defendant.

CAUSE NO. 11-1-00084-1

TRANSCRIPT OF SENTENCING  
HEARING

DATE OF HEARING: March 12, 2012

BEFORE: The Honorable Michael McCarthy, Superior Court Judge

APPEARING FOR PLAINTIFF: Chris Herion  
Deputy Prosecuting Attorney  
Kittitas County Prosecutor's Office  
205 W 5<sup>th</sup> Ave. Ste. 213  
Ellensburg, WA 98926

APPEARING FOR DEFENDANT: Ken Beckley  
Attorney at Law  
701 N Pine St.  
Ellensburg, WA 98926

TRANSCRIPT PREPARED BY: Jewel Smith  
Kittitas County Superior Court  
205 W 5<sup>th</sup> Ave  
Ellensburg, WA 98926

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

I, Jewel Smith, do hereby certify that the within proceedings were recorded pursuant to Civil Rule 80, and further certify, under penalty of perjury under the laws of the State of Washington, that the following transcript (consisting of 39 pages numbered 703-742 ) for a hearing on March 12, 2012, is a true and accurate transcript of said proceedings.

DATED this 22 day of July 2014

  
\_\_\_\_\_  
JEWEL SMITH

1 there? Is there anything else parties want this  
2 court -- for me I mean?

3 MR. HERION: No, Your Honor. We would --  
4 I'll consult with Mr. Barr to find out what the time  
5 frame is and put that in the order as to a sentencing  
6 date.

7 THE COURT: All right. Okay. There we are.  
8 I'll hand the verdict form to the clerk. We are in  
9 recess. Thank you.

10 (The above proceeding was  
11 concluded.)

12

13

14

15

16

17 ELLENSBURG, WASHINGTON: MARCH 12, 2012

18

--00000--

19

20 THE COURT: I have the Volk case and then I  
21 have a settlement conference for three o'clock. We  
22 might need Mr. Herion on Mr. Volk.

22

MR. BECKLEY: We will.

23

24 MR. ZEMPEL: He is just finishing up in the  
25 other courtroom. Given the affidavit and everything  
that's going on apparently so.

1 THE COURT: Yeah.

2 MR. BECKLEY: Your Honor, what I have handed  
3 up on Volk just an original of that I faxed down to  
4 Yakima if the court got it and --

5 THE COURT: Yes I read it.

6 MR. BECKLEY: A short letter from Mr. Volk  
7 I placed in the file. I circulated to counsel and to  
8 the Corrections Department.

9 THE COURT: Well, thank you. I'll go ahead  
10 and give this to the clerk. I already read the bench  
11 copy so. Is that one new, too? I haven't read this.

12 THE CLERK: Okay. Great. Thank you.

13 MR. ZEMPEL: Mr. Herion is still in the  
14 other courtroom for approximately 5 minutes apparently  
15 with Mr. Korte and Judge Chmelewski on an issue. I have  
16 been told it should be done within 5 minutes.

17 THE COURT: Okay. Maybe I should just step  
18 down and have the other judge finish up here.

19 THE CLERK: Whatever you wish.

20 THE COURT: I'll just wait. When he gets  
21 done he'll come in here. I don't think Judge Sparks is  
22 going to be able to get much done in 5 minutes so I'll  
23 just wait for Mr. Herion to get in here and we'll get  
24 started.

25 MR. ZEMPEL: Thank you.

1 MR. HERION: I apologize, Your Honor.

2 THE COURT: That's all right. You were  
3 tied up in another courtroom. Are you ready to proceed  
4 on Mr. Volk's case?

5 MR. HERION: Ready, Your Honor.

6 THE COURT: Okay. All right. Mr. Volk, do  
7 you want to stand there at the bar there.

8 MR. BECKLEY: He would prefer to do that if  
9 he could, Your Honor, thank you.

10 THE COURT: That's fine. All right.

11 MR. BECKLEY: Did the court get my brief  
12 memo?

13 THE COURT: Yes. I read it.

14 MR. BECKLEY: That's all I need to say on  
15 that. Thank you.

16 THE COURT: Mr. Herion.

17 MR. HERION: Your Honor, we are before the  
18 court here today following a jury verdict on January 20,  
19 2012 when the jury found Mr. Volk guilty of the crime of  
20 rape of a child first degree, including the aggravating  
21 factor under 9.94A.535 that this crime was committed  
22 against a person of -- a vulnerable person who was  
23 incapable of resistance. To that end, Your Honor,  
24 logistically the state first would like to outline the  
25 state's perspective of what it believes Mr. Volk's

1 offender score is and sentencing range and then argue  
2 for its particular position. The Department of  
3 Corrections is here today.

4 THE COURT: Are you, Mr. Barr?

5 MR. BARR: Yes, sir.

6 MR. HERION: Department of Corrections is  
7 here today and has provided its presentencing  
8 investigation. The mother and father of the 4 year old  
9 victim are also present and I believe also want to make  
10 a statement.

11 THE COURT: Okay.

12 MR. HERION: We are ready to proceed.

13 THE COURT: All right. Maybe we should lead  
14 with that, with the presentation from the child's  
15 mother.

16 MR. HERION: Lead with that?

17 THE COURT: Yes.

18 MR. HERION: Very well.

19 THE COURT: If you want to come up and  
20 stand I guess between you and Mr. Barr might be the best  
21 and, folks, you are welcome to say whatever you think  
22 you want to say but it's very important for you to  
23 remember that you're saying it to me. It's the impact  
24 of the crime upon you and your family and it's something  
25 that needs to be addressed to me and not to the

1 defendant. Okay.

2 MS. HAMBLIN: Are we allowed to look at the  
3 defendant?

4 THE COURT: You can but I don't want you to  
5 say like "you did this" "you did that" kind of thing.

6 MS. HAMBLIN: No.

7 THE COURT: For the record, we'll need your  
8 name.

9 MR. HAMBLIN: Travis Hamblin.

10 THE COURT: Okay.

11 MR. HAMBLIN: You're the worst fear you hear  
12 about on the news but never imagine it could happen to  
13 your family. My son will never be the same from what  
14 has happened to him. He wakes up from nightmares about  
15 what this person has done to him. Prison is too good  
16 for you. Jail will keep you from hurting any more  
17 helpless innocent children. My son came up to me the  
18 other night and asked me out of nowhere if Cas is going  
19 to rot in prison for the rest of his life and I am happy  
20 to go home today and tell him.

21 THE COURT: Thank you, Mr. Hamblin. Ma'am,  
22 do you have something as well?

23 MS. HAMBLIN: Jay Selena Hamblin. Words  
24 cannot describe the way I feel about you and what you  
25 have done to my child. My four year old little boy.

1 MR. BECKLEY: I think she's suppose to  
2 address the court.

3 THE COURT: If you would, please, talk to  
4 me. Lane was very innocent, a little boy, and now you  
5 took that away from him. What's the most -- I am sorry.  
6 I am just really nervous. Lots of questions. I wonder  
7 why. Why? I want to know how something like this  
8 could have happened to my son, my four year old little  
9 boy that was innocent, that trusted this person, that  
10 trusted where I left him during the day. That was just  
11 a happy kid and then for somebody to come and do -- to  
12 rape my child for no reason and just I am sorry I am  
13 really lost for words. This is what I am talking about  
14 like words cannot describe how I feel about what has  
15 happened to my son. I'd like to know why. I am sorry.  
16 I don't think I can read much more.

17 THE COURT: Mr. Herion, could he read it for  
18 you?

19 MS. HAMBLIN: These are just like you  
20 always hear about these things that happened to other  
21 people and children. You don't ever think it's going to  
22 happen to your own family and then when it happens to  
23 your own family. It really takes it home. And you  
24 realize how much you can't trust people. And it's  
25 pretty sad when a four year old trusts your best friend

1 and then this happens to him and then now you can't  
2 trust those people any more. Having a good relationship  
3 with one of my best friends and then your back gets  
4 stabbed and turned around because of this, of my boy  
5 Lane. It's hard to think that -- I think I am done. I  
6 don't know what to say. But there will never be a day  
7 that goes by that I will not think about my baby and  
8 what you did to him. They say that to move on you need  
9 to be able to forgive but we'll never be able to forgive  
10 you or forget what you have done to my son and that's a  
11 promise. It's something you can't forget and take my  
12 innocent little boy and hurt him the way he was hurt was  
13 not words -- I don't know what to say. I just wanted to  
14 say something I guess.

15 THE COURT: Thank you Mr. And Mrs.  
16 Hamblin.

17 MR. BECKLEY: Your Honor, at some point I  
18 would have several people who would like to address the  
19 court.

20 THE COURT: We'll get there.

21 MR. BECKLEY: I don't know if you want that  
22 first before I give my remarks. Thank you.

23 THE COURT: I'll let Mr. Herdon first.

24 UNIDENTIFIED SPEAKER: I am Selena's  
25 niece -- aunt, I mean, and I would like to speak, too,

1 if I could.

2 THE COURT: You can.

3 UNIDENTIFIED SPEAKER: Thank you.

4 THE COURT: You want me to come up here,  
5 please. And, again, please, first, we need your name.

6 MS. SMITH: Darelene Smith.

7 THE COURT: Okay, and Ms. Smith, you need  
8 to make sure that your remarks are directed towards me  
9 and not towards Mr. Volk. Okay,

10 MS. SMITH: Yes, yes. In the past every  
11 time I read or heard about a man raping a child I always  
12 thought to myself that, God, that's not my family. So  
13 when I was told Lane was raped I was totally taken  
14 aback. I was crushed. My mind raced. How could this  
15 have happened to a member of my family. This only  
16 happens to other families. He is only 4 and a half  
17 years old. My God. What's going on? Now those  
18 newspaper articles and news reports mean so much more to  
19 me because I know what those families are going through  
20 and it is totally unpleasant. After the trial in  
21 January Cas was found guilty of rape of a minor in the  
22 first degree and after the trial I told Lane how brave  
23 he had been to get up and tell his mother what had  
24 happened and to get up in front of the judge and the  
25 jury and the entire courtroom and say what had happened

1 to him. I told him that he had made me very proud in  
2 doing that. And that what he did by telling the truth  
3 was -- meant that Cas would no longer be able to hurt  
4 him or any other children. It's impossible to tell you  
5 the effect this had on not only Lane but his parents,  
6 grandparents, aunts, uncles and cousins. I have no  
7 grandchildren of my own. But as Selena's aunt I  
8 consider the Hamblin boys to be my grandkids. I have  
9 loved them as though they were my own. I hate the fact  
10 that Lane was violated and as a result I will double my  
11 efforts to do everything in my power to help him grow  
12 into a wonderful young man. Can I do everything a  
13 parent or grandparent can do? No, I can't but I can  
14 certainly be there to lend support when he needs it.  
15 Should Cas come up for parole I want to be at that  
16 hearing. To redouble to remind the board and the judge  
17 this is his second -- this is his second offense in the  
18 State of Washington but his third in total. And I after  
19 the seconds trial case took a plea. And instead of  
20 going to jail he went to a treatment facility for  
21 rehabilitation. Obviously, that didn't work because in  
22 may of 2011 he raped Lane Hamblin. And that's why we  
23 are here today. For his sentencing hearing. It's  
24 obvious that he was not been rehabilitated. Can we  
25 afford to have that mistake repeated and another child's

1 life devastated? I don't think so. I think it's  
2 critical he be put in a place where he can't hurt other  
3 children. I don't know why he committed this unlawful  
4 act against Lane. I don't know if he even knows why he  
5 did it. But it's highly likely that Lane will be  
6 flagged for this, much of his life by not knowing why he  
7 was the chosen victim and the rest of his extended  
8 family can help by giving him the reassurance and  
9 confidence to understand he did nothing beyond being  
10 there. But these efforts cannot erase the memory of a  
11 trauma that was inflicted on his happy vigorous and life  
12 affirming child. We can only hope that his inner  
13 strength will overcome the damages that's been inflicted  
14 while Cas is in prison I will be happy because Lane will  
15 be able to grow and have as joyful and happy childhood  
16 as he can under the circumstances. The three year old  
17 little boy that have called Cas dad are out of his way.  
18 He can't hurt them. And he won't be able to hurt any  
19 other children and their families. At the same point I  
20 feel sorry for his parents and family. They're living  
21 -- they're the ones that live in this area. They're the  
22 ones that have to on a everyday basis face the shame and  
23 humiliation brought upon them by their son, brother, you  
24 know, cousin, whatever. My hope for this hearing is  
25 that he will be given the maximum sentence allowed by

1 law and will serve every single day of that sentence in  
2 prison. The lives of young children are too -- of young  
3 children are too precious to be put at risk otherwise.

4 THE COURT: Thank you, ma'am.

5 MR. BECKLEY: Your Honor, can I make a  
6 modest request? It doesn't have to be on the record we  
7 need to maintain a record with respect to sentencing it  
8 would be beneficial if we could have an address, phone  
9 number, of this person and the relationship for part of  
10 the record. It can be not officially outlined by court  
11 I think it's important.

12 THE COURT: Well.

13 MR. BECKLEY: I mean I never heard of this  
14 person before until she showed up now.

15 THE COURT: She was an attendant at the  
16 trial.

17 MR. BECKLEY: She didn't participate I don't  
18 even know who she's.

19 THE COURT: Anyway, sentencing matters are  
20 somewhat more informal now than they were in the past  
21 but in any event Mr. Herion let me give it back to you.

22 MR. HERION: Thank you, Your Honor. I am  
23 handing up to the court two proposed judgment and  
24 sentences. One contains Mr. Volk's priors, what the  
25 state will argue prior sex offense convictions. The

1 second does not contain any prior sex offense  
2 convictions. Also, handing up to the court sexual  
3 assault protection orders, warrant of commitment and two  
4 criminal judgment and commitments both certified out of  
5 the state of North Dakota.

6 THE COURT: I think we need to have those  
7 marked.

8 MR. HERION: Yes, Your Honor.

9 THE COURT: And you also have one that was  
10 E-mailed.

11 MR. HERION: I will address that in a  
12 moment. I am now handing up to the court and I'll  
13 address that.

14 THE COURT: If you can go ahead and mark  
15 them as A, B, C whatever you would do for exhibits.

16 MR. BECKLEY: Mr. Herion is "A" with the  
17 sexual history and "B" without? We just need to make  
18 the records clear on this.

19 THE COURT: Those are the North Dakota --

20 MR. BECKLEY: Yeah. Sure. We don't have a  
21 J & S on both but we have enough on both and we would  
22 concur there was a finding of guilt to those  
23 surreptitious intrusions on those two dates even on one  
24 we have the J & S, the other we don't, but we aren't  
25 disputing that circumstance.

1 THE COURT: Just for the records I am going  
2 to have them marked and admitted for purposes of the  
3 sentencing.

4 MR. HERION: That's a correct  
5 characteristic.

6 THE CLERK: We had them docketed as part of  
7 the file.

8 THE COURT: That's fine as long as they  
9 become part of the record. That sounds perfect. Thanks.

10 MR. HERION: I think the defendant are in  
11 agreement as to his prior history but the state and  
12 defendant are not in agreement as to how the court  
13 should score Mr. Volk's history with regard to  
14 sentencing him here today and state will address that  
15 first, Your Honor.

16 THE COURT: Okay.

17 MR. HERION: Your Honor, Mr. Volk will be  
18 sentenced under 9.94a.507 the sentencing of sex  
19 offenders, which provides Your Honor knows that upon a  
20 finding offender subject to sentencing under this  
21 section is the court shall impose a sentence to maximum  
22 term and minimum term and accept as provided the minimum  
23 term should be either within the standard range for the  
24 offense or outside the standard range pursuant to 9.94A.  
25 535 if the offender is otherwise eligible in this case.

1 Your Honor, the offender is eligible for sentencing  
2 outside the range because the jury made the finding  
3 under 9.94A.535 that this crime was committed against a  
4 vulnerable person. The offender score section 9.94A.525  
5 provides, Your Honor, that out of state convictions for  
6 offenses should be classified according to the  
7 comparable offense definition and sentences provided by  
8 Washington law. The definition of sex offender, Your  
9 Honor, under 9.94A.030 paragraph 46 also outlines that  
10 any federal out of state convictions under the laws of  
11 this state would be a felony classified as sex offense  
12 under the subsection. Your Honor, previously the State  
13 of Washington provided both to counsel and to the court  
14 Mr. Volk's prior convictions for communication with a  
15 minor for immoral purposes. In all fairness in  
16 reviewing that judgment and sentence that conviction  
17 back in 2010 was a gross misdemeanor conviction. Under  
18 the definition of sex offense subsection 3 it only  
19 includes a felony. That's a violation of chapter  
20 9.68.A, communication with a minor for immoral purposes  
21 under 9.68A as Your Honor knows there is both a felony  
22 component and gross misdemeanor component, therefore, in  
23 all fairness while the state certainly believes it's a  
24 sex offense this court cannot take into account Mr.  
25 Volk's prior communication for purpose of calculating

1 his offender score and adding three points to his  
2 offender score in this matter. In addition, in the  
3 state's research particularly under State v. Blakeley  
4 and under State v. Hughes. In looking at, Your Honor,  
5 authority to depart from the guidelines under 9.94A.535  
6 the state initially believed that Your Honor could still  
7 take into account that Mr. Volk had been convicted of  
8 this prior non felony sex offense in Washington by  
9 finding under subsection (2)(b) the defendant's prior  
10 un-scored misdemeanor prior un-scored foreign criminal  
11 history resulted in presumptive sentences that is quote  
12 "clearly too lenient." However, in light of Blakeley  
13 in light of the Washington decision in State v. Hughes  
14 that would be improper unless it's plead or proved.  
15 Therefore, regarding the communication the state is not  
16 handing up to the court.

17 THE COURT: Offender score is 6?

18 MR. HERION: No. Yes, that's correct, Your  
19 Honor. Now, we are turning to Mr. Volk's prior  
20 stipulated conviction out of North Dakota two separate  
21 accounts for what North Dakota that characterizes a  
22 surreptitious intrusion. To that end, Your Honor, if  
23 Your Honor compares that surreptitious intrusion statute  
24 to our state's equivalent which the state would argue is  
25 voyeurism. Those statutes are virtually identical with

1 the exception that North Dakota utilizes language that a  
2 person must have peeped into an area in looking at  
3 another person for sexual purposes and in Washington the  
4 language is a person commits the crime of voyeurism for  
5 purposes of gratifying sexual desire. He or she  
6 knowingly views photographs or films. Therefore, we  
7 would argue on the face of the language these statutes  
8 are virtually identical and that this court should treat  
9 those two prior convictions as sex offenses and  
10 calculate Mr. Volk's offender score as a 6 with a  
11 standard sentencing range between 162 and 216. Now,  
12 Your Honor, the defense may argue, well, North Dakota  
13 classifies its crime of surreptitious intrusion as a  
14 misdemeanor. That's correct. It's right there on the  
15 judgment and sentence. Washington classifies the crime  
16 of voyeurism of Class "C" Felony, yes, that is correct.  
17 However, Your Honor, the fact that these -- the state  
18 would argue the fact that Washington apparently treats  
19 this offense more seriously than North Dakota is  
20 irrelevant to the debate of whether in fact this is a  
21 sex offense, that the court should consider in  
22 calculating Mr. Volk's offender score as a 6. We would  
23 argue, Your Honor, should -- having said that, Your  
24 Honor, there is no dispute that the jury in this case in  
25 returning its verdicts of guilty 12 to zero authorizes

1 this court to depart from the guidelines because the  
2 jury made a finding that the defendant knew or should  
3 have known that the victim of the current offense was  
4 particularly vulnerable or incapable of resistance in  
5 this case Your Honor the State of Washington would argue  
6 that that was resoundingly proven just by virtue of that  
7 four year old boy taking the witness stand and knowing  
8 the facts of the case as Your Honor does know that boy  
9 was virtually alone in that home with Mr. Volk at the  
10 time this offense was committed. To that end, Your  
11 Honor, the state would argue that to commit the crime of  
12 rape of a child in the first degree against any child  
13 much less a four year old it's perhaps state would argue  
14 the worse thing any adult could do against a child short  
15 of taking that child's life. And the state would argue  
16 that the legislature treats it that way. Rape of a  
17 child in the first degree is a class A felony. It  
18 carries a sentence of 20 to life and this case could not  
19 be any worse. The victim, the parents of our victim as  
20 Your Honor knows trusted Mr. Volk enough to leave their  
21 son in his exclusive care. As Your Honor heard through  
22 the facts of this particular case the parents actually  
23 very much liked Mr. Volk. They very much liked him.  
24 Ms. Lane Hamblin, our four year old victim, through the  
25 course of the testimony it was shown he liked Cas. He

1 loved going over to that daycare when he knew that Cas  
2 was there. The state would argue that the disclosures  
3 that lane made were spontaneous and they made sense. He  
4 disclosed as Your Honor knows to his mom, police  
5 officers, a nurse, a police officer and a CPS worker and  
6 finally to a child forensic interviewer and finally as  
7 Your Honor knows to a jury of 12 persons from this  
8 community and they responded 12 to zero. Therefore,  
9 Your Honor, the state would argue that whether Your  
10 Honor calculates Mr. Volk's offender score as zero which  
11 would effectively mean his range would be 93 to 123  
12 months or a 6 which would make his range 162 to 216  
13 state would argue that Your Honor should go outside this  
14 range taking into account these prior offenses and  
15 sentence him to 50 years in prison to a maximum of life.  
16 Your Honor may ask why should Your Honor go so far  
17 outside the range? The state would argue in looking at  
18 Mr. Volk from an institutional standpoint taking into  
19 account the presentence investigation Mr. Volk is a sex  
20 offender plain and simple. He is a wolf in sheep's  
21 clothing. He is an among the predators of our society.  
22 What makes him such a predator the state would argue  
23 Your Honor is that he is good at concealment. He is  
24 good at creating a fictitious life to masquerade his  
25 perfect version. The state would argue he is cold. He

1 is calculating. He is conniving and that makes him  
2 dangerous. Therefore, State of Washington believes this  
3 recommendation, this sentence, will ensure that he is  
4 unable to prey on any adult or child victim in this  
5 matter. It will ensure that when Mr. Volk is finally  
6 released and he will eventually be released unless he  
7 dies in prison that he will be too old and frail to  
8 perpetrate the crime which he visited upon this child on  
9 May First 2011. Thank you.

10 THE COURT: Okay. Do you have anything, Mr.  
11 Barr, that you would wish to add?

12 MR. BARR: Yes, Your Honor. Just briefly.  
13 Just to clarify, the offender scoring issue on the  
14 report submitted as the court can see we did score it as  
15 a 9. We were taking the prior conviction of  
16 communication with a minor into account as a prior sex  
17 offense. Because taking into account the fact that the  
18 North Dakota case was translated over as a felony in  
19 Washington we looked at the subsection two on 9.68A thus  
20 indicating it would be a sexual offense under the  
21 sentencing guidelines. Regardless, Your Honor, I don't  
22 believe that the scoring really is a major factor. It  
23 will not change the department's recommendations. We  
24 are still recommending for a 400 month sentence. This  
25 is because it takes into account the fact that currently

1 the prison system is granting a ten percent good time  
2 for an individual and I believe Mr. Volk would be  
3 eligible for that. What I am really looking at  
4 recommending is for a 30 years sentence and taking into  
5 account that good time is why I am asking for the four  
6 hundred that takes the 40 months off of good time thus  
7 giving Mr. Volk 360 months actual confinement time. And  
8 I echo the reasoning that Mr. Herion stated for the  
9 length of time in that just one final thing Your Honor.  
10 In Mr. Volk's case what I note is that in the last 12  
11 years in looking at the past criminal history we have 5  
12 victims that are listed in the last 12 years. These are  
13 the victims that Mr. Volk has been caught and that he  
14 has been convicted of having victimized. There are  
15 numbers of others in his own statements to an individual  
16 to a PSI writer in North Dakota that there was other  
17 incidents of peeping that he was never even caught for.  
18 So I just really think that what we are looking at here  
19 in effect is sentencing Mr. Volk to a period of time  
20 that takes him out of the community and allows the  
21 community to be safe.

22 THE COURT: Thank you.

23 MR. BARR: Thank you.

24 THE COURT: All right. Mr. Beckley, you  
25 have some people you wish?

1 MR. BECKLEY: I do. I would first like --

2 THE COURT: If they can come up here.

3 MR. BECKLEY: Mr. Volk and Deidra.

4 THE COURT: Over here would be best.

5 Between Mr. Barr and Mr. Herion.

6 MS. VOLK: Hi, Your Honor. Diedre Gray Volk.

7 I want to start by thanking you, our family and friends  
8 for the continued support. We have had a outpour of  
9 support and I appreciate that today. A grave mistake is  
10 being made by sending my husband for a crime I know and  
11 evidence shows he did not commit. I will not give up on  
12 proving my husband's innocence. I am not the weak and  
13 stupid woman that the prosecution is painting me out to  
14 be. I will not stop fighting alongside God our friends  
15 and family to write this wrong. We will be rejoicing  
16 when the truth is shown and my husband is brought back  
17 home where he belongs. This is not over and we'll bring  
18 Casmer home. That's all I have.

19 THE COURT: Thank you.

20 MS. VOLK: Thank you.

21 THE COURT: Do you have anything.

22 MR. BECKLEY: Yes, I do. Two others. His  
23 parents are here. Thank you.

24 THE COURT: Folks, come up here, please  
25 between Mr. Barr and Mr. Herion. It's just easier that

1 way so.

2 MS. PHYLLIS VOLK: This is Phyllis Volk  
3 speaking. I am Phyllis Volk. This is Duane Volk.  
4 I am going to do the speaking. I am going to try. I am  
5 speaking out because I need the court and my son to hear  
6 how I feel. This is the roughest and most emotional  
7 ordeal we have ever had to go through in our entire  
8 lives. We are not able to understand how this  
9 allegation has gone this far let alone come to a  
10 conviction. My mother always told me no good deed goes  
11 unpunished and I guess this is how to apply it to this  
12 category. We wanted you, the court, and especially our  
13 son Casmer to know he is not the monster that he is  
14 being painted out to be in court. He is a very  
15 sensitive, kind, compassionate and empathetic young man.  
16 He is very competent at his job. He takes great pride  
17 and responsibility in meeting the needs and care and  
18 lives of his wife and stepchildren. Casmer works very  
19 hard at staying compliant with probation and overcoming  
20 his addiction. We know and believe he is innocent of  
21 this crime. His father and I stand beside him and fight  
22 for his justice in this matter. We love you Casmer and  
23 may God's grace and mercy give you the strength needed  
24 to endure this process.

25 THE COURT: Thank you, ma'am. Thank you,

1 sir. Mr. Volk, would like to address the court?

2 MR. BECKLEY: If I could.

3 THE COURT: You get second to the last word,  
4 okay, Mr. Beckley? Who gets the last word? I do.

5 MR. BECKLEY: I assumed that, Your Honor.  
6 Thank you. I think there needs to be a bit of  
7 perspective applied to this particular case. The  
8 incident in North Dakota that if you look at you have  
9 the whole history of the record?

10 THE COURT: Yes.

11 MR. BECKLEY: Did you receive my material?

12 THE COURT: Yes, I read everything.

13 MR. BECKLEY: Statutes and the court is  
14 familiar with all the statutory provisions and I am not  
15 going to belabor those by being redundant.

16 THE COURT: I'd point out I agree with Mr.  
17 Herion the communication with minors for immoral  
18 purposes from here didn't count.

19 MR. BECKLEY: I agree, yeah, and I am  
20 suggesting to the court that if you look at there is no  
21 research from the Prosecutors Office, no comparative  
22 indication no statutory reference as to how the  
23 misdemeanor offenses of peeping Tom which basically were  
24 back in the state of North Dakota and you look at the  
25 documentation provided that's what it was. And the

1 court may recall that during the -- it wasn't introduced  
2 into evidence but the court did not allow into evidence  
3 a statement by Deputy Shuart who was the first person  
4 who arrested him after he was stopped for speeding and  
5 after the probable cause concept came out and he said to  
6 Shuart saying "Hey, you know me, this isn't my MO."  
7 Insofar as allegations of sexual contact or conduct  
8 towards young people. Basically, his MO right/wrong  
9 good or bad is peeping Tom. And back in the state of  
10 North Dakota there were a couple of incidents where that  
11 occurred. There was no violence. The court has ruled  
12 in the document there that there was no person  
13 personally offended other than the fact that it  
14 shouldn't happen of course but there was no injury or  
15 whatever as to a victim in that regard. And the  
16 situation out here in Ellensburg when it was first  
17 charged with burglary with sexual motivation was he  
18 entered into a unit up by the college and his purpose  
19 was to get a hold of some woman's panties and that's not  
20 right. That's wrong of course. But that's kind of the  
21 MO and the process and he had addressed that issue back  
22 in North Dakota and once this incident arose out here  
23 back in 2010 I believe 2008, I am sorry, out here with  
24 the charge here the agreement was that he would go down  
25 to a treatment facility in Arizona and extraordinarily

1 expensive one and he -- the family sucked it up and  
2 somehow assisted him in doing that. He was there for a  
3 couple months but North Dakota apparently decided that  
4 he didn't like that so they said the fact that there was  
5 a problem here they went down there with a warrant and  
6 picked him up, so he couldn't finish it. He was sucked  
7 back to North Dakota, served his balance of the sentence  
8 back in North Dakota on the misdemeanor class (a)  
9 misdemeanor offense for I think it was just one offense  
10 at that point. The second one that is outlined there  
11 and after that he came out here there was some  
12 additional jail time, some credit for time in North  
13 Dakota and after that he became involved in this  
14 community. He has dealt with the probation department  
15 community correction office and I believe that in  
16 totality there had been compliance generally with what  
17 is required on polygraphs and pee tests or whatever else  
18 they may have required. During that period there was no  
19 probation or corrections violation up to the time this  
20 allegation was filed. So I think it is important to put  
21 in perspective the past history pertaining to this, that  
22 doesn't make it right at all that it is not a sentence  
23 of a person who has been out in the past hanging around  
24 playgrounds and trying to lure children into cars or  
25 incidents of that nature, which should cause any one

1 real concern with respect to the sentence this court is  
2 going to place out here. To repeat not excusing it but  
3 it's different types of apples, both of which are  
4 rotten, you know, there is no question about that. This  
5 case first started out with an allegation. It's a "he  
6 said, you said, I said, we said", a four and a half year  
7 old boy said that he put macaroni up the butt of this  
8 boy during a period of a couple hours on a Sunday when  
9 his companion was gone to check on circumstances  
10 pertaining to the wedding and a couple of 3 other  
11 children hers or others were in the premises. First  
12 trial ended in a hung jury 6 to 6 or 7 to 5 or 5 to 7  
13 mistrial. Prosecutor, as is there authority, elected to  
14 retry the case a second time around. It was 12 to zero  
15 conviction and I'll be candid I was shocked. And what I  
16 think doesn't matter and what the family thinks doesn't  
17 matter. But I was shocked with respect to the  
18 conviction particularly when the court is well aware of  
19 the videos played in this case where this young boy not  
20 only said he did it. But his companion did it plus he  
21 was hit on the back with a pan plus it was outside and  
22 inside and you saw the video he was running all around  
23 the video and he was marginal level at best I understand  
24 the court conducted an appropriate hearing and  
25 determined he was competent to testify and he was

1 authorized to testify. You saw the videos and in the  
2 videos, in his statement, a lot of favors were extended  
3 to him just be cautious be real nice and pretty soon  
4 we'll go down to the Dollar Store and you can get  
5 whatever you want at the Dollar Store and also with  
6 respect to the fact in that video on several occasions  
7 particularly at the end of one of the videos he said he  
8 lied. He admitted he lied several times. Now all of  
9 this is of interest to me primarily and potentially  
10 insofar as records on appeal maybe but I just feel it is  
11 important to give a balanced rendition of what happened,  
12 particularly, in light of what happened the day or so  
13 after that occurred when Mr. Volk went over and mother  
14 was there, returned I think the car seat and got some  
15 jewelry and so forth and so on. I am not going for to  
16 undo that beyond that other than it was -- certainly  
17 caused me to blink when the jury returned 12 to zero in  
18 this case other than 12 to zero not guilty or a mistrial  
19 level. Just like today I mean Ms. Smith is a wonderful  
20 person, I am sure, and is very interested. She  
21 epitomizes, in my judgment, what had happened. I  
22 suspect I'll never been able to prove it between the  
23 first time around and the second time around. Everyone  
24 tells the young boy "you're so brave", you need to come  
25 in and just need to step up and say it the way it is.

1 The court saw all of that but that's what happens when  
2 you're on the defense side and there is extra time and  
3 extra opportunity. So I would suggest rehabilitated a  
4 four and a half year old boy. My position on this, Your  
5 Honor, is that clearly as I have outlined he falls in  
6 categories 12 and it's a first offense. The prosecutor  
7 has failed to produce for the benefit of this court  
8 sufficient information to establish that misdemeanor  
9 voyeurism for peeking or whatever back in North Dakota  
10 are contributed to voyeurism which is a Class "C" Felony  
11 under our law. I am asking the Court make a specific  
12 finding neither of those are add ons to the zero level  
13 which we would start with pertaining to this case. So I  
14 am asking that the court make a determination that we  
15 are at a zero level. Now, as the prosecutor had -- I  
16 got a copy. We talked about this historically over a  
17 good number of months but I got the final copy on Friday  
18 afternoon that's no big deal but as to the precise J & S  
19 that he said he is fulfilling his statutory not  
20 statutory but I mean the sentencing obligation I have  
21 looked at that. There is no statutory provision in  
22 there other than the general language in the  
23 information. There is no analysis with respect to how  
24 those class "A" or /EBGS excuse me I guess it was class  
25 "A" misdemeanors back in North Dakota are equating to a

1 felony sex charge of voyeurism in the State of  
2 Washington. Since that is not present this court should  
3 make a determination that they are not add ons and we  
4 are dealing with a zero offender score. I appreciate  
5 Mr. Herion with whom I have argued strongly in this case  
6 for being candid with me and to the court today and in  
7 the past we have been able to deal I think pretty  
8 effectively in a emotionally charged case but I request  
9 that the Court make that determination. That then puts  
10 the range within the 9 to ten year type range for this  
11 type of offense, which I think the court needs to take  
12 into account the background and the atmosphere and the  
13 emotion under which this arose as well as testimony and  
14 observations made by the young man and others as I  
15 outlined previously. Yes, clearly, there is no question  
16 about the aggravating circumstance, that's the only one  
17 that this court should consider with respect to an  
18 aggravating circumstance. There is a whole list of them  
19 there but I am suggesting to the court none of the other  
20 aggravating circumstances going above and beyond the  
21 mandatory minimum sentence should be considered by this  
22 court other than the fact that the jury found no  
23 surprise they find him guilty they're of course going to  
24 find this was a person who supposedly was taken  
25 advantage of because he is 4 and a half to 5 years of

1 age. That's a no brainer insofar as that's concerned so  
2 that has to be considered by the court. Consequently  
3 what I am suggesting to the court in light of the past  
4 history the past doesn't excuse it. MO whatever you  
5 want to call it and other circumstances that were  
6 involved with respect to the heated presentation of  
7 these issues and in two separate trials that the court  
8 sentence him to 12 years, period. He will be released  
9 he will be subjected to extensive supervision and  
10 extensive time with Mr. Barr or others in the community  
11 and I think that is an appropriate sentence with all  
12 matters being considered. This is a case where the  
13 court of course is the arbiter after verdicts have been  
14 issued and must make a determination on the sentencing.  
15 I just know that insofar as a family is concerned and  
16 others not that it matters one iota to Mr. Herion or me  
17 or even to this court because you have to call it the  
18 way you see it right now. This is not the end of this  
19 particular case so that is why I have appreciated the  
20 court allowing me to take the time and rather expressly  
21 and somewhat argumentatively present my point of view  
22 for the court's consideration. Thank you.

23 THE COURT: Thank you, Mr. Beckley. Mr.  
24 Volk, is there anything you want to say to me about this  
25 matter before I decide what your sentence is going to

1 be?

2 MR. VOLK: Can I read this?

3 MR. BECKLEY: Sure. He has something he  
4 would like to read if he could. I have given it to  
5 counsel so they have it.

6 THE COURT: Is it the note you handed up  
7 here? I read it but go ahead and read it into the  
8 record as part of the record.

9 MR. VOLK: Thank you, Your Honor. "I would  
10 like to start off by saying thank you for all my family  
11 and friends who have made time in their schedule to be  
12 here to support me. Today you are witnessing a innocent  
13 man being sent to prison for the better majority of his  
14 life. The crime they have convicted me of has never  
15 even crossed my mind. Yes, I am a sex offender and I  
16 acted inappropriately to fulfill my panty fetish in the  
17 past. Yes, I admit it I have invaded people's privacy  
18 committing those acts. I served my debt to society and  
19 I'll still do daily. I am a productive member of  
20 society. I have a full time job, own a home, pay taxes  
21 and have a beautiful family. I have not committed any  
22 illegal deviant act since July of 2008 and I take  
23 regular polygraph tests to attest to that. I have taken  
24 even an elaborate 96 question polygraph test to assure  
25 D.O.C. I was no risk to children, boy or girl. I was

1 proven to be truthful on all 96 questions. I have had  
2 other tests for D.O.C. to prove I was not interested in  
3 children or men. Every test I have taken in my history  
4 I have proven I'm 100 percent heterosexual and  
5 interested only in age appropriate women. D.O.C. has  
6 even allowed me three boys to live with me in my home.  
7 One they knew was particularly vulnerable with autism  
8 and couldn't speak. DOC even knew my fiancée now wife  
9 has babysitting out of the home where other children  
10 were around. I was even an assistant baseball coach for  
11 young boys. D.O.C. knew about and agreed to I should  
12 keep my past to myself because it doesn't apply.  
13 However, as prosecution has said this is a two time sex  
14 offender and everyone knows he did it. It doesn't  
15 matter that the seminal fluid found in the boy's  
16 underwear was 99 point 7362 percent more likely the  
17 father than anybody else's and I was at zero percent I  
18 was excluded. Not only was I excluded from that I was  
19 excluded from every other thing they had tested. Yet  
20 dad wasn't even a suspect because evidence just didn't  
21 matter. The boy even said he was lying. That didn't  
22 matter. I am a sex offender and according to the  
23 prosecution that's all that really matters. The people  
24 in this county, this state, should be embarrassed  
25 ashamed and angry we have prosecution like that working

1 for us. I should not have been charged let alone  
2 prosecuted and convicted of this terrible crime. I am  
3 innocent and being sent to prison for many years for  
4 something I never ever thought of doing. What this case  
5 was was a four year old's story none of which the  
6 evidence facts and even said he was lying about against  
7 my side of the truth. God is on my side because I have  
8 not lied. I am at peace because I know God will reward  
9 me for this terrible injustice. As it say in the Book  
10 of Psalms chapter 37 verses 12 and 13 "The wicked plot  
11 against the just and grind their teeth at them, but the  
12 Lord laughs at them knowing their day is coming." The  
13 victim in this terrible situation are my family and me.  
14 I haven't been able to be around my children for over a  
15 year. Yes, they are stepchildren, however, I treated  
16 them as if they were my own. They are without their  
17 daddy protector and friend all because of lies obviously  
18 this has been hard on me and my wife. But we are strong  
19 and our love is powerful. It is so unfair to my  
20 parents, wife, and children. I have been pulled from  
21 their lives for something so untrue. Again, I want to  
22 thank all my family supporters. I love you all. Stay  
23 strong for us because now our fight begins. I love my  
24 parents and appreciate everything they have done for me  
25 and my family. And I truly love my wife. She's my best

1 friend and soul mate. We will get through this with all  
2 the help from my supporters and love of my wife Diedre  
3 very much."

4 THE COURT: Thank you, Mr. Volk. Anything  
5 else?

6 MR. VOLK: That's it.

7 MR. HERION: Your Honor, may the court --  
8 may the state clarify a few matters.

9 THE COURT: No, no.

10 MR. HERION: Thank you.

11 THE COURT: We need to wrap it up here. All  
12 right. Let me make a couple comments or observations  
13 first off I guess for the benefit of the parents of  
14 Lane's parents, I found Lane to be a extremely bright  
15 and certainly energetic young man. Neither one of the  
16 parents were in the courtroom when he testified but I'll  
17 tell you that he was very interested in this gavel and  
18 wanted me to give him the gavel, asked several times and  
19 I finally just said it's not mine to give. So in any  
20 event he quite clearly was a competent witness and I  
21 think demonstrated his intelligence and I think to a  
22 great degree his bravery as well too when he testified  
23 in this setting that is intimidating to everyone and  
24 certainly is and was to a 5 year old child. The legal  
25 issues which is whether the North Dakota convictions are

1 the equivalent of the -- of a Washington conviction and  
2 whether they count as criminal history. In 9.94A.030  
3 defines sex offenses as any federal or out of state  
4 convictions for an offense under the laws of this state  
5 would be a felony classified as sex offense under  
6 section (a) of this subsection. That is as I read that  
7 that doesn't require that an out of state conviction be  
8 classified in that state as a felony. Examining the  
9 North Dakota statute which was the subject of the -- of  
10 Mr. Volk's conviction in that jurisdiction I am  
11 convinced it is the equivalence of our voyeurism  
12 /REUFPL statute which is a felony in this State of  
13 Washington. I do believe that Mr. Volk has a criminal  
14 history that counts against him in this particular case  
15 consequently as an offender score of 6 based upon two  
16 prior convictions which appropriately count as criminal  
17 history. As discussed earlier with Mr. Herion, I don't  
18 believe that the communication with a minor offense I  
19 don't believe that counts as criminal history because it  
20 was a gross misdemeanor charge or gross misdemeanor  
21 conviction in this state as a gross misdemeanor so it's  
22 not -- doesn't fit the bill of definition of sex offense  
23 under the Sentencing Reform Act. So given those  
24 circumstances then they have offender score of 6, which  
25 gives -- renders a range for the purpose of the minimum

1 sentence of 162 to 216 then the aggravating factors  
2 found by the jury that the child was -- because of the  
3 particular vulnerability of the child which was assisted  
4 in the commission of this particular offense taking all  
5 those matters into consideration I believe that the top  
6 end of the range is the appropriate for the setting  
7 minimum sentence to be served. So that will be set at  
8 216 months, which is 18 years of confinement. And then  
9 the question becomes as to what should or what is  
10 appropriate in regards to the aggravating, what sanction  
11 should be imposed regarding the aggravating factor? I  
12 am not familiar with your form here so --

13 MR. HERION: Your Honor, it's towards the  
14 end of the second box not the first one, Your Honor.

15 THE COURT: Well my intention is to impose  
16 significant amount of time in regards to the aggravating  
17 factor and that amount of time is 120 months. So the  
18 equivalent will be 28 years of confinement. So did I  
19 just add -- do I put 216 plus 120 on there? (Indicating)

20 MR. HERION: Your Honor, it would be under 4  
21 point one becomes "B" under section offender where it  
22 reads sentencing as sex offender minimum and maximum I  
23 believe it's under "B".

24 THE COURT: I am looking at the wrong. I  
25 need you to find it for me.

1 MR. HERION: I can show it to Your Honor.  
2 Under box "B" under confinement. Setting out a minimum  
3 term.

4 THE COURT: Okay.

5 MR. HERION: Court did check aggravating  
6 factor on the second page and attached the jury's  
7 finding on the last.

8 THE COURT: Right.

9 MR. HERION: Your Honor, if Your Honor is  
10 making the finding that 28 is the minimum that would  
11 effectively be 28 and then statutory maximum would be  
12 life.

13 THE COURT: Life. Right.

14 MR. HERION: Yes, Your Honor.

15 MR. BECKLEY: What are you telling him,  
16 counsel?

17 THE COURT: I am setting the minimum  
18 sentence is being set at the top of the range which is  
19 218 plus 120 which is 336 and the maximum is life in  
20 prison.

21 MR. BECKLEY: Sure. Basically the court is  
22 ordered the maximum under the mandatory minimum plus ten  
23 year added on for aggravating factors.

24 THE COURT: Yes.

25 MR. BECKLEY: Okay. Understood.

1                   THE COURT:   Financial will be also term of  
2 community custody which will be essentially for the rest  
3 of your life upon release from full confinement. During  
4 that period of community custody you report to and be  
5 available for contact with your assigned community  
6 corrections officer. Work with the Department of  
7 Corrections approved education or community restitution  
8 or service. Notify the Department of Corrections of any  
9 change of your address. No consumption of controlled  
10 substances, no unlawful possession of controlled  
11 substance. While you're on community custody may not  
12 own, use, or possess any firearms or ammunition, pay  
13 supervision fees, submit to electronic monitoring, abide  
14 by any additional conditions imposed by the Department  
15 of Corrections residence location and living  
16 arrangements approved by community corrections officer  
17 while you're on community custody and if your term of  
18 community custody may extend out to statutory maximum of  
19 the sentence you'll also have no contact with Lane  
20 Hamblin or any person under the age of 18. The  
21 financial order include \$500 victim assessment, \$200  
22 court cost, \$100 DNA collection fees \$50 booking fee  
23 and restitution in the amount of \$419.75. Actually in  
24 the total is 1,969.75.

25                   MR. BECKLEY: I assume that bears interest

1 starting today.

2 THE COURT: I don't know what the practices  
3 is.

4 MR. BECKLEY: I think it is. This state  
5 wants 12 percent interest immediately even though  
6 they're in prison.

7 THE COURT: You will need to register as a  
8 sex offender when you are released from confinement. In  
9 the appendix 4 point 6 includes further conditions of  
10 community supervision and notice regarding the payment  
11 of financial obligation and I'll hand this pile of  
12 paperwork to the clerk so the total period of  
13 confinement is 18 years plus ten years 28 years and as  
14 is minimum period of confinement.

15 MR. BECKLEY: Is the court going to now  
16 advise as to appeal rights.

17 THE COURT: Yes, I am. I am going to sign  
18 sexual assault protection orders as well.

19 MR. HERION: I didn't put an expiration date  
20 on the front, Your Honor, because I didn't know what  
21 Your Honor --

22 THE COURT: Well.

23 MR. BECKLEY: You need to sign these.  
24 You'll get a full copy as will Mr. Herion and others.

25 THE COURT: And warrant of commitment goes

1 to the clerk. And, Mr. Volk, you do have the right to  
2 appeal. You need to file a notice of appeal in this  
3 court, serve a party on all other parties within 30 days  
4 of today's date. If you fail to do so you'll  
5 irrevocably waive your right to appeal. You have a  
6 right to be represented by counsel to prosecute your  
7 appeal or help you in processing your appeal. If you  
8 can't afford to hire your own attorney to do so then the  
9 court will point an attorney to represent you in that  
10 regard and also direct that the records of the trial and  
11 any other proceeding that are relevant to be reviewed  
12 will be prepared at public expense if you are unable to  
13 pay for the same. Mr. Beckley can assist you in getting  
14 the notice of appeal filed and orders of indigency  
15 entered so.

16 MR. BECKLEY: Does the court have an  
17 application for indigency? I think there is a form that  
18 the clerk has we would like to have one.

19 THE COURT: Have one provided.

20 MR. BECKLEY: He isn't working a lot now.

21 THE COURT: And I will be here. I have  
22 another matter at three o'clock, I think, or 3:30 so if  
23 I screwed up the paperwork run me down and I'll fix it.

24 MR. HERION: Yes, Your Honor.

25 THE COURT: Let me hand you the stuff. All

1 right. Thank you, counsel. Good luck, Mr. Volk.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Attachment "C"

Pre-Sentence Investigation

FILED

12 FEB 14 AM 11:44

KITTITAS COUNTY  
SUPERIOR COURT CLERK



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

PRE-SENTENCE INVESTIGATION

TO: The Honorable Michael McCarthy  
Kittitas County Superior Court  
NAME: Casmer J. Volk  
ALIAS(ES):  
CRIME(S): Rape of a Child, 1<sup>st</sup> degree  
DATE OF OFFENSE: 04/28/11  
PRESENT LOCATION: Kittitas County Jail  
Ellensburg, WA

DATE OF REPORT: 2/08/12  
DOC NUMBER: 314231  
COUNTY: Kittitas  
CAUSE #: 11-1-00084-1  
SENTENCING DATE: 02/27/12  
DEFENSE ATTORNEY: Kenneth Beckley

I. OFFICIAL VERSION OF OFFENSE:

The following information is a summary of various law enforcement reports in this matter.

On 5/02/11 at approximately 11am, victim LH (dob: 11/15/2006) disclosed to his mother Selenia Hamblin that his bottom hurt. He told his mother "Cass put macaroni in my butt". Selenia asked what he meant and LH said that while he was at Diedre and Casmer Volk's house, "Cass" had told him to pull his pants down and bend over, at which time LH stated Cass put macaroni in his butt. LH specifically said that Cass put some type of lube or gel around LH's anus and then put his "pee pee" in his butt.

Selenia took LH to the emergency room for an examination at which time law enforcement was contacted regarding the possible sexual assault. Selenia explained to the detective at the hospital that she had known Diedre Cleary for some time and that Diedre had started dating Casmer Volk. Selenia explained that she knew Casmer was a registered sex offender at one time but he had told her that he no longer had to register and that it was for being a "peeping Tom".

Diedre would usually watch LH twice a week as well as other children too. Selenia said she and her husband had taken a trip on 4/28/11 and left LH in Diedre's care. He was there from 4/28/11 until 5/01/11. When Officer Shuart of Kittitas police department contacted LH in the exam room, LH stated "My butt hurts" and "Cass put macaroni in my butt, and cream, and put his pee pee in my butt". LH stated this more than once while the officer was in the room with him, Selenia and others present.

On 5/03/11 law enforcement further interviewed Selenia and LH. Selenia said that LH was complaining that his butt was hurting so she thought he may have a rash. She took a look and noticed that LH's anus was very red and inflamed looking so she put some Vaseline on his anus. Selenia said that when she did this, LH "freaked out" and started crying saying that it hurt. She noticed that his sphincter looked stretched and not the normal size for him. She asked why his butt hurt and that is when he informed her that "Cass" hurt him and how.

Law enforcement located Casmer Volk on 5/06/11 after he was stopped for speeding. Officer Shuart questioned Mr. Volk about LH. At one point during the questioning Mr. Volk turned around and put his hands behind his back stating "I'm done talking". He was arrested for one count of rape of a child first degree and transported to the Kittitas County jail for booking.

Mr. Volk bailed out of jail on 7/21/11. On 1/20/12, a jury found Mr. Volk guilty of one count rape of a child in the first degree. He was taken into custody where he remains pending sentencing.

## II. VICTIM CONCERNS:

I spoke with the victims' mother, Selenia Hamblin, on 01/30/12. She stated that LH is doing okay at this time, but does continue to have nightmares about three times per week on average. He's also begun wetting his bed, which is a behavior he never used to do.

Selenia and her husband have not entered LH into counseling yet but plan to do so after sentencing has been taken care of. She has told her son that Mr. Volk is in custody and she feels this has helped his overall anxiety. LH has said that he's glad Mr. Volk is in jail because now he (Mr. Volk) won't be able to do anything to him again.

Selenia states that she and Diedre Volk had been friends since the sixth grade. She was letting Diedre take care of her children as a friend and never thought something like this could happen. Selenia also cannot understand how Diedre continues to support Mr. Volk knowing what he's done.

Financially, Selenia explained they have taken a hit. Their family moved to King County in August and this meant travel time back and forth to Kittitas County to attend the various Court matters. LH's older brother had to be taken out of school so that he could testify at the trial and both Selenia and her husband missed work, with no compensation.

I asked Selenia what she felt was an appropriate sentencing in this case. She stated that she would like to see Mr. Volk remain in custody for as long as possible, and also be housed out of State if possible.

Selenia and/or her husband plan on speaking at the sentencing hearing. Should they provide a statement in writing prior to sentencing it will be submitted for review.

**III. DEFENDANT'S STATEMENT REGARDING OFFENSE:**

I spoke to Mr. Volk at the jail on 1/30/12. We talked about his providing a statement for the purposes of this report. Mr. Volk asked for some time to compose his thoughts on paper and run them past his attorney as well.

It was clear that Mr. Volk continues to maintain his innocence in this case and is seeking appeal. I asked him what the motivation is for LH to tell such an outlandish story about being raped. Mr. Volk believes that it's LH's parents who are behind this matter, specifically his mother Selenia. He believes that they are jealous of the relationship that he and Diedre have. Mr. Volk believes that LH probably had diarrhea the weekend he said he was victimized. LH then went home and told his mother that his bottom hurt from the irritation, at which time Selenia asked him if Casmer had put something in his butt to make it hurt. Apparently Selenia had been informed of Mr. Volk's sex offender status. He contends that the victim himself even informed forensic interviewers, on video, that he was lying about the whole thing. Mr. Volk believes this entire event is what he called "a witch hunt" because of his past sexual offenses and cannot believe he was convicted.

**IV. CRIMINAL HISTORY:**

**SOURCES:**

1. NCIC
2. WACIC
3. DISCS
4. WA State DOC records
5. North Dakota parole/probation records

<u>Juvenile Felony:</u> None Found	
<u>Adult Felony:</u>	
Date of Offense:	04/19/07
Crime:	Voyeurism (Surreptitious Intrusion)
County/Cause No.:	Cass/09-07-K-01539
Date of Sentence:	12/31/07
Disposition:	Guilty
	Score/Wash 3

**Adult Felony:**  
**Date of Offense:** 12/26/06  
**Crime:** Voyeurism (Surreptitious Intrusion)  
**County/Cause No.:** Cass/09-07-K-105  
**Date of Sentence:** 06/11/07  
**Disposition:** Guilty Score/Wash 3

**Adult Felony:**  
**Date of Offense:** 12/06/99  
**Crime:** Voyeurism (Surreptitious Intrusion)  
**County/Cause No.:** Cass/Unknown  
**Date of Sentence:** 02/14/00  
**Disposition:** Guilty; Deferred imposition, later dismissed as probation was completed Score/Wash 0

**Misdemeanor(s):**  
**Date of Offense:** 09/05/08  
**Crime:** Communication w/minor for immoral purposes (Originally charged as Residential Burglary with sexual motivation)  
**County/Cause No.:** Kittitas/08-1-00252-6  
**Date of Sentence:** 02/22/10  
**Disposition:** Guilty Score/Wash 3

**V. SCORING:**  

SERIOUSNESS LEVEL	OFFENDER SCORE	STANDARD RANGE
Count I XII	9	From 240 to 318 Months

**VI. COMMUNITY CUSTODY (If applicable):**  

SERIOUSNESS LEVEL	OFFENDER SCORE	STANDARD RANGE
Count I XII	9	Up to statutory maximum

**VII. COMMUNITY CUSTODY BOARD (If applicable):**  

SERIOUSNESS LEVEL	OFFENDER SCORE	SENTENCE RANGE
Count I XII	9	Min 240 to Life Max

**VIII. RISK/NEEDS ASSESSMENT:**

A risk/needs assessment interview was completed with the offender. The following risk/needs area(s) and strengths have implications for potential risk, supervision, and interventions. Unless otherwise noted, the following information was provided by the offender and has not been verified. Additionally, a pre-sentence investigation (PSI) report was completed by the North Dakota Division of Field Services on 11/30/07, related to Mr. Volks third conviction of Surreptitious Intrusion. This report included detailed information provided by Mr. Volk at the time and may be used to supplement the current PSI.

Criminal History:

Mr. Volk does not appear to have any juvenile criminal history. He has been convicted of several crimes as an adult both in Washington State and North Dakota.

In December 1999 Mr. Volk was charged and convicted of Surreptitious Intrusion in Cass County North Dakota. The criminal information indicates that in December 1999 Mr. Volk was caught looking over the wall of a tanning booth at Suntana tanning salon. He did so in hopes of seeing naked women. When he came out of the room someone told him the police were on their way. He was convicted on 2/14/00 and served three days in jail with six months supervised probation; during that time he completed a 12 week sex offender education program. This case was placed on a "deferred imposition" meaning that if Mr. Volk successfully completed his probation the charge would be removed from his record. Probation was successfully completed and the charge has ultimately been removed.

In December 2006 Mr. Volk was charged with his second Surreptitious Intrusion, possession of marijuana and possession of drug paraphernalia. The criminal information states Mr. Volk was peeping in the windows of a home in West Fargo North Dakota. He says that he'd gone for a drive late at night and noticed a light on in the basement of a home. He parked his car and peeked into the room hoping to see a female. He walked around the house and noticed a police car behind his vehicle. Mr. Volk ran home and turned himself in the next day stating he wanted to seek help for his voyeuristic addictive behavior. The two drug related charges were dismissed but he pled guilty to the Surreptitious Intrusion on 6/11/07. He was sentenced to 10 days incarceration and one year of supervised probation.

In March 2007 he was charged with criminal trespass and disorderly conduct in West Fargo North Dakota. Police reports stated that Mr. Volk was identified as the man inside a laundry room of an apartment building going through the laundry. Mr. Volk denied the charges and they were ultimately dismissed in August of 2007.

April 2007, Mr. Volk was charged with his third Surreptitious Intrusion and criminal trespass in North Dakota. Police reports indicated he peeked into the window of a residential home in West Fargo. He denied having done so initially but pled guilty under the advice of his attorney. Mr. Volk pled guilty to the surreptitious intrusion and the trespass was dismissed. He was sentenced to one year jail with 335 days suspended for two years. He was placed on probation, which was ultimately revoked after Mr. Volk pled guilty to a felony charge in Washington State of Residential Burglary with Sexual Motivation.

In May 2008 Mr. Volk relocated to Ellensburg, Washington. In September 2008 Mr. Volk was arrested and charged with the above mentioned residential burglary with sexual motivation. Reports indicate that Mr. Volk entered the apartment of a female college student in Ellensburg WA. He admitted to having done so in order to locate some female underwear. The resident came out of her bedroom and asked Mr. Volk what he was

doing there. He left the apartment but was later apprehended. On 2/10/09 Mr. Volk entered a plea of guilty to the burglary charge in order to take advantage of a plea agreement. This agreement allowed Mr. Volk to be sentenced to six months confinement and receive credit against this time by entering and completing a long term inpatient treatment program for sexual addiction and deviancy in Prescott, Arizona.

However, after serving only two months in this program he was arrested on a North Dakota warrant, transported to North Dakota, and had his probation on the Surreptitious Intrusion case revoked. Mr. Volk served the remainder of his time in custody on that North Dakota case.

While he served his time in North Dakota, the Washington State Sentencing Guidelines Commission found an error in the Washington State residential burglary case. Because of the sexual motivation, Mr. Volk would be required to serve 12 months in addition to the six months he'd originally agreed to. Since that was not the intent of the sentencing on that case, Mr. Volk was allowed to withdraw his guilty plea and the matter went back into negotiations. On 2/22/10 the matter was resolved through a guilty plea to a charge of communication with a minor for immoral purposes. Although reducing the charge from a felony to a gross misdemeanor, it allowed Mr. Volk to be supervised on probation, required him to register as a sex offender and further required that he enroll into a counseling program for sexual deviancy. Mr. Volk was on active probation at the time he committed the current offense.

**Education/Employment:**

Kindergarten through the twelfth grade was attended in West Fargo, ND. Mr. Volk stated he received average grades doing just enough to get by. He denies ever being suspended or expelled. He graduated West Fargo High School in 1999 and attended North Dakota State University for about a year and a half majoring in accounting. He later transferred to the North Dakota State College of Science in 2001 receiving an Associates degree in Marketing Management in 2003.

He reported starting part time work when he was fifteen years old at the West Acres Bowl. He worked at Mexican Village restaurant for about three years as well. In 1999 he worked as a truck un-loader for Nash Finch, and in 2001 he worked full time as an order picker. He worked about a year and a half as a salesman at Gateway Chevrolet before starting employment as a truck broker in 2007. He moved to Ellensburg in 2007, working briefly with his parents' truck dispatching business before returning to North Dakota in June of 2007.

When he moved to Ellensburg again in 2008 Mr. Volk began working with his parents at Valley Express, dispatching for trucks. He remained working with this business until going into custody post trial conviction. Mr. Volk had recently purchased the dispatching business from his parents.

Financial:

Prior to his incarceration, Mr. Volk claims to have been making around \$3,000 per month. He owns a home in Kittitas and was supporting his wife, Diedre, and her three children. It appeared they were able to meet expenses.

Family/Marital:

Mr. Volk was born in Fargo, ND to Duaine and Phyllis Volk. He states that he is the youngest of four children. Siblings include brothers Edward and Gerald Volk as well as his sister Becky Van Houten. Mr. Volk's father was a truck driver before working as a dispatcher and his father worked at several different companies prior to starting Valley Express in Ellensburg. Mr. Volk's mother also works at Valley Express as a secretary/dispatcher.

Mr. Volk reported growing up in a good home environment and got along with his siblings. He reports being very close with his parents, more so with his mother. Mr. Volk described his mother as the rule maker and disciplinarian but that he was a good kid and didn't recall being punished. Mr. Volk stated that his father was a recovering alcoholic and that he didn't recall seeing his mother drink.

In 2007 Mr. Volk was engaged to Jessica Richard, whom he resided with while in North Dakota. He had known Ms. Richard since the fifth grade and was in a romantic relationship for five years prior to her breaking it off due to his legal problems. In a family impact statement received from Ms. Richard in 2007 she reported feeling that Mr. Volk was a very motivated and compassionate person. She explained that before his arrest, at the time, they were both into pornography and that Mr. Volk masturbated seven times per day.

When Mr. Volk transferred his probation to Washington in May 2008 he was dating a woman named Angela. He indicated that she had a 12 year old daughter and he was planning on asking Angela to marry him. On 6/25/08 Mr. Volk informed me that Angela accepted his proposal but soon after cancelled.

Then on 07/02/08 he told me that he'd started to see a girl, Michelle, whom he'd met through an acquaintance. While dating Michelle, he was arrested in September 2008 and charged with Residential Burglary with sexual motivation. His relationship with Michelle appeared to last until his probation in ND was revoked in the Spring of 2009.

In December of 2009 Mr. Volk released from ND and returned to Ellensburg. His residential burglary case was resentenced on 2/22/10. I met with Mr. Volk at the court house on 2/22/10 at which time he introduced me to his newest girlfriend, Diedre Lopez (Cleary). Mr. Volk informed me that he and Ms. Lopez were engaged and she was residing at his home with her children. Ms. Lopez' employment consisted of watching children for friends in her home. The two married in August of 2011 and she remains supportive of Mr. Volk. Diedre Volk has three children from prior relationships. Jackson Lopez, dob: 01/06/09; Joshua Lopez, dob: 01/22/08; Pacen Cleary-Krumbaugh, dob: 12/21/01.

Accommodation:

Mr. Volk moved to Ellensburg, WA in May 2008. He purchased a home in the Rainer Estates development outside of Kittitas, WA where he resided until going into custody for this crime.

Leisure/Recreation:

Mr. Volk is an outgoing individual who enjoys athletics. He reported being on a bowling league as well as a softball league both in ND and Ellensburg. He also reports spending time working on improvements in his home and doing Karaoke singing with his wife Diedre. Mr. Volk also ran and attended a sexual addicts anonymous group in Ellensburg.

Companions:

Mr. Volk stated most of his free time was spent with family. Any other time spent "hanging out" with friends was explained as very casual. Mr. Volk did not specifically list any close friends to be contacted.

Alcohol/Drug Use:

Mr. Volk denies having an alcohol problem and does acknowledge consuming alcohol on occasion. He stated the first time he consumed alcohol was when he was 19 years old, stating he drank just to fit in with college peers. He does admit to having had a drug problem in the past. Mr. Volk stated that he started experimenting with drugs in 2000. He has experimented with marijuana, mushrooms, methamphetamine and cocaine. He admits he was using marijuana daily in the past.

When Mr. Volk was placed on probation for the communication with a minor conviction, he was prohibited from drug use and random urinalysis was conducted. On 5/27/10 he submitted a UA that tested positive for marijuana. Since that time we have not had any indication that Mr. Volk has continued use of marijuana. UA's have tested negative and polygraph questions related to drug use have shown no deception.

Emotional/Personal:

Mr. Volk reported that he completed a twelve week sex offender education program in 2000 after his 1999 Surreptitious Intrusion conviction. He didn't find the treatment helpful because they talked about the worst case sex offenders and did not seem to focus on his offense.

After his arrest in December of 2006 he reported to meet with a counselor at the Wellness Center briefly but was then referred to Dr. Harjinder Virdee at the Fargo Psychiatric Clinic. Mr. Volk met with Dr. Virdee from January '07 to April '07 at which time he attempted three different depression meds. He officially stopped seeing Dr. Virdee in July '07 because he didn't have any health insurance. Mr. Volk says he then met with Dr. Ken Christensen at Merit Care in November of '07 for individual treatment regarding

his voyeurism. Upon moving to Ellensburg, Dr. Christensen recommended Mr. Volk attend a 12 step program indefinitely and establish himself with a qualified psychologist and follow through with this person indefinitely.

Upon moving to Ellensburg Mr. Volk was referred for counseling services with Dr. Mark Cross of Alliance Counseling in Yakima, WA. He met with Dr. Cross through January of 2009. It was at this time that Mr. Volk was going through the court regarding pending charges of residential burglary.

In February 2009 Mr. Volk entered a long term inpatient treatment center for sexual addictions in Prescott Arizona. He was only there for little over one month before he was arrested on a warrant out of North Dakota, subsequently revoking his probation status.

Mr. Volk served his time in North Dakota stating that he completed a program for sexual deviancy while in custody. After his release and resentencing in Kittitas County he was again referred to counseling services.

In April 2010 Mr. Volk began meeting with Duane Dolliver, licensed mental health/marriage and family therapist in Yakima, WA. He participated in this counseling through December 2010. Sessions became sporadic in early 2011 and Mr. Volk cancelled numerous times with Mr. Dolliver. Payments for treatment were not being made and Mr. Volk had been turned into collections.

In August 2011 Mr. Volk got himself back into treatment and started seeing Julie Crest with Crest Counseling Services in Ellensburg. He met with Ms. Crest only a couple of times while going through the trial process on this new conviction.

In his PSI interview conducted in 2007, Mr. Volk provided information about his past sexual behaviors. He admitted to having a fetish for women's underwear. He would fantasize about the types of underwear women were wearing. He had admitted to several occasions of voyeuristic activity at the time, but was unsure about the exact number. He admitted to being sexually aroused by looking for unsuspecting women in their underwear and explained that he felt his behavior was out of control and he didn't know how to stop his sexual urges.

Mr. Volk admitted that when caught looking over the wall at the tanning salon, he'd already done so at least four or five times. When he started window peeping, he explained that he would smoke marijuana before going out and would drive around looking for basement windows that had lights on. He'd admitted to watching, then masturbating when he got back to his car.

During the interview Mr. Volk stated he realizes that he has a problem with voyeurism and needed help controlling his sexual urges.

In a psychiatric evaluation completed in 2006, Mr. Volk reported to have urges to look into a home at least once a month. He also claimed to have an overactive sex drive and

masturbated five to ten times per day. A follow up psychological intake done in 2007 indicates that Mr. Volk had an intense fetish for womens panties and it preoccupied him most of the time.

When Mr. Volk began treatment in Washington State he underwent a sexual history polygraph examination. Ninety seven questions were asked of Mr. Volk during the examination to include areas of attraction to children. Mr. Volk denied having any sexual attraction to minors, male or female. There was no deception indicated. During his counseling sessions, areas of focus included his fetishism and sexual urges as well as discussions about general depression.

Attitude/Orientation:

During our meeting on 1/30/12 Mr. Volk was clearly upset about the potential time in his sentencing but also appeared determined to appeal the case. He displayed a combination of depression and anger when talking about the case, describing the whole thing as "a witch hunt". He doesn't believe for a minute that this case would have been prosecuted if he didn't have a criminal history related to sexual offenses. He was upset for his parents and wife and what they are also going through now that he's looking at a prison sentence. Mr. Volk acknowledged that every cent of their money is being spent in these legal matters in order to appeal the conviction and set him free.

**IX. CONCLUSIONS:**

Mr. Volk was found guilty by a jury of his peers. Since the initial arrest in this case, Mr. Volk has denied his guilt stating that he did not commit the crime. He states that he has no sexual urges towards children and does fully acknowledge his issues with voyeurism and fetishism. He has shown a long term history of committing sexual crimes in the communities he resides in. This criminal behavior has drastically escalated from looking over a tanning bed wall, to peeping in windows, to burglarizing residences and now to physical sexual assault of a minor. It appears clear that Mr. Volk is a danger to any community he is a resident. He has entered various treatments and counseling for his sexual deviancy, but nothing appears to have worked to lower his urges to commit these offenses. He has no empathy for the victim, as he continues to deny any accountability and places all blame for what's occurred on the victims' mother.

The jury found grounds for an exceptional sentencing in this case. The victim was at an age (four years old) that Mr. Volk knew or should have known that the victim was particularly vulnerable or incapable of resistance. Mr. Volk was in a position of trust in the home, acting as a secondary care provider to that of his wife Diedre.

With all of the above considerations in mind, a recommendation of 400 months confinement is being made. The considerations in this recommendation are as follows: A term of thirty years confinement appears appropriate before Mr. Volk can even appear before the Indeterminate Sentence Review Board (ISRB) for possible release. He is eligible for 10 percent good time on this crime reducing a 400 month sentence to 360, or thirty actual years in custody.

If released after thirty years, Mr. Volk will be 61 years old. At that time he will be nearing the point he is eligible to draw social security in order to support himself in the community. Secondly, at 61 years old Mr. Volk will begin to incur health problems associated with age and it should not fall on the shoulders of the tax payers to support him while in the prison system. Finally, at the age of 61 it could be expected that Mr. Volk's sexual drive has significantly reduced along with his physical mobility, thus reducing his risk if allowed back into a community.

**X. SENTENCE OPTIONS:**

- Confinement within the Standard Range Sentence
- Work Ethic Program
- Exceptional Sentence
- First-time Offender Waiver (FTOW)
- Drug Offender Sentencing Alternative (DOSA)
- Special Sex Offender Sentencing Alternative (SSOSA)
- Community Custody Board (CCB) RCW 9.94A.507
- Family Offender Sentencing Alternative (FOSA)

**XI. RECOMMENDATIONS:**

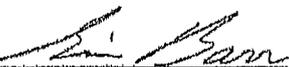
Sentence Type/Option: Exceptional High; Aggravating circumstance  
Confinement: 400 months  
Community Custody Board: Minimum Term: 400 months; Maximum Term: Life  
Supervision Type & Duration: Up to Life  
Conditions of Supervision: (See attached DOC 09-130 Appendix F - FELONY  
 Additional Conditions of Sentence)

**XII. MONETARY OBLIGATIONS:**

Restitution:	TBD	Court Costs:	TBD	Other:	\$0.00
Victim Penalty:	\$500.00	Attorney Fees:	Private hire		
Drug Fund:	\$0.00	Fine:	TBD		

Submitted By:

Approved By:

	<i>2-8-12</i>		<i>2-8-12</i>
Simon Barr	Date	Cathy LeCompte	Date
CCO3		CCS	
1109 S Industrial Way		210 N 2 <sup>nd</sup> St	
Ellensburg, WA 98926		Yakima, WA 98901	
(509)962-7700		(509)454-7812	

Distribution: ORIGINAL—Court COPY— Chris Herion Prosecuting Attorney, Kenneth Beckley Defense Attorney, File, WCC/RC (Prison)



DATE

JUDGE, KITTITAS COUNTY SUPERIOR COURT

sb/sb/09-130.doc  
2/01/12

Casmer J. Volk  
314231  
02/08/2012  
Page 2 of 2

DOC 09-130 (F&P Rev. 4/2000) OCO

000153

Attachment "D"  
Judgment & Sentence

FILED  
12 MAR 12 PM 4:22  
KITTITAS COUNTY  
SUPERIOR COURT CLERK

Superior Court of Washington  
County of

State of Washington, Plaintiff,

vs.

CASMER JOSEPH VOLK, Defendant.  
DOB: 09/29/80  
PCN: 955314760  
SID: WA24582115

No. 11-1-00084-1

Felony Judgment and Sentence --

Prison 12-9-00029-6

RCW 9.94A.507 Prison Confinement

(Sex Offense and Kidnapping of a Minor)

(FJS)

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

Defendant Used Motor Vehicle

Juvenile Decline  Mandatory  Discretionary

I. Hearing

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, and the (deputy) prosecuting attorney were present.

II. Findings

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

guilty plea (date) \_\_\_\_\_  jury-verdict (date) 01/20/12  bench trial (date) \_\_\_\_\_

Count	Crime	RCW (w/subsection)	Class	Date of Crime
1	Rape of a Child in the First Degree	9A.44.073 and 9.94A.533(3)(b)	FA	05/01/11

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

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

Additional current offenses are attached in Appendix 2.1a.

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

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

The defendant used a firearm in the commission of the offense in Count \_\_\_\_\_, RCW 9.94A.602, 9.94A.533.

The defendant used a deadly weapon other than a firearm in committing the offense in Count \_\_\_\_\_, RCW 9.94A.602, 9.94A.533.

For the crime(s) charged in Count \_\_\_\_\_, domestic violence was pled and proved. RCW 10.99.020.

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

The offense was predatory as to Count \_\_\_\_\_, RCW 9.94A.836.

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

000182

- The victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense in Count \_\_\_\_\_, RCW 9.94A.838, 9A.44.010.
- The defendant acted with sexual motivation in committing the offense in Count \_\_\_\_\_, RCW 9.94A.835.
- This case involves kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- Count \_\_\_\_\_, Violation of the Uniform Controlled Substances Act (VUCSA), RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture in Count \_\_\_\_\_, RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- Count \_\_\_\_\_ is a criminal street gang-related felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- Count \_\_\_\_\_ is the crime of unlawful possession of a firearm and the defendant was a criminal street gang member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A. \_\_\_\_\_.
- The defendant committed  vehicular homicide  vehicular assault proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- Count \_\_\_\_\_ involves attempting to elude a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- In Count \_\_\_\_\_ the defendant has been convicted of assaulting a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831, 9.94A.533.
- Count \_\_\_\_\_ is a felony in the commission of which the defendant used a motor vehicle. RCW 46.20.285.
- The defendant has a chemical dependency that has contributed to the offense(s). RCW 9.94A.607.
- In Count \_\_\_\_\_, assault in the 1<sup>st</sup> degree (RCW 9A.36.011) or assault of a child in the 1<sup>st</sup> degree (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of 5 years (RCW 9.94A.540).
- Counts \_\_\_\_\_ encompass the same criminal conduct and count as one crime in determining the offender score (RCW 9.94A.589).
- The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance in the commission of the offense in Count 1. RCW 9.94A.535 (3) (b).

Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

	Crime	Cause Number	Court (county & state)	DV* Yes
1.				
2.				

\* DV: Domestic Violence was pled and proved.

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

**2.2 Criminal History (RCW 9.94A.525):**

	Crime	Date of Crime	Date of Sentence	Sentencing Court (County & State)	A or J Adult, Juv.	Type of Crime	DV* Yes
1	Surreptitious Intrusion	4/19/07	12/31/07	Cass County, ND	A	Sex	
2	Surreptitious Intrusion	12/26/ 06	6/11/07	Cass County, ND	A	Sex	
3							
4							

\* DV: Domestic Violence was pled and proved.

Additional criminal history is attached in Appendix 2.2.

The defendant committed a current offense while on community placement/community custody (adds one point to score).  
RCW 9.94A.525.

The prior convictions listed as number(s) \_\_\_\_\_, above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)

The prior convictions listed as number(s) \_\_\_\_\_, above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

000184

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
1	6	XII	162-216		162-216	20 years LJ

\* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9), (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude, (ALF) assault law enforcement with firearm, RCW 9.94A.533(12).

Additional current offense sentencing data is attached in Appendix 2.3.

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

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

below the standard range for Count(s) \_\_\_\_\_,  
 above the standard range for Count(s) 0 mo.

The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

Aggravating factors were  stipulated by the defendant,  found by the court after the defendant waived jury trial,  found by jury, by special interrogatory.

within the standard range for Count(s) \_\_\_\_\_, but served consecutively to Count(s) \_\_\_\_\_. Findings of fact and conclusions of law are attached in Appendix 2.4.  Jury's special interrogatory is attached. The Prosecuting Attorney  did  did not recommend a similar sentence.

2.5 Legal Financial Obligations/Restitution. The court has considered the total amount owing, the defendant's present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. (RCW 10.01.160). The court makes the following specific findings:  
 The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

The defendant has the present means to pay costs of incarceration, RCW 9.94A.760.

III. Judgment

3.1 The defendant is *guilty* of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2  The court *dismisses* Counts \_\_\_\_\_ in the charging document.

IV. Sentence and Order

It is ordered:

000185

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

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

(DOC) # 336  
# 336 months on Count ONE \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

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

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

Actual number of months of total confinement ordered is: \_\_\_\_\_.

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

The sentence herein shall run consecutively with the sentence in cause number(s) \_\_\_\_\_.

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_.

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

Count 1 minimum term: 336 maximum term: Statutory Maximum  
Count \_\_\_\_\_ minimum term: \_\_\_\_\_ maximum term: Statutory Maximum

(c) Credit for Time Served. The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served.

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

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

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

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

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

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

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

consume no alcohol.

have no contact with: Lane Hamblin or any persons under the age of 18.

remain  within  outside of a specified geographical boundary, to wit:

not reside within 880 feet of the facilities or grounds of a public or private school (community protection zone). RCW 9.94A.030.

participate in the following crime-related treatment or counseling services:

undergo an evaluation for treatment for  domestic violence  substance abuse

mental health  anger management, and fully comply with all recommended treatment. \_\_\_\_\_

comply with the following crime-related prohibitions: \_\_\_\_\_

Other conditions: \_\_\_\_\_

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

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

**4.3a Legal Financial Obligations:** The defendant shall pay to the clerk of this court:

JASS CODE

PCV	\$ 500	Victim assessment	RCW 7.68.035
PDV	\$ _____	Domestic Violence assessment	RCW 10.99.080
CRC	\$ 200	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
		Criminal filing fee \$ _____	FRC
		Witness costs \$ _____	WFR
		Sheriff service fees \$ _____	SFR/SFS/SFW/WRF
		Jury demand fee \$ _____	JFR
		Extradition costs \$ _____	EXT
		Other \$ _____	
PUB	\$ _____	Fees for court appointed attorney	RCW 9.94A.760

000187

WFR \$ \_\_\_\_\_ Court appointed defense expert and other defense costs RCW 9.94A.760  
 FCM/MTH \$ \_\_\_\_\_ Fine RCW 9A.20.021; [ ] VJCSA chapter 69.50 RCW, [ ] VUCSA additional fine deferred due to indigency RCW 69.50.430  
 CDF/LDI/FCD \$ \_\_\_\_\_ Drug enforcement fund of \_\_\_\_\_ RCW 9.94A.760  
 NTF/SAD/SDI  
 CLF \$ \_\_\_\_\_ Crime lab fee [ ] suspended due to indigency RCW 43.43.690  
 \$ 100 DNA collection fee RCW 43.43.7541  
 FPV \$ \_\_\_\_\_ Specialized forest products RCW 76.48.140  
 RTN/RJN \$ \_\_\_\_\_ Other fines or costs for: \_\_\_\_\_  
 \$ \_\_\_\_\_ Emergency response costs (Vehicular Assault, Vehicular Homicide, Felony DUI, only, \$1000 maximum) RCW 38.52.430  
 Agency: \_\_\_\_\_  
 BKF \$ 50 Booking Fee  
 RTN/RJN \$ 419.75 Restitution to: Department of L&I CVC Program, PO Box 44835, Olympia, WA 98504,  
 Claim# VR83134  
 \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_  
 (Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)  
 \$ 1269.75 Total RCW 9.94A.760

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

[ ] shall be set by the prosecutor.

[ ] is scheduled for \_\_\_\_\_ (date).

[ ] The defendant waives any right to be present at any restitution hearing (sign initials): \_\_\_\_\_

[ ] Restitution Schedule attached.

[ ] Restitution ordered above shall be paid jointly and severally with:

Name of other defendant      Cause Number      (Victim's name)      (Amount-\$)

RJN

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

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

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

[ ] The court orders the defendant to pay costs of incarceration at the rate of \$ \_\_\_\_\_ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760. (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480.)

000188

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

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

4.4 **DNA Testing.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754.

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

4.5 **No Contact:**

The defendant shall not have contact with Lane Hamblin including, but not limited to, personal, verbal, telephonic, written or contact through a third party until 11 March 2022 (which does not exceed the maximum statutory sentence).

The defendant is excluded or prohibited from coming within 1000 feet (distance) of:  
 Lane Hamblin's  home/ residence  work place  school  (other location(s))

\_\_\_\_\_, or  
 other location: \_\_\_\_\_, until \_\_\_\_\_ (which does not exceed the maximum statutory sentence).

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

4.6 **Other:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4.7 **Off-Limits Order, (Known drug trafficker).** RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: \_\_\_\_\_  
\_\_\_\_\_

**V. Notices and Signatures**

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

5.2 **Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.503(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

000189

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

**5.4 Community Custody Violation.**

(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.633.

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

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

**FIREARM RIGHTS STATEMENT: RCW 9.41.040.** I acknowledge that my right to own, use or possess any firearm has been lost due to felony conviction, or crimes involving domestic violence. My right to own, use, or possess a firearm may only be restored by a court of record. I acknowledge that I must immediately surrender any concealed pistol license. Owning, using, or possessing a firearm before the right is restored is a class C felony, RCW 9.41.040.  
Defendant's signature *[Signature]*

**5.6 Sex and Kidnapping Offender Registration. RCW 9A.44.128, 9A.44.130, 10.01.200.**

**1. General Applicability and Requirements:** Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.128, you are required to register.

If you are a resident of Washington, you must register with the sheriff of the county of the state of Washington where you reside. You must register within three business days of being sentenced unless you are in custody, in which case you must register at the time of your release with the person designated by the agency that has jurisdiction over you. You must also register within three business days of your release with the sheriff of the county of the state of Washington where you will be residing.

If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register within three business days of being sentenced unless you are in custody, in which case you must register at the time of your release with the person designated by the agency that has jurisdiction over you. You must also register within three business days of your release with the sheriff of the county of your school, where you are employed, or where you carry on a vocation.

**2. Offenders Who are New Residents or Returning Washington Residents:** If you move to Washington or if you leave this state following your sentencing or release from custody but later move back to Washington, you must register within three business days after moving to this state. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within three business days after starting school in this state or becoming employed or carrying out a vocation in this state.

**3. Change of Residence Within State:** If you change your residence within a county, you must provide, by certified mail, with return receipt requested or in person, signed written notice of your change of residence to the sheriff within three business days of moving. If you change your residence to a new county within this state, you must register with the sheriff of the new county within three business days of moving. Also within three business days, you must provide, by certified mail, with return receipt requested or in person, signed written notice of your change of address to the sheriff of the county where you last registered.

000190

**4. Leaving the State or Moving to Another State:** If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within three business days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. If you move out of the state, you must also send written notice within three business days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

**5. Notification Requirement When Enrolling In or Employed by a Public or Private Institution of Higher Education or Common School (K-12):** You must give notice to the sheriff of the county where you are registered within three business days:

i) before arriving at a school or institution of higher education to attend classes;

ii) before starting work at an institution of higher education; or

iii) after any termination of enrollment or employment at a school or institution of higher education.

**6. Registration by a Person Who Does Not Have a Fixed Residence:** Even if you do not have a fixed residence, you are required to register. Registration must occur within three business days of release in the county where you are being supervised if you do not have a residence at the time of your release from custody. Within three business days after losing your fixed residence, you must send signed written notice to the sheriff of the county where you last registered. If you enter a different county and stay there for more than 24 hours, you will be required to register with the sheriff of the new county not more than three business days after entering the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. You must keep an accurate accounting of where you stay during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

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

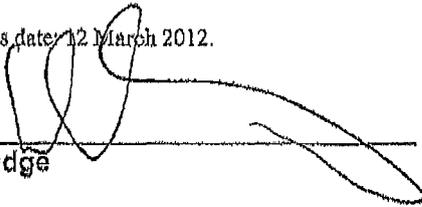
**5.7 Motor Vehicle:** If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must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

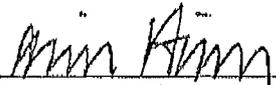
000191

5.9 Other: \_\_\_\_\_

5.10 BOND IS HEREBY EXONERATED. Kittitas County Clerk is hereby authorized to repay cash bail to the payor thereof or his/her designee.

Done in Open Court and in the presence of the defendant this date: 12 March 2012.

  
\_\_\_\_\_  
Judge



Deputy Prosecuting Attorney  
WSBA No. 30417  
Chris Herion

Attorney for Defendant  
WSBA No. 00469  
Kenneth Beckley



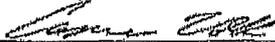
Defendant

Casmer J. Volk

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

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

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

Defendant's signature: 

I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the \_\_\_\_\_ language, which the defendant understands. I interpreted this Judgment and Sentence for the defendant into that language.

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

Signed at (city) \_\_\_\_\_, (state) \_\_\_\_\_, on (date) \_\_\_\_\_

\_\_\_\_\_  
Interpreter

\_\_\_\_\_  
Print Name

000192

**VI. Identification of the Defendant**

SID No. \_\_\_\_\_ Date of Birth \_\_\_\_\_  
 (If no SID complete a separate Applicant card  
 (form FD-258) for State Patrol)

FBI No. \_\_\_\_\_ Local ID No. \_\_\_\_\_

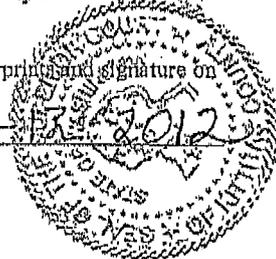
PCN No. \_\_\_\_\_ Other \_\_\_\_\_

Alias name, DOB: \_\_\_\_\_

Race: Ethnicity: Sex:  
 Asian/Pacific Islander     Black/African-American     Caucasian     Hispanic     Male  
 Native American     Other: \_\_\_\_\_     Non-Hispanic     Female

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

Clerk of the Court, Deputy Clerk, Therese Oerger Dated: 3-13-2012



The defendant's signature: [Signature]

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

SUPERIOR COURT OF WASHINGTON  
KITITAS COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 11-1-00084-1

vs.

CASMER JOSEPH VOLK,

Defendant,

JUDGMENT AND SENTENCE  
(APPENDIX 4.6)

Defendant shall report to the Department of Corrections at 1109 So. Industrial Way, Ellensburg, Washington, within 72 hours of the commencement of community supervision.

- (1) Defendant shall maintain law abiding behavior.
- (2) Defendant shall not associate with codefendant(s) or anyone on active supervision without permission of his/her supervising Community Corrections Officer.
- (3) Defendant shall not change his/her place of residence without first obtaining permission of his/her Supervising Community Corrections Officer.
- (4) Defendant shall maintain full-time employment. If unemployed, defendant shall actively seek full-time employment and report weekly to the supervising Community Corrections Officer until full-time employment is found. Defendant shall not terminate or change employment without prior approval from the supervising Community Corrections Officer. Employment can include educational and training programs.
- (5) Defendant shall obtain a substance abuse evaluation through a qualified, certified substance abuse evaluation/treatment agency. Defendant shall enter into; make reasonable progress in; and successfully complete any recommended inpatient or outpatient treatment programs resulting from this evaluation, including any additional recommendations and/or program changes made by treatment staff during the course of treatment. Defendant shall not terminate treatment without prior written authority of the program officials in conjunction with the approval of the supervising Community Corrections Officer. Defendant must follow all rules, regulations, and requirements of the treatment provider(s).
- (6) Defendant will not purchase, possess, or consume any dangerous drugs, narcotics, or controlled substances without a valid prescription from a licensed physician. Defendant must provide verification of all prescriptions to the supervising Community Corrections Officer within 72 hours of receipt.
- (7) Defendant shall not associate with persons involved in the use, sales and/or possession of dangerous drugs, narcotics or controlled substances.
- (8) Defendant shall not enter into or remain in areas where dangerous drugs, narcotics, or controlled substances are being sold/purchased, possessed, and/or consumed.
- (9) Defendant shall not purchase, possess, and/or consume any intoxicating liquors.
- (10) Defendant shall not enter into or remain in establishments where alcohol is the main source of revenue. This does not include a restaurant which is attached to but separate from a bar/lounge area.

000194

- (11) Defendant shall submit to testing of his/her blood, urine, and/or breath as directed by the supervising Community Corrections Officer to monitor compliance with drug and/or alcohol conditions of supervision. This testing shall be at the defendant's own expense.
- (12) Defendant shall obtain a batterers treatment/anger management evaluation. Defendant shall enter into, make reasonable progress in, and successfully complete any program of treatment recommended as a result of this evaluation, including any additional recommendations and/or program changes made by treatment staff during the course of treatment. Defendant shall not terminate treatment without prior written authority of the program officials and in conjunction with the approval of the supervising Community Corrections Officer.
- (13) Defendant shall undergo a complete psychiatric evaluation by a licensed psychiatrist or psychologist. Defendant shall enter into and make reasonable progress in any program of treatment recommended as a result of this evaluation, including any additional recommendations and/or program changes made by the treatment staff during the course of treatment. Defendant shall not terminate treatment without prior written authority of program officials and in conjunction with the approval of the supervising Community Corrections officer.
- (14) Defendant shall have no direct and/or indirect contact with Lane Hamblin.
- (15) Defendant shall obtain a sexual deviancy evaluation from a certified sexual deviancy treatment provider. Defendant shall enter into, make reasonable progress in and successfully complete any program of treatment recommended as a result of this evaluation, including any additional recommendations and/or program changes made by the treatment staff during the course of treatment. Defendant shall not terminate treatment or change treatment providers without prior written authorization from the court. Defendant must follow all rules, regulations, and requirements of the treatment provider.
- (16) Defendant shall have no direct and/or indirect contact with minors under the age of 18, without the prior approval of the treatment provider and the supervising Community Corrections Officer.
- (17) Defendant shall not frequent areas where minors are known to congregate including but not limited to schools, parks, playgrounds, arcades, and swimming pools.
- (18) Defendant is not to purchase, possess, or use pornographic material. Pornographic material will be defined by the treatment provider, the supervising Community Corrections Officer, and the Court.
- (19) Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

000195

APPENDIX \_\_\_\_\_

Payment of Legal Financial Obligations

Defendant's compliance with the legal financial obligations ordered herein shall be monitored by the Kittitas County Collections Deputy Clerk and/or Restitution Specialist. Defendant is required to make a minimum monthly payment of \$100 each calendar month, unless other arrangements are made with the Kittitas County Clerk's Office.

Defendant's first payment shall be due 30 days from the date of the Judgment and Sentence was signed in court. If the defendant fails to make such payment, Defendant shall be sent a summons requiring them to appear at an Administrative Hearing on an assigned date.

Defendant shall make his/her payment within seven days of the due date thereafter until said legal financial obligation is paid in full. If the Defendant is unable to pay within seven days of the due date, or is unable to pay the full amount, contact with the Kittitas County Collections Deputy Clerk or Restitution specialist is required so other arrangements can be made.

If Defendant has not made the minimum payment in the preceding calendar month, does not appear at the scheduled Administrative Hearing and does not contact the Collections Deputy Clerk or Restitution Specialist, he/she shall be determined to be delinquent with their account and shall be required to appear for a scheduled Show Cause Hearing. If Defendant does not appear for said hearing, a warrant shall be issued, without further notice to the defendant. Payments shall be made in person or by mail (cashier's check or money order) to the Kittitas County Superior Court Clerk, 205 W. 5<sup>th</sup> Ave., Room 210, Ellensburg, WA 98926.

A collection fee of \$100 will be assessed if the Defendant falls one month past due on his/her legal financial obligation and/or an order to show cause is entered.

The Defendant must notify the Clerk of the Court within 48 hours of any change in address of employment status as long as there are legal financial obligations owing.

000196

Attachment "E"

Special Verdict

IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR KITTITAS COUNTY

FILED

12 JAN 20 PM 1:12

STATE OF WASHINGTON,

KITTITAS COUNTY NO. 00084-1  
SUPERIOR COURT CLERK

vs.

12-9-00029-6

CASMER JOSEPH VOLK,

SPECIAL VERDICT FORM,

Defendant.

We, the jury, having unanimously found the Defendant, Casmer Joseph Volk guilty of the crime of Rape of a Child in the First Degree, return a special verdict by answering as follows:

During the commission of the crime of Rape of a Child in the First Degree, as charged in Count I, did the defendant, CASMER JOSEPH VOLK, know or should he have known that the victim of the current offense was particularly vulnerable or incapable of resistance?

ANSWER: Yes (Write "yes" or "no")

DATE: Jan, 20 2012.

  
PRESIDING JUROR

ORIGINAL

90

000198

RECEIVED  
SUPREME COURT  
STATE OF WASHINGTON  
Sep 04, 2014, 4:28 pm  
BY RONALD R. CARPENTER  
CLERK

FILED

JUL 25 2014

JOYCE L. JULSRUD, CLERK  
KITITAS COUNTY, WASHINGTON

RECEIVED BY E-MAIL

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

STATE OF WASHINGTON,

Plaintiff,

v.

CASMER VOLK,

Defendant.

CAUSE NO. 11-1-00084-1

NOTE FOR MOTION

TO THE CLERK OF THE COURT and TO:

Casmer Volk  
Airway Heights Corrections Center  
PO Box 1899  
Airway Heights, WA 99001-1899

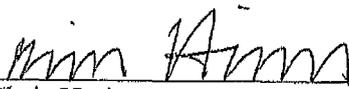
Marie Trombley  
Appellate Counsel  
PO Box 829  
Graham, WA 98338-0829

PLEASE TAKE NOTICE that on Monday, August 11, 2014 at 0900, the State of Washington will move the trial court to enter proposed written findings of fact and conclusions of law (previously filed) regarding the trial court's imposition of an exceptional sentence on

1 March 12, 2012 based upon an affidavit previously filed. The Clerk is asked to strike the  
2 previous date set of September 8, 2013.  
3

4 DATED this 25th day of July 2014  
5

6 Presented by:  
7

8   
9 \_\_\_\_\_  
10 Chris Herion  
11 Kittitas County Deputy Prosecutor  
12 WSBA #30417  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26



## OFFICE RECEPTIONIST, CLERK

---

**To:** Chris Herion  
**Cc:** 'Marie Trombley'; Sarah Keith; Theresa Larsen  
**Subject:** RE: Casmer Volk 90005-1

Received 9/4/14

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

**From:** Chris Herion [mailto:Chris.Herion@co.kittitas.wa.us]  
**Sent:** Thursday, September 04, 2014 4:23 PM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Cc:** 'Marie Trombley'; Sarah Keith; Theresa Larsen  
**Subject:** Casmer Volk 90005-1

Supreme Court Administrator,

In advance of oral argument on September 16, 2014, please find the State of Washington's Motion to Supplement the Record with designated Clerk's Papers 137, 139, and 145.

I have included Appellant's counsel Marie Trombley on this email.

We will send the same to Mr. Volk at Airway Heights.

Thank you,

/s/

Chris Herion  
Kittitas County Deputy Prosecutor

---

Notice: All email sent to this address will be received by the Kittitas County email system and may be subject to public disclosure under Chapter 42.56 RCW and to archiving and review.

message id: 38eb45916c6dcdbdac24bb8719d004a14

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

FILED

14 SEP -4 AM 11:38

KITTITAS COUNTY  
SUPERIOR COURT CLERK

RECEIVED  
AUG 14 2014  
KITTITAS COUNTY  
PROSECUTING ATTORNEY

RECEIVED  
SUPREME COURT  
STATE OF WASHINGTON  
Sep 04, 2014, 4:28 pm  
BY RONALD R. CARPENTER  
CLERK

RECEIVED BY E-MAIL

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

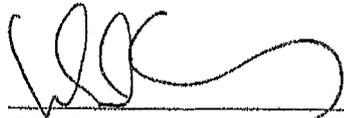
STATE OF WASHINGTON,  
  
Plaintiff,  
  
v.  
  
CASMER VOLK,  
  
Defendant.

CAUSE NO. 11-1-00084-1

**RULING ON STATE'S MOTION  
TO ENTER FINDINGS WHILE  
CASE IS ON APPEAL**

THE COURT, on August 11, 2014, having heard the State of Washington's motion for the court to enter written findings regarding its sentence of the defendant, while defendant's case is on appeal before the Washington Supreme Court on this issue, hereby finds that the State of Washington's proposed findings accurately reflect its sentencing of Mr. Volk. However, the court declines to enter written findings, pending appeal before the Washington Supreme Court on this issue, because the court does not find it has the authority per RAP 7.2.

DATED this 13 day of August 2014.

  
\_\_\_\_\_  
JUDGE Michael McCarthy

Kittitas County Prosecutor's Office  
205 W 5<sup>th</sup> Ave Ste 213  
Ellensburg, WA 98926  
509-962-7520  
509-962-7022 Fax

## OFFICE RECEPTIONIST, CLERK

---

**To:** Chris Herion  
**Cc:** 'Marie Trombley'; Sarah Keith; Theresa Larsen  
**Subject:** RE: Casmer Volk 90005-1

Received 9/4/14

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

**From:** Chris Herion [mailto:Chris.Herion@co.kittitas.wa.us]  
**Sent:** Thursday, September 04, 2014 4:23 PM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Cc:** 'Marie Trombley'; Sarah Keith; Theresa Larsen  
**Subject:** Casmer Volk 90005-1

Supreme Court Administrator,

In advance of oral argument on September 16, 2014, please find the State of Washington's Motion to Supplement the Record with designated Clerk's Papers 137, 139, and 145.

I have included Appellant's counsel Marie Trombley on this email.

We will send the same to Mr. Volk at Airway Heights.

Thank you,

/s/

Chris Herion  
Kittitas County Deputy Prosecutor

---

Notice: All email sent to this address will be received by the Kittitas County email system and may be subject to public disclosure under Chapter 42.56 RCW and to archiving and review.

message id: 38eb45916c6dcbdac24bb8719d004a14