FILED
Court of Appeals
Division I
State of Washington
5/11/2018 4:05 PM

No. 97452-7

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

DON WESLEY WINTON, Petitioner, *vs* STATE OF WASHINGTON, Respondent.	**NO.** _____ PERSONAL RESTRAINT PETITION

I. BASIS FOR RESTRAINT

Petitioner, Mr. Winton, is a probationer subject to the authority of the Department of Corrections, the Indeterminate Sentence Review Board, and conditions set forth in his Judgment and Sentence for the remainder of his life. Mr. Winton resides in Des Moines, Washington. Mr. Winton brings this petition to rectify the following unlawful conditions of his release: (1) an order which prohibits Mr. Winton from entering the City of Seattle, Clallam County, and Clark County; (2) an order which prohibits Mr. Winton from entering Skamania County or the State of Oregon north of Highway 20; and (3) an order requiring Mr. Winton to submit to random urinalysis testing for drugs and/or alcohol.

On July 5, 2007, in Clark County Superior Court Cause No. 06-01-02237-8, Mr. Winton pleaded guilty to two counts of child molestation in the first degree involving victim G.L.D. (Mr. Winton's niece) and one count of child molestation in the third degree involving victim A.L.D.

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(Mr. Winton's stepdaughter). He was sentenced on October 23, 2007 to an indeterminate sentence with a minimum term of 98 months and a maximum term of life imprisonment. *Exhibit A.* A lifetime no-contact order was entered with respect to victim G.L.D. *Exhibit B.* A five-year no-contact order was entered with respect to victim A.L.D. (referred to erroneously in the order as "A.L.W."), which expired on 10/23/2012. *Exhibit C.*

On September 29, 2014, by order of the Indeterminate Sentence Review Board, Mr. Winton was released from total confinement and placed on restrictions and supervision of the Department of Corrections. *Exhibit D.*

A. Geographic Restrictions

Among the restrictions imposed upon Mr. Winton was a prohibition on entering the City of Seattle, Clark County, and Clallam County without prior written approval of Mr. Winton's Community Corrections Officer and the Indeterminate Sentence Review Board. *Id.*

Prior to Mr. Winton's release, the Board imposed additional conditions of no-contact with eight individuals, including victim A.L.D., Mr. Winton's two ex-wives, the current husband of one of Mr. Winton's ex-wives, and three of Mr. Winton's adult children. *Exhibit E.*

On July 15, 2015, Mr. Winton requested that the prohibition on travel to Seattle be lifted. The Board denied Mr. Winton's request due to "community concerns." *Exhibit F.* Mr. Winton again requested the travel prohibition be lifted on June 29, 2016, and his request was denied. *Exhibit G and H.* To Mr. Winton's knowledge, the victims do not reside in Seattle, and the decision denying Mr. Winton's request did not indicate that any victim was residing in the City of Seattle.

On October 24, 2014, the Indeterminate Sentence Review Board imposed the following condition: "You must not enter Skamania County or the State of Oregon north of Highway 20

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without prior written approval of your CCO and the ISRB." *Exhibit I.* This order was amended March 4, 2016 to prohibit travel to Arch Cape, Oregon without prior written approval of Mr. Winton's CCO. *Exhibit J.* This condition prohibits Mr. Winton from entering the entire northern half of Oregon. *Exhibit K.*

B. Urine Collection and Testing

Among other restrictions set forth in the Judgement and Sentence, is a boilerplate restriction indicating that Mr. Winton shall "not consume controlled substances except pursuant to lawfully issued prescriptions." *Exhibit A*, at 7. The court declined to impose the following conditions listed in the Judgement and Sentence form: "The defendant shall not consume any alcohol," "Defendant shall not use or possess alcoholic beverages at all [or] to excess," "Defendant shall submit to urine, breath or other screening whenever requested to do so by the treatment program staff and/or the community corrections officer." *Id.* at 7-8. The court scratched out a prefilled check-marked box next to the proposed restriction that "Defendant shall not possess, use or deliver drugs prohibited by the Uniform Controlled Substances Act, or any legend drugs, except by lawful prescription. The defendant shall notify his/her community corrections officer on the next working day when a controlled substance or legend drug has been medically prescribed," and wrote the word "NO" next to the scratched-out, check-marked box. *Id.* at 8. The court additionally ordered that the "Defendant shall submit to affirmative acts necessary to monitor compliance with the orders of this court as required by the Department of Corrections." *Id.* at 10.

The Judgment and Sentence further incorporates "Appendix A" (the Prosecutor's Pretrial Offer) and "Appendix F" (additional conditions proposed by the Department of Corrections). *Id.* at 11. Appendix F does not include any drug or alcohol related conditions. Appendix A includes a condition that the defendant "not possess, consume, or deliver

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controlled substances, except pursuant to a lawfully issued prescription." The following conditions in Appendix A were scratched out and initialed by the deputy prosecuting attorney: that the defendant "not possess or consume alcohol," "submit to urine, breath, or other screening whenever requested to do so by the program staff or your community corrections officer."

On May 11, 2017, the Indeterminate Sentence Review Board issued a decision requiring Mr. Winton to "submit to random drug and/or alcohol monitoring through an agency approved by [his] CCO and sign a full release of information allowing the treatment or monitoring agency to release information to [his] CCO and the Indeterminate Sentence Review Board (ISRB)." *Exhibit L.* Mr. Winton objected to the imposition of this requirement in writing on May 24, 2017. *Exhibit M.* The Board responded to Mr. Winton on July 7, 2017, noting that the Judgment and Sentence authorized urinalysis testing because it required Mr. Winton to submit to affirmative acts necessary to monitor compliance with the orders of the court, including the order that Mr. Winton refrain from consuming controlled substances. *Exhibit N.*

II. STANDARD OF REVIEW

A petitioner may challenge a decision from which he had "no previous alternative for obtaining state judicial review if he is under restraint and the restraint is unlawful. RAP 16.4(a),(c); *In re Cashaw*, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994). A petitioner is under restraint if his freedom is limited because of a court decision in a civil or criminal proceeding, he is confined or subject to immediate confinement, or he is under some other disability resulting from a judgment or sentence in a criminal case. RAP 16.4(b). A condition prohibiting an offender from entering a county limits the offenders freedom and therefore constitutes a restraint. *In re Personal*

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Restraint of Martinez, ___ Wash. App.___ (Division II, 2018) (WL*1391790). A restraint is unlawful if it violates either constitutional or state law. RAP 16.4(c)(2),(6).

III. LEGAL ARGUMENT AND AUTHORITIES

A. Geographic Restriction

The banishment orders prohibiting Mr. Winton from entering the City of Seattle; Clark County, Washington; Clallam County, Washington; Skamania County, Washington; and the State of Oregon north of Highway 20 absent advance written approval of both his corrections officer and the Indeterminate Review Board are unconstitutional.

The Indeterminate Sentence Review Board has the authority to require an offender to remain outside a geographic boundary. *Martinez*, *supra,* citing RCW 9.95.420(3). However, that authority is subject to constitutional limitations, including the offender's constitutional right to travel. *Id.*

In *State v. Schimelpfenig*, 128 Wn. App. 224, 115 P.3d 338 (2005), the defendant, who was found guilty of murder in the first degree, was prohibited from residing in Grays Harbor County for the remainder of his life in order to protect the mental well-being of the victim's family.[1] The court of appeals vacated the banishment order because it violated Mr. Schimelpfenig's right to travel within the state. The court determined that strict scrutiny applies when reviewing a banishment order, and thus the order must be narrowly tailored to serve a compelling governmental interest. *Id.* At 226. After a review of case law from other jurisdictions, the court set forth a nonexclusive set of factors to aid in determining whether a particular geographic restriction impermissibly infringes on a defendant's right to travel:

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[1] The order at issue in *Schimelpfenig* did not prohibit the defendant from entering the county for work or recreational purposes. It merely prohibited the defendant from residing in Gray Harbor.

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> (1) whether the restriction is related to protecting the safety of the victim or witness of the underlying offense; (2) whether the restriction is punitive and unrelated to rehabilitation; (3) whether the restriction is unduly severe and restrictive because the defendant resides or is employed in the area from which he is banished; (4) whether the defendant may petition the court to temporarily lift the restriction if necessary; and (5) whether less restrictive means are available to satisfy the State's compelling interest.

Id. At 228-29.

The court in *Schimelpfenig* declined to determine whether or not the government had a compelling interest in prohibiting the defendant from residing in Gray's Harbor, though it did note a distinction between protecting the victim's family from being reminded of the defendant and protecting a victim or witness from a continuing threat. *Id.* At 229. Instead, the court decided the issue based upon the fact that the order was not narrowly tailored. A more narrowly-tailored restriction would satisfactorily protect the victim's family from being reminded of their loss, and the defendant was already prohibited from contacting the victim's family. *Id.* At 230.

Similarly, in *State v. Simms,* 152 Wn. App. 526, 216 P.3d 470 (2009) (overruled in part on other grounds by 171 Wn.2d 436, 256 P.3d 285 (2010)), the court of appeals held that an order, issued as a condition of a Special Sex Offender Sentencing Alternative, which prohibited the defendant from entering Cowlitz County except when driving through the county to another locale, was unconstitutionally broad. The purpose of the order was to protect the mental well-being of the victim and her family, who lived in Cowlitz County. The court of appeals determined that a more narrowly-tailored restriction would accomplish this purpose.

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i. City of Seattle[2]

In the present case, the restriction prohibiting Mr. Winton from entering the City of Seattle does not serve a compelling governmental interest and is overbroad. First, the banishment order does not serve a compelling governmental interest. Neither of the victims reside in the City of Seattle. Unspecified concerns from community members are not a compelling reasons for the government to encroach upon Mr. Winton's right to travel. Such concerns should be distinguished, as the court noted in *Schimelpfenig*, from an actual continuing threat to a victim or witness. 128 Wn. App. 229. Second, even assuming, arguendo, that a compelling governmental interest exists, the banishment order in this case is not narrowly tailored to meet that purpose. There are no contact orders in place prohibiting the defendant from having any contact with the victims, as well as various other family members, and the defendant has remained in compliance with those orders.

Further, the order is unduly restrictive. Seattle is the largest city in the State of Washington and is the epicenter of business and cultural life in the region. Mr. Winton has, since 1974, worked in the real estate industry. Mr. Winton earns his living currently by purchasing, managing, and selling various commercial and residential properties. The banishment order in effect significantly impacts Mr. Winton's business dealings because the real estate with the best possible return is generally located in the City of Seattle. When commercial listings become available within the Seattle city limits, a potential buyer must act quickly and view the property immediately in order to take advantage of the opportunity. Additionally, numerous commercial mortgage lenders, commercial real estate brokerage firms,

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[2] The provision of the order prohibiting entry into the City of Seattle is addressed separate and apart from the provisions concerning Clark and Clallam Counties because the provision concerning the City of Seattle does not involve the same state interests and has more far-reaching implications in Mr. Winton's life, including the conduct of his business, than the other provisions.

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and title insurance companies have their primary offices downtown. When Mr. Winton completes a real estate transaction, he must work out arrangements to meet with various parties to the transaction outside Seattle, which can be difficult due to the rapid pace of such transactions and the need to obtain signatures quickly. Further, Mr. Winton is also unable to participate in trustee's sales, which occur on the court house steps in downtown Seattle. Because he is prohibited from entering the City of Seattle, Mr. Winton is unable to bid on any King County foreclosure auctions. Moreover, Mr. Winton is unable to attend sporting or other cultural events in the City of Seattle, such as off Broadway plays and concerts. Prior to his incarceration, Mr. Winton held Seahawks season tickets and attended University of Washington football games.

ii. *Clark and Clallam Counties*

The order prohibiting Mr. Winton from entering Clark and Clallam Counties is overly broad to serve the presumptive purpose of prohibiting contact between Mr. Winton and the victims in this case. No contact orders are sufficient to achieve this purpose and are already in effect. There is no indication that Mr. Winton would fail to abide by those orders or that he presents a present threat to the victims. Mr. Winton was released approximately four years ago and has not violated any conditions.

Moreover, the geographic restriction is overly broad as it prohibits even travel through the Clark County along the heavily trafficked Interstate-5. While the orders in *Simms* and *Schimelpfenig* at least allowed for travel through the county, there is no similar exception in the order at issue in Mr. Winton's case.

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iii. *Skamania County and Northern Oregon*

The order prohibiting Mr. Winton from entering Skamania County and the northern half of Oregon, north of Highway 20, serves no discernible state interest and covers an extraordinarily large area. This order is far broader than the orders found to be unconstitutional in *Simms* and *Schimelpfenig*. In both of those cases, the unconstitutionally overbroad geographic restrictions spanned a single county, whereas the restriction placed upon Mr. Winton spans more than twenty separate counties in two states.

B. Urine Collection and Testing

Wash. Const. art. 1, § 7 provides that no person shall be disturbed in his or her private affairs without authority of law. Wash. Const. art. 1, § 7 provides greater protection than the Fourth Amendment to the United States Constitution. In particular, Washington courts have interpreted our state constitution to provide increased protection with regard to the collection and testing of urine.

Nonconsensual removal of bodily fluids implicates privacy interests which are protected by WA Const. Art 1, Sec. 7. *State v. Olsen*, 189 Wn.2d 118, 124, 399 P.3d 1141 (2017); *York v. Wahkiakum Sch. Dist. No. 200*, 163 Wn.2d 297, 307-08, 178 P.3d 995 (2007). Urinalysis testing implicates protected privacy interests because the act of providing a urine sample is fundamentally intrusive, and because a chemical analysis of the urine sample can reveal private medical information about a person. *Olsen*, 189 Wn.2d at 124. Because urinalysis testing constitutes a disturbance of one's private affairs, such action can only be undertaken with authority of law. *Id.* at 126.

Ordinarily, an intrusion into an individual's private affairs is conducted with authority of law when the government obtains a warrant or a recognized exception to the warrant

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requirement exists. *Id.* Probationers have a reduced expectation of privacy. *State v. Cornwell,* ___ Wash. App.___ (2018) (WL*1322001). However, "this diminished expectation of privacy is constitutionally permissible only to the extent necessitated by the legitimate demands of the operation of the parole process." *State v. Parris,* 163 Wn. App. 110, 259 P.3d 331 (2011). The State may not conduct suspicionless exploratory searches of probationers. *State v. Lucas*, 56 Wn. App. 236, 243-44, 783 P.2d 121 (1989). A warrantless search of a parolee or probationer must be supported by a well-founded suspicion that a violation has occurred. *State v. Parris*, 163 Wn. App. 110, 119, 259 P.3d 331 (2011). Further, there must be a nexus between the search and the well-founded suspicion; fishing expeditions are not authorized. *Olsen,* 189 Wn.2d at 134, *Cornwell*, *supra.*

In *State v. Olsen*, the court first addressed the constitutionality of random urinalysis testing. 189 Wn.2d 118 In *Olsen*, the Defendant, who was on probation after having been found guilty of driving under the influence, was ordered by the terms of the Judgement and Sentence to submit to random urinalysis testing. *Id.* While ordinarily, invasion into the private affairs of a probationer requires well-founded suspicion of a violation, the court applied a different standard in the context of DUI probationers with respect to random urinalysis testing: whether the government has a compelling interest supporting the intrusion and whether the intrusion is narrowly tailored to meet that purpose. *Id.* at 128. If the government can show that the intrusion is narrowly tailored to serve a compelling governmental interest, the Judgment and Sentence provides sufficient authority of law to authorize the search. *Id.* The court held that where a probationer has been convicted of a DUI, the government has a compelling interest in ensuring compliance with a condition of probation that he or she refrain from consuming intoxicating substances because of the State's duty to promote and assess the rehabilitation of a DUI probationer as well as to protect the public. *Id.* at 129. The court noted that the public

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safety risk is substantial due to the high number of fatalities resulting from alcohol-impaired drivers. *Id.* The court further held that the Judgement and Sentence provision requiring the defendant to submit to random urinalysis testing was narrowly tailored to serve this purpose because randomized testing is necessary to deter consumption of drugs or alcohol by putting the probationer on notice that such consumption can be discovered at any time. *Id.* at 130-31.

The standard set forth in *Olsen* is inapplicable here. First, unlike the Judgment and Sentence in *Olsen*, the Judgment and Sentence does not authorize random urinalysis testing in Mr. Winton's case. In *Olsen*, the court's explicit order that the probationer submit to random drug testing constituted the authority of law to support the repeated invasion into the probationer's privacy. In fact, the Judgment and Sentence clearly indicates that the court did not intend to authorize a program of randomized urinalysis collection and testing. Second, there is no nexus between Mr. Winton's offenses and the consumption of drugs or alcohol. The condition imposed by the Superior Court which requires Mr. Winton to refrain from possessing or consuming controlled substances is very different from a random urinalysis testing condition imposed upon a DUI offender, where the consumption of alcohol, marijuana, or controlled substances is central to the underlying offense. Because Mr. Winton's offenses did not involve alcohol or controlled substances, the court's special test for urinalysis testing for DUI probationers does not apply. Thus, there is no basis to treat urinalysis testing here differently than any other search or intrusion into Mr. Winton's private affairs to ensure compliance with the conditions of his probation, and, therefore, a well-founded suspicion of a violation is required before the Department of Corrections is authorized to obtain a urine sample from Mr. Winton.

Even if the standard set forth in *Olsen* is applicable to the present case, the State cannot show that there is a substantial and compelling reason to conduct random urinalysis testing in

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Mr. Winton's case. His offense did not involve drugs or alcohol. He was not subject to the urinalysis testing requirement until May of 2017, approximately thirty-two months after he was released from total confinement. There is no indication that drugs or alcohol are a particular issue in Mr. Winton's case. Further, the State cannot show that the use of random urinalysis testing, which would provide information to the State regarding Mr. Winton's use of alcohol or other substances that he is not prohibited from using, is narrowly tailored to serve any compelling purpose. The random urine collection and testing in Mr. Winton's case is nothing more than a fishing expedition.

Further, RCW 9.94A.704(6) prohibits the Department from imposing conditions that are contrary to those ordered by the court or contravene a court-imposed condition. The court made clear that it did not intend to require Mr. Winton to submit to random urinalysis testing when it affirmatively scratched out a pre-checked box in the Judgement and Sentence which would have imposed such a condition. The court similarly declined to impose other restrictions on the defendant's consumption of alcohol, and declined to order the defendant to submit to urinalysis testing. Further, the court incorporated Appendix A into the Judgement and Sentence, in which the proposed conditions that Mr. Winton submit to urinalysis and other testing and refrain from consuming alcohol were both scratched out and initialed by the prosecuting attorney.

IV. CONCLUSION

For the foregoing reasons, the petitioner respectfully asks this court to order the State of Washington to remove the following unconstitutional restraints: (1) an order prohibiting Mr. Winton from entering the City of Seattle, Clark County, and Clallam County; (2) an order prohibiting Mr. Winton from entering Skamania County, and Oregon north of Highway 20; and (3)

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an order requiring Mr. Winton to execute a full release of information and submit to random urinalysis testing.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHIGTON THAT I AM THE ATTORNEY FOR PETITIONER DON WINTON, THAT I HAVE READ THE PETITION, KNOW ITS CONTENTS, AND I BELIEVE THE PETITION IS TRUE.

DATED this 11th day of May, 2018.

ELIZABETH MOUNT PENNER
WSBA No. 44261
Attorney for Petitioner

CERTIFICATE OF SERVICE:

I declare under penalty of perjury under the laws Of the State of Washington that the following is a true and correct: That on this date, I delivered via USPS , a copy of this Document to:

Washington State Attorney General's Office
PO Box 40116, Olympia, WA 98504

Department of Corrections
PO Box 41100 Mail Stop 41100, Olympia, WA 98504-1100

Indeterminate Sentence Review Board
PO Box 40907, Olympia, WA 98504-0907

SIGNED in Kent, Washington this 11th day of May, 2018.

ANGEL LOMBARDO

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EXHIBIT A

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Sherry W. Parker, Clerk, Clark Co.

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SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff, v. DON WESLEY WINTON, Defendant. SID: DOB: 11/22/1953	No. 06-1-02237-8 **FELONY JUDGMENT AND SENTENCE (JS)** **PRISON – COMMUNITY PLACEMENT/COMMUNITY CUSTODY** **NON PERSISTENT OFFENDER – RCW 9.94A.712** ☒ **Clerk's Action Required; Paragraph 4.5 (SDOSA), 4.2, 5.3, 5.6 and 5.8**

07-9-06913-4

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the Court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on July 5, 2007 by ☒ plea ☐ jury-verdict ☐ bench trial of:

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

as charged in the Amended Information.

☐ Additional current offenses are attached in Appendix 2.1.

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

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☐ A special verdict/finding that the offense was **predatory** was returned on Count(s) _____. RCW 9.94A.___.

☐ A special verdict/finding that the victim was under 15 years of age at the time of the offense was returned on Count(s) _____ RCW 9.94A.____.

☐ A special verdict/finding that the **victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult** at the time of the offense was returned on Count(s) _____ RCW 9.94A.___, 9A.44.010.

☐ A special verdict/finding of **sexual motivation** was returned on Count(s) _____. RCW 9.94A.835

☐ This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.

☐ A special verdict/finding for use of **firearm** was returned on Count(s) _____. RCW 9.94A.602, 510

☐ A special verdict/finding for use of **deadly weapon** other than a firearm was returned on Count(s) _____. RCW 9.94A.602

☐ A special verdict/finding for **Violation of the Uniform Controlled Substances Act (VUCSA)** was returned on Count(s) _____, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

☐ A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** was returned on Count(s) _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.

☐ The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.

☐ The court finds that the offender has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.

☐ The crimes charged in Count(s) _____ is/are **Domestic Violence** offense(s) as that term is defined in RCW 10.99.020:

☐ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are Count(s) _____. RCW 9.94A.589

☐ Additional misdemeanor crime(s) pertaining to this cause number are contained in a separate Judgment and Sentence.

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

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

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

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☐ Additional criminal history is attached in Appendix 2.2.

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

☐ The court finds that the following prior convictions are one offense for purposes of determining the offender score RCW 9.94A.525: _____

☐ The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520: _____

☐ The State has moved to dismiss count(s) _____.

☐ The defendant is found NOT GUILTY of Counts _____.

2.3 SENTENCING DATA:

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

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh Hom, See RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8).

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

2.4 ☐ EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence ☐ above ☐ within ☐ below the standard range for Count(s) _____.

☐ The defendant and the State stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the Sentencing Reform Act.

☐ Aggravating factors were: ☐ stipulated to by the defendant, ☐ admitted by the defendant in the guilty plea, ☐ found by the court after the defendant waived jury trial, ☐ found by jury by special interrogatory.

☐ The defendant stipulates and waives his right to have a jury determine any issues regarding the imposition of an exceptional sentence upward. *Apprendi v. New Jersey, 530 U.S. 466, 120 S. Ct 2348, 147 L. Ed 2d 435 (2000), Blakely v. Washington, ___ U.S. ___, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004).*

☐ Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.750/753.

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

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are ☒ attached ☐ as follows: Appendix A

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

III. JUDGMENT

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

3.2 ☐ The Court DISMISSES Counts _____.

☐ The defendant is found NOT GUILTY of Counts _____.

3.3 There ☐ do ☐ do not exist substantial and compelling reasons justifying an exceptional sentence outside the presumptive sentencing range

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

RTN/RJN	~~$5,196.00~~ ~~$[illegible]~~ ~~[illegible]~~ 5196	Restitution to be paid to: CVCP $550.84; Danielle Winton ~~$4645.46~~ $5455.16 ☐ Victim(s) and amounts to be set by separate court order	RCW 9.94A.750/ .753
PCV	$ 500.00	Victim Assessment	RCW 7.68.035
	$ _____	DV Penalty Assessment	RCW 10.99.080
CRC		Court Costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
FRC	$ 200.00	Criminal filing fee	RCW 9.94A.505
WFR	$ _____	Witness costs	RCW 10.01.160 and RCW 2.40.010
SFR/SFS/SFW/WRF	$ _____	Sheriff Service Fees	RCW 10.01.160 and 36.18.040
JFR	$ _____	Jury Demand Fee $ 250.00	RCW 10.01.160 and 10.46.190
EXT	$ _____	Extradition costs	RCW 9.94A.505
	$ _____	Other Costs _____	RCW 9.94A.760
PUB	$ _____ $ _____	Fees for court appointed attorney Trial per diem if applicable	RCW 9.94A.505/ .760/.030
WFR	$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.505, .760, 9.94A.030
FCM/MTH	$ 500.00	Fine	RCW 9A.20.021

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

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

☐ shall be set by the prosecutor

☐ is scheduled for _____

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

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

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

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

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

☒ In addition to the other costs imposed herein, the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate of $_____. (JRL) RCW 9.94A.760

☒ The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160. The defendant shall pay the cost of services to collect unpaid legal financial obligations. This is an annual fee which will be automatically renewed until financial obligations are completed. RCW 9.94A.780 and RCW 36.18.190

4.2 ☒ DNA TESTING. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency,

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the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43 754

☒ HIV TESTING. The defendant shall be tested and counseled for HIV as soon as possible and the defendant shall fully cooperate in the testing and counseling. RCW 70 24 340

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

4.3 The defendant shall not have contact with G L D (female, 8/8/1992), A L W (female, 7/2/1986) including, but not limited to, personal, verbal, telephonic, electronic, written or contact through a third party for life years (not to exceed the maximum statutory sentence). Any modifications of this order must occur by further order of the court after an appropriately scheduled hearing with notice to all parties and only after the defendant has secured a recommendation of approval, in writing, from the community corrections officer and the therapist. This condition applies during any period of incarceration.

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

☐ The defendant is ordered to reimburse _____(name of electronic monitoring agency) at _____, for the cost of pretrial electronic monitoring in the amount of $_____.

4.4 **OTHER:**

_____

_____

_____

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

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

58 ~~days~~/months on Count 01

44 ~~days~~/months on Count 03

Actual number of months of total confinement ordered is: 58
(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

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

The term(s) of confinement (sentence) imposed herein shall be served consecutively to any other term of confinement (sentence) which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein:

_____

Confinement shall commence immediately unless otherwise set forth here: _____

_____

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

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COUNT	Minimum Term	Maximum Term
02	75	Life

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

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

4.6 ☐ **COMMUNITY PLACEMENT** is ordered on Counts _____ for _____ months

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

☒ COMMUNITY CUSTODY is ordered on Counts 1 and ~~2~~ for a range from 36 to 16 months Counts III Life Count II 48 months or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700 and .705 for community placement offenses, which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and Chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 commited before July 1, 2000. See RCW 9.94A.715 for community custody range offenses, which include sex offenses not sentenced under RCW 9.94A.712 and violent offenses commited on or after July 1, 2000. Use paragraph 4.7 to impose community custody following work ethic camp.]

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

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

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at Department of Corrections-approved education, employment and/or community service; (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) pay supervision fees as determined by the Department of Corrections; (7) perform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections and (8) for sex offenses, submit to electronic monitoring if imposed by Department of Corrections. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement. The defendant's conditions of Community Placement/Community Custody include the following:

☐ The defendant shall not consume any alcohol

☐ Defendant shall have no contact with

_____

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☐ Defendant shall remain within the prescribed geographical boundary specified by his community corrections officer.

☐ If the offense was committed on or after July 24, 2005, you may not reside within eight hundred eighty (880) feet of the facilities and grounds of a public or private school RCW 9 94A 030

☒ For Sentences imposed under RCW 9.94A.712, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by the Department of Corrections. Emergency conditions shall not remain in effect longer than seven working days unless approved by the Indeterminate Sentence Review Board pursuant to law. RCW 9.94A.713.

☒ Other conditions may be imposed by the court or Department during community custody, or are set forth here:

_____

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

_____

☒ Defendant shall not violate any federal, state or local criminal laws, and shall not be in the company of any person known by him/her to be violating such laws.

☒ Defendant shall not commit any like offenses.

☒ Defendant shall notify his/her community corrections officer within forty-eight (48) hours of any arrest or citation.

☒ Defendant shall not initiate or permit communication or contact with persons known to him/her to be convicted felons, or presently on probation, community supervision/community custody or parole for any offense, juvenile or adult, except immediate family or as authorized by his/her community corrections officer for treatment/housing purposes. Additionally, the defendant shall not initiate or permit communication or contact with the following persons:

_____

☐ Defendant shall not have any contact with other participants in the crime, either directly or indirectly.

☐ Defendant shall not initiate or permit communication or contact with persons known to him/her to be substance abusers.

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

☐ Defendant shall not possess or use any paraphernalia that can be used for the ingestion or processing of controlled substances or that can be used to facilitate the sale or transfer of controlled substances including scales, pagers, police scanners, and hand held electronic scheduling and data storage devices.

☐ Defendant shall not frequent known drug activity areas or residences.

☐ Defendant shall not use or possess alcoholic beverages ☐ at all ☐ to excess.

The defendant ☐ will ☐ will not be required to take monitored antabuse per his/her community corrections officer's direction, at his/her own expense, as prescribed by a physician.

☐ Defendant shall not be in any place where alcoholic beverages are sold by the drink for consumption or are the primary sale item.

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☐ Defendant shall undergo an evaluation for treatment for ☐ substance abuse ☐ mental health ☐ anger management treatment ☐ parenting program and fully comply with **all** recommended treatment

☐ Defendant shall enter into cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a ☐ substance abuse ☐ mental health ☐ anger management treatment ☐ parenting program as established by the community corrections officer and/or the treatment facility.

☐ Defendant shall participate in a **domestic violence perpetrator program** as approved under RCW 26.50.150 and fully comply with all recommended treatment. RCW 9.94A.505 (11).

☐ Based upon the Pre-Sentence Report, the court finds reasonable grounds to exist to believe the defendant is a mentally ill person, and this condition was likely to have influenced the offense. Accordingly, the court orders the defendant to undergo a mental status evaluation and participate in outpatient mental health treatment. Further, the court may order additional evaluations at a later date, if deemed appropriate.

☒ Treatment shall be at the defendant's expense and he/she shall keep his/her account current if it is determined that the defendant is financially able to afford it.

☐ Defendant shall submit to urine, breath or other screening whenever requested to do so by the treatment program staff and/or the community corrections officer.

☐ Defendant shall not associate with any persons known by him/her to be gang members or associated with gangs.

☐ Defendant shall not wear or display any clothing, apparel, insignia or emblems that he/she knows are associated with or represent gang affiliation or membership as determined by the community corrections officer.

☐ Defendant shall not possess any gang paraphernalia as determined by the community corrections officer.

☐ Defendant shall not use or display any names, nicknames or monikers that are associated with gangs.

☒ Defendant shall comply with a curfew, the hours of which are established by the community corrections officer.

☐ Defendant shall attend and successfully complete a shoplifting awareness educational program as directed by the community corrections officer.

☒ Defendant shall attend and successfully complete the Victim Awareness Educational Program as directed by the community corrections officer.

☐ Defendant shall not accept employment in the following field(s):

_____

☐ Defendant shall not possess burglary tools.

☐ Defendant shall not possess ammunition or deadly weapons. The community corrections officer shall determine what meets the definition of a deadly weapon for supervision purposes.

☐ Defendant's privilege to operate a motor vehicle is suspended/revoked for a period of one year; two years if the defendant is being sentenced for a vehicular homicide.

☐ Defendant shall not operate a motor vehicle without a valid driver's license and proof of liability insurance in his/her possession.

☐ Defendant shall not possess a checkbook or checking account.

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☐ Defendant shall not possess any type of access device or P.I.N. used to withdraw funds from an automated teller machine.

☒ Defendant shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections

☒ Defendant shall not be eligible for a Certificate of Discharge until all financial obligations are paid in full and all conditions/requirements of sentence have been completed including no contact provisions.

☒ Defendant shall not enter into or frequent business establishments or areas that cater to minor children without being accompanied by a responsible adult. Such establishments may include but are not limited to video game parlors, parks, pools, skating rinks, school grounds, malls or any areas routinely used by minors as areas of play/recreation.

☒ Defendant shall not have any contact with minors. Minors mean persons under the age of 18 years. This provision shall not be changed without prior written approval by the community corrections officer, the therapist, the prosecuting attorney, and the court after an appropriate hearing.

☒ Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a Washington State certified sexual deviancy treatment program as established by the community corrections officer and/or the treatment facility. Defendant shall not change sex offender treatment providers or treatment conditions without first notifying the Prosecutor, community corrections officer and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. "Cooperate with" means the defendant shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity.

The sex offender therapist shall submit quarterly reports on your progress in treatment to the court, Department of Corrections, and prosecutor and the defendant shall execute a release of information to the community corrections officer, Prosecuting Attorney and the Court so that the treatment provider can discuss the case with them. The quarterly report shall reference the treatment plan and include the following, at a minimum: dates of attendance, the defendant's compliance with requirements, treatment activities, and relative progress in treatment.

☒ Defendant shall, at his/her own expense, submit to periodic polygraph examinations at the direction of his/her community corrections officer and/or Prosecuting Attorney to ensure compliance with the conditions of community placement/custody. This shall occur no less than twice yearly. Copies of the examination results shall be provided to the Prosecuting Attorney's office upon request. Such exams will be used to ensure compliance with the conditions of community supervision/placement, and the results of the polygraph examination can be used by the State in revocation hearings.

☒ Defendant shall, at his own expense, submit to periodic plethysmograph examinations at the direction of his/her community corrections officer to ensure compliance with the conditions of community placement/custody. Copies of the examination results shall be provided to the Prosecuting Attorney's office upon request

☒ Defendant shall not possess or use any pornographic material, defined as any pictorial material displaying direct physical stimulation of unclothed genitals, masturbation, sodomy (i.e. bestiality or oral or anal intercourse), flagellation or torture in the context of a sexual relationship, or emphasizing the depiction of adult or child human genitals: provided however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition as defined in RCW 9.68.130(2).or any equipment of any kind used for sexual gratification and defendant shall not frequent establishments that provide such materials or equipment for view or sale.

☒ Defendant shall sign necessary release of information documents as required by the Department of Corrections.

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

4.7 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020 The following areas are off limit to the defendant while under the supervision of the County Jail or Department of Corrections:

_____

4.8 The Bail or release conditions previously imposed are hereby exonerated and the clerk shall disburse it to the appropriate person(s).

4.9 This case shall not be placed on inactive or mail-in status until all financial obligations are paid in full.

4.10 When there is reasonable cause to believe that the defendant has violated a condition or requirement of this sentence, the defendant shall allow, and the Department of Corrections can conduct searches of the defendant's person, residence, automobiles or other personal property. Residence searches shall include access, for the purpose of visual inspection, all areas of the residence in which the defendant lives or has exclusive/joint control/access and automobiles owned and possessed by the defendant.

4.11 Other:

_____

_____

V. NOTICES AND SIGNATURES

5.1 **COLLATERAL ATTACK ON JUDGMENT**. Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090

5.2 **LENGTH OF SUPERVISION** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten (10) years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

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

5.4 **RESTITUTION HEARING**.

☐ Defendant waives any right to be present at any restitution hearing (sign initials): _____

5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634

5.6 **FIREARMS. You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record.** (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable

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identification to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047

Cross off if not applicable:

5.7 SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200.

1. General Applicability and Requirements: Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A 44.130, you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

2. Offenders Who Leave the State and Return: If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within three business days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within three business days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

3. Change of Residence Within State and Leaving the State: If you change your residence within a county, you must send signed written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send signed written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving and register with that sheriff within 24 hours of moving.You must also give signed written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

4. Additional Requirements Upon Moving to Another State: If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

5. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12): If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution, whichever is earlier. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within 10 days of such termination. (Effective September 1, 2006) If you attend, or plan to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW, you are required to notify the sheriff of the county of your residence of your intent to attend the school. You must notify the sheriff within 10 days of enrolling or 10 days prior to arriving at the school to attend classes, whichever is earlier. If you are enrolled on September 1, 2006, you must notify the sheriff immediately. The sheriff shall promptly notify the principal of the school.

6. Registration by a Person Who Does Not Have a Fixed Residence: Even if you do not have a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody. Within 48 hours excluding, weekends and holidays, after losing your fixed residence, you must send signed written notice to the sheriff of the county where you last registered. If you enter a different county and stay

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there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. You may be required to provide a list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

7. **Reporting Requirements for Persons Who Are Risk Level II or III:** If you have a fixed residence and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least 5 years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

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

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

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

5.10 Persistent Offense

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

☐ The crime(s) in count(s) _____ is/are one of the listed offenses in RCW 9.94A.030 (32)(b). Upon a second conviction of one of these listed offenses, the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody.

5.11 **OTHER:** _____

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

Robert Harris

JUDGE OF THE SUPERIOR COURT

Print Name: Robert Harris

Kimberly R. Farr, WSBA #08728
Deputy Prosecuting Attorney

Thomas C. Phelan, WSBA #11373
Attorney for Defendant

DON WESLEY WINTON
Defendant

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET • PO BOX 5000
VANCOUVER WASHINGTON 98666-5000
(360) 397-2261 (OFFICE)
(360) 397-2230 (FAX)

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261 (OFFICE)
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SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff, v. DON WESLEY WINTON, Defendant. SID: DOB: 11/22/1953	NO. 06-1-02237-8 **WARRANT OF COMMITMENT TO STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS**

THE STATE OF WASHINGTON, to the Sheriff of Clark County, Washington, and the State of Washington, Department of Corrections, Officers in charge of correctional facilities of the State of Washington:

GREETING:

WHEREAS, the above-named defendant has been duly convicted in the Superior Court of the State of Washington of the County of Clark of the crime(s) of:

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

and Judgment has been pronounced and the defendant has been sentenced to a term of imprisonment in such correctional institution under the supervision of the State of Washington, Department of Corrections, as shall be designated by the State of Washington, Department of Corrections pursuant to RCW 72.13, all of which appears of record; a certified copy of said judgment being endorsed hereon and made a part hereof,

NOW, THIS IS TO COMMAND YOU, said Sheriff, to detain the defendant until called for by the transportation officers of the State of Washington, Department of Corrections, authorized to conduct defendant to the appropriate facility, and this is to command you, said Superintendent of the appropriate facility to receive defendant from said officers for confinement, classification and placement in such correctional facilities under the supervision of the State of Washington, Department of Corrections, for a term of confinement of :

COUNT	CRIME	Minimum Term	Maximum Term

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

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

The defendant has credit for 110 days served.

The term(s) of confinement (sentence) imposed herein shall be served consecutively to any other term of confinement (sentence) which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein:

And these presents shall be authority for the same.

HEREIN FAIL NOT.

WITNESS, Honorable Robert Harris

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

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

Seal of the Superior Court STATE OF WASHINGTON Of Clark County

By: Heather Hurst
Deputy

VOTING RIGHTS STATEMENT: I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony. RCW 9.94A.660.

Defendant's signature: X

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

Interpreter signature/Print name:_____

I, SHERRY W. PARKER, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State, by:_____, Deputy Clerk

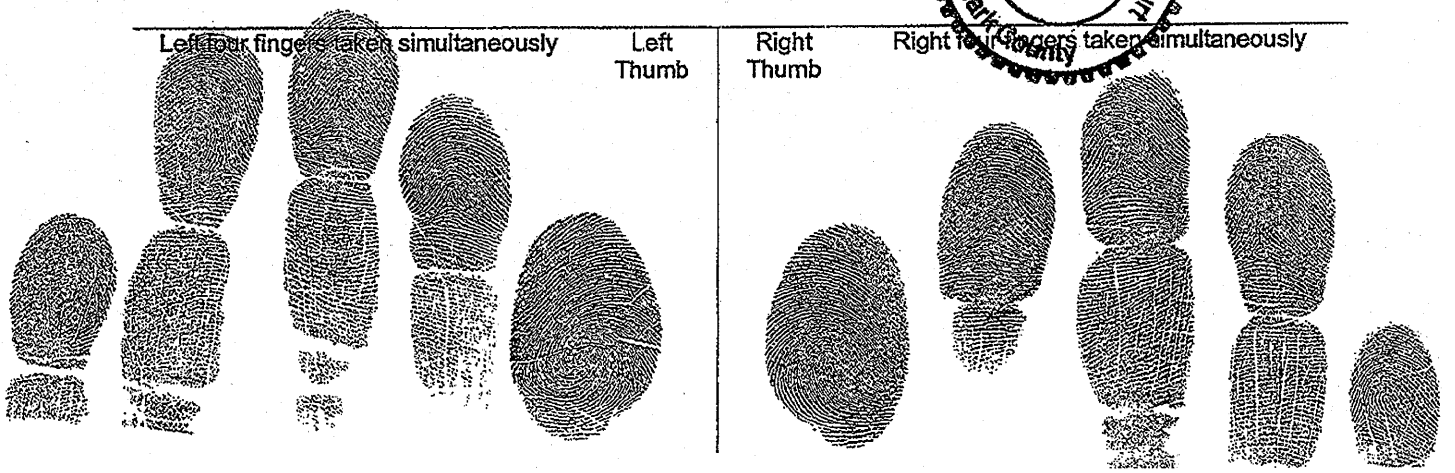
IDENTIFICATION OF DEFENDANT DON WESLEY WINTON	
SID No. (If no SID take fingerprint card for State Patrol)	Date of Birth 11/22/1953
Race: W	Sex: M
Driver License No. WINTODW474Q2	Driver License State: WA
FBI No.	Local ID No. (CFN):
Alias name, SSN, DOB:	Corrections No.
Other	

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto. Clerk of the Court: _____, Deputy Clerk.
Dated: Oct 23, 2007

DEFENDANT'S SIGNATURE: _____

Superior Court of Clark County STATE OF WASHINGTON

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



APPENDIX "A"
(9.94A.712)

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

STATE v. **DON WESLEY WINTON**

CAUSE NUMBER: **06-1-02237-8**

DATE: 6-14-07

PROSECUTOR: **Kimberly R. Farr, WSBA# 08728**

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

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

THE FOLLOWING IS THE STIPULATION OF PROSECUTION AND DEFENSE ATTORNEY:

(1) Should the Defendant plead guilty to: amended information

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

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

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

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

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

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

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

A) The Court finds the defendant amenable to treatment and safe to be at large after a state licensed sexual offender treatment evaluation, which shall include in addition to the requirements of RCW 9.94A.670(3), the full polygraph report (on the issue of full disclosure and other child victims). A plethysmograph may be included if requested by the evaluator. Failure to provide a full disclosure polygraph will result in the State exercising its right pursuant to RCW 9.94A.670(4) to demand a second evaluation.

B) Defense shall provide to the Prosecutor's Office, no later than 7 days prior to sentencing:
- a complete SSOSA evaluation

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

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

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

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

_X_ straight time
___ work release (if qualified and accepted)

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

G)

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

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

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

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

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

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

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

(7) The defense shall only use the Statement of Defendant on Plea of Guilty form as indicated by the Child Abuse Intervention Center. (If you need a copy of this form, please contact the Child Abuse Intervention Center at (360) 397-6002).

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

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

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

"APPENDIX A"
9.94A.712

STIPULATED CONDITIONS OF SENTENCE/COMMUNITY CUSTODY

1. You shall commit no law violations.

2. You shall report to and be available for contact with the assigned community corrections officer as directed.

3. You shall work at a Department of Corrections approved education program, employment program, and/or community service program as directed.

4. You shall not possess, consume, or deliver controlled substances, except pursuant to a lawfully issued prescription.

5. You shall pay a community placement/supervision fee as determined by the Department of Corrections.

6. You shall not have any direct or indirect contact with the victims, including but not limited to personal, verbal, telephonic, written, or through a third person without prior written permission from his community corrections officer, his therapist, the prosecuting attorney, and the court only after an appropriate hearing. This condition is for the statutory maximum sentence of LIFE years, and shall also apply during any incarceration.

   VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 10.99 RCW AND WILL SUBJECT THE VIOLATOR TO ARREST; ANY ASSAULT OR RECKLESS ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER IS A FELONY.

7. You shall not enter into or frequent business establishments or areas that cater to minor children without being accompanied by a responsible adult. Such establishments may include but are not limited to video game parlors, parks, pools, skating rinks, school grounds, ~~malls~~ or any areas routinely used by minors as areas of play/recreation.

8. You shall not have any contact with minors. This provision begins at time of sentencing. This provision shall not be changed without prior written approval by the community corrections officer, the therapist, the prosecuting attorney, and the court after an appropriate hearing.

9. You shall remain within, or outside of, a specified geographical boundary as ordered by your community corrections officer.

10. Your residence location and living arrangements shall be subject to the prior approval of your community corrections officer and shall not be changed without the prior knowledge and permission of the officer.

11. You must consent to allow home visits by Department of Corrections to monitor compliance with supervision. This includes search of the defendant's person, residence, automobile, or other personal property, and home visits include access for the purposes of inspection of all areas the defendant lives or has exclusive/joint control or access. RCW 9.94A.631

12. Your employment locations and arrangements shall be subject to prior approval of your community corrections officer and shall not be changed without the prior knowledge and permission of the officer.

13. You shall not possess, use, or own any firearms, ammunition, or deadly weapon. Your community corrections officer shall determine what those deadly weapons are.

KF 14. ☐ ~~You shall not possess or consume alcohol.~~

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

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

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

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

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

20. You shall enter into, cooperate with, fully attend and successfully complete all inpatient and outpatient phases of a Washington State certified sexual deviancy treatment program as established by the community corrections officer and/or the

treatment facility. You shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, community corrections officer and shall not change providers without court approval after a hearing if the prosecutor and/or community corrections officer object to the change. "Cooperate with" means you shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity.

21. The sex offender therapist shall submit quarterly reports on your progress in treatment to the court, Department of Corrections, and prosecutor and you shall execute a release of information to the community corrections officer, prosecutor and the court so that the treatment provider can discuss the case with them. The quarterly report shall reference the treatment plan and include the following, at a minimum: dates of attendance, your compliance with requirements, treatment activities, and your relative progress in treatment.

22. During the time you are under order of the court, you shall, at your own expense, submit to polygraph examinations at the request of the Community Corrections Order and/or the Prosecuting Attorney's office (but in no event less than twice yearly). Copies shall be provided to the Prosecuting Attorney's office upon request. Such exams will be used to ensure compliance with the conditions of community supervision/placement, and the results of the polygraph examination can be used by the State in revocation hearings.

23. You shall submit to plethysmography exams, at your own expense, at the direction of the community corrections officer and copies shall be provided to the Prosecutor's Office upon request.

24. You shall register as a sex offender with the County Sheriff's Office in the county of residence as defined by RCW 9.94A.030.

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

26. You shall sign necessary release information documents as required by Department of Corrections or the Prosecuting Attorney, to monitor your compliance with any of the conditions of this Judgment and Sentence.

27. You shall have no association with persons known to be on probation, parole or community placement.

28. If the offense was committed on or after July 24, 2005, you may not reside within eight hundred eighty (880) feet of the facilities and grounds of a public or private school. RCW 9.94A.030

29. If you are in the SSOSA program you shall enter into sex offender treatment with a State certified provider within thirty (30) days of sentencing or release from custody, whichever comes first.

30. If you are in the SSOSA program, your treatment plan shall include polygraph exams as set forth in condition number 19. Your treatment provider and/or the defendant will be required to provide quarterly reports on March 1, June 1, September 1, and December 1 (including the polygraph results) of your compliance with the conditions of treatment. These reports shall go to the community corrections officer and the prosecuting attorney's office. Failure to comply with this provision shall be grounds for the court to mandate transfer of the patient to a different treatment provider.

The undersigned defendant agrees that he has read this Appendix A, or it has been read and explained to him; that he understands it, agrees with it, and has no questions about it. This is a binding agreement upon the undersigned defendant that is entered into knowingly, voluntarily and intelligently, as part of the plea of guilty and Judgment and Sentence.

Dated: 7/5/07 Signed: _____ (Defendant)

Print name: Roy Winston (Defendant)

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

STATE OF WASHINGTON	)	Cause No.: 06-1-02237-8
	)	
Plaintiff	)	JUDGEMENT AND SENTENCE (FELONY)
v.	)	APPENDIX F
WINTON, Don Wesley	)	ADDITIONAL CONDITIONS OF SENTENCE
Defendant	)	
	)	
DOC No. 308321	)	

CRIME RELATED PROHIBITIONS

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

DATE

JUDGE, CLARK COUNTY SUPERIOR COURT

SF/dc

EXHIBIT B

FILED

OCT 23 2007

Sherry W. Parker, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff, v. DON WESLEY WINTON , Defendant. DOB: 11/22/1953	No. 06-1-02237-8 **HARASSMENT NO-CONTACT ORDER** (ORAH) **(JUDGMENT AND SENTENCE)** ***Clerk's action required.***

This Harassment No-Contact is entered pursuant to the Judgment and Sentence. The victim protected by this order is: G L D, DOB:8/8/1992

Violation of this order is a criminal offense under chapter 9A.46 RCW and will subject a violator to arrest.

I. FINDINGS

The defendant was found guilty of a crime of harassment and a condition of the sentence restricts the defendant's ability to have contact with the victim.

II. ORDER

THE DEFENDANT IS ORDERED TO:

☒ Refrain from contacting, intimidating, threatening, keeping under surveillance or otherwise interfering with the victim and from making any attempt to engage in such conduct.

☒ Stay away from the victim's:

- ☒ home
- ☒ school
- ☒ business
- ☒ place of employment
- ☐ other

☒ Other: Do not come within 1000 feet of the above-listed locations

73 ##

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
P.O. BOX 61992
VANCOUVER, WA SHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

It is further ordered that the Clerk of the Court shall forward a copy of this order on or before the next judicial day to the ☒ Clark County Sheriff's Office/Police Department where the above-named victim lives, which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

THIS HARASSMENT NO-CONTACT ~~EXPIRES ON~~ IS FOR LIFE

Done in Open Court in the presence of the Defendant this date: 23 October 2007

JUDGE
Print name:

Deputy Prosecuting Attorney
Kimberly R. Farr, WSBA #08728

Refused to sign
Attorney for Defendant
Thomas C. Phelan, WSBA 11373

Refused to sign
DON WESLEY WINTON

Defendant

On October 25, 2007, I deposited in the mails of the United States of America a properly stampted and addressed envelope directed to the victim/guardian of victim containing a certified copy of the document to which this affidavit is attached. I declare under penalty of perjury under the laws of the State of Washington the foregoing is true and correct.

Marlene S. Dodge
Clerk of the Court

SEAL OF THE CLARK COUNTY SUPERIOR COURT OF CLARK COUNTY STATE OF WASHINGTON

A completed law enforcement information sheet must be attached for identification purposes by the police or sheriff.

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
P.O. BOX 61992
VANCOUVER, WA SHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

EXHIBIT C

FILED

OCT 23 2007

Sherry W. Parker, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v.
DON WESLEY WINTON ,
Defendant.

DOB: 11/22/1953

No. 06-1-02237-8

HARASSMENT NO-CONTACT ORDER
(ORAH)
(JUDGMENT AND SENTENCE)

Clerk's action required.

This Harassment No-Contact is entered pursuant to the Judgment and Sentence. The victim protected by this order is: A L W, DOB:7/2/1986

Violation of this order is a criminal offense under chapter 9A.46 RCW and will subject a violator to arrest.

I. FINDINGS

The defendant was found guilty of a crime of harassment and a condition of the sentence restricts the defendant's ability to have contact with the victim.

II. ORDER

THE DEFENDANT IS ORDERED TO:

☒ Refrain from contacting, intimidating, threatening, keeping under surveillance or otherwise interfering with the victim and from making any attempt to engage in such conduct.

☒ Stay away from the victim's:

- ☒ home
- ☒ school
- ☒ business
- ☒ place of employment
- ☐ other

☒ Other: Do not come within 1000 feet of the above-listed locations

72 HH

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
P.O. BOX 61992
VANCOUVER, WA SHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

It is further ordered that the Clerk of the Court shall forward a copy of this order on or before the next judicial day to the ☒ Clark County Sheriff's Office/Police Department where the above-named victim lives, which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

THIS HARASSMENT NO-CONTACT EXPIRES ON 10-23-2012

Done in Open Court in the presence of the Defendant this date: 23 Oct 2007

JUDGE
Print name:

Deputy Prosecuting Attorney
Kimberly R. Farr, WSBA #08728

Refused to sign
Attorney for Defendant
Thomas C. Phelan, WSBA 11373

Refused to sign
DON WESLEY WINTON

Defendant

On October 25, 2007, I deposited in the mails of the United States of America a properly stampted and addressed envelope directed to the victim/guardian of victim containing a certified copy of the document to which this affidavit is attached. I declare under penalty of perjury under the laws of the State of Washington the foregoing is true and correct.

Marlene S. Dodge
Clerk of the Court

SEAL OF THE CLARK COUNTY SUPERIOR COURT STATE OF WASHINGTON CLARK COUNTY

A completed law enforcement information sheet must be attached for identification purposes by the police or sheriff.

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
P.O. BOX 61992
VANCOUVER, WA SHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

EXHIBIT D

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

IN THE MATTER OF:

Name: WINTON, Don
DOC#: 308321 Date of Birth: 11-22-1953
Time Start: 11-02-2007
Date of Sentence: 10-23-2007
Max Expiration: LIFE
Statutory Maximum Term: LIFE
County: Clark Cause #:06-1-02237-8

ORDER OF RELEASE AND SUPERVISION CONDITIONS

CCB Offenders

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

Release Date: 09-29-2014

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

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

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

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

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

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

ADDITIONAL CONDITIONS
CCB, RCW 9.94A.507

RECEIVED
INDETERMINATE SENTENCE REVIEW BOARD

WINTON, Don
Offender Name:

308321
DOC#:

Additional Specific Condition(s):

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

INDETERMINATE SENTENCE REVIEW BOARD

09-29-2014
Date:

DocuSigned by:
Kecia Rongen
Member's signature

8501598D711C496...
Lynne DeLano
Member's signature

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

9/12/14
Date:

Offender's signature:

Don WINTON
Offender's name:

Witness's signature:

EXHIBIT E

DocuSign Envelope ID: 92857CB2-0FDF-48B2-BF9E-0EF6F9EBFC82

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

ORDER OF RELEASE AND CONDITIONS

ADDENDUM #:

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

IN THE MATTER OF:

Name: WINTON, Don
DOC#: 308321
County: Clark Cause #: 06-1-02237-8
Sentence Date/ Time Start: 10-23-07 TS 11-02-07
Maximum Expiration Date: Life

Additional condition:

a. You are prohibited from having any contact with Alexandre Ireland, Danielle Ireland, and A[redacted] D[redacted], whether in-person, telephonically, through a third party, by mail or email, or any other means of communication without the prior written approval of the ISRB.

Amend condition "E" listed on the Order of Release dated 9-29-2014 to now read:

You are prohibited from having any contact with Debra, Russell, Cassandra and Cameron Cahoon, and Christina Sparker, whether in-person, telephonically, through a third party, by mail or email, or any other means of communication without the prior written approval of the ISRB.

INDETERMINATE SENTENCE REVIEW BOARD

DocuSigned by:
Thomas N. Sahlberg
A80CE2C94EA4E0...
Member's signature:

9-17-2014
Date of Decision:

I have read, or have had read to me, the foregoing conditions of my community custody and have been given a copy; I fully understand and I agree, in consideration of granting of community custody, to observe and abide by such conditions.

Offender's signature:

9/26/14
Date Served on Offender:

Rachel Blair
Witness's signature:

EXHIBIT F

ISRB - *ADMINISTRATIVE DECISION SHEET*

Offender Name: WINTON, Don	DOC#: 308321	CCB ☒ JUVBRD ☐ Pre-84 ☐
Hearing Investigator: Jill Getty	CRT: Irene	DATE: 7/29/2015

PERTINENT INFORMATION AND RELEVANT DOCUMENTS CONSIDERED:
D&R, Order of Release dated 8/21/14, Email from CCO dated 7/15/15

DESCRIPTION OF ISSUE(S):
Mr. Winton was released to community supervision on September 29, 2014. At that time, the Board ordered various conditions of supervision including prohibiting Mr. Winton from entering the City of Seattle, and Clark and Clallam Counties based on community concerns. Since his release, Mr. Winton has not had any violations of supervision. He has maintained stable residence, and has been participating in the community phase of SOTP.

On July 15, 2015, Mr. Winton's CCO contacted the Board indicated that Mr. Winton had requested that his travel prohibition regarding King County be removed to allow for his presence there for work purposes and to attend "ball games". The ISRB Victim Liaison was contacted regarding this request who validated that there continue to be community concerns in that location, and that concerned citizens have been "enormously vocal" about his geographic boundary there.

RECOMMENDATIONS:
Continue on Present Status

RECOMMENDATIONS continued:

COMMENTS/ANALYSIS:
There continue to be community concerns in Mr. Winton's case. Thus far, it does not appear to have caused serious employment problems for Mr. Winton to be prohibited from that area. In addition, Mr. Winton's attendance at "ball games" is not a sufficient reason to overcome community concerns.

DECISION:
Agree with with HI recommendations

REASONS:
Significant community concerns remain in King County that warrant continued geographic restrictions around both employment and/or recreation travel at this time.

AGREE: INITIAL/DATE	DISAGREE: INITIAL/DATE
TNS 7/29/15	

EXHIBIT G

DON WINTON

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

June 29, 2016

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,

Don Winton, DOC#308321

Cc: CCO Amber Siedle

EXHIBIT H

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

July 21, 2016

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

Mr. Winton,

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

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

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

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

Sincerely

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

Cc: file

EXHIBIT I

DocuSign Envelope ID: 39E5DEA9-57F1-44B4-B86A-43B3522C0891

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

ORDER OF RELEASE AND CONDITIONS

ADDENDUM #:

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

IN THE MATTER OF:

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

Additional conditions:

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

INDETERMINATE SENTENCE REVIEW BOARD

DocuSigned by:
Thomas N. Sahlberg
A90CE2CC94EA4E0...
Member's signature:

10-24-2014
Date of Decision:

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

11/5/14
Date Served on Offender:

Offender's signature:

Witness's signature:

EXHIBIT J

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

IN THE MATTER OF:

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

ORDER OF RELEASE AND CONDITIONS

ADDENDUM #:

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

Additional conditions:
Amend Addendum dated October 24, 2014 as follows:

a. You must not enter Skamania County or the State of Oregon north of Highway 20 without prior written approval of your CCO and the ISRB, with the exception of Arch Cape, Oregon.
b. You must not travel to Arch Cape, Oregon without the prior written approval of your CCO.

INDETERMINATE SENTENCE REVIEW BOARD

3-4-2016
Date of Decision:

Member's signature:

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

Offender's signature:

Date Served on Offender:

Witness's signature:

EXHIBIT K

STATE OF OREGON

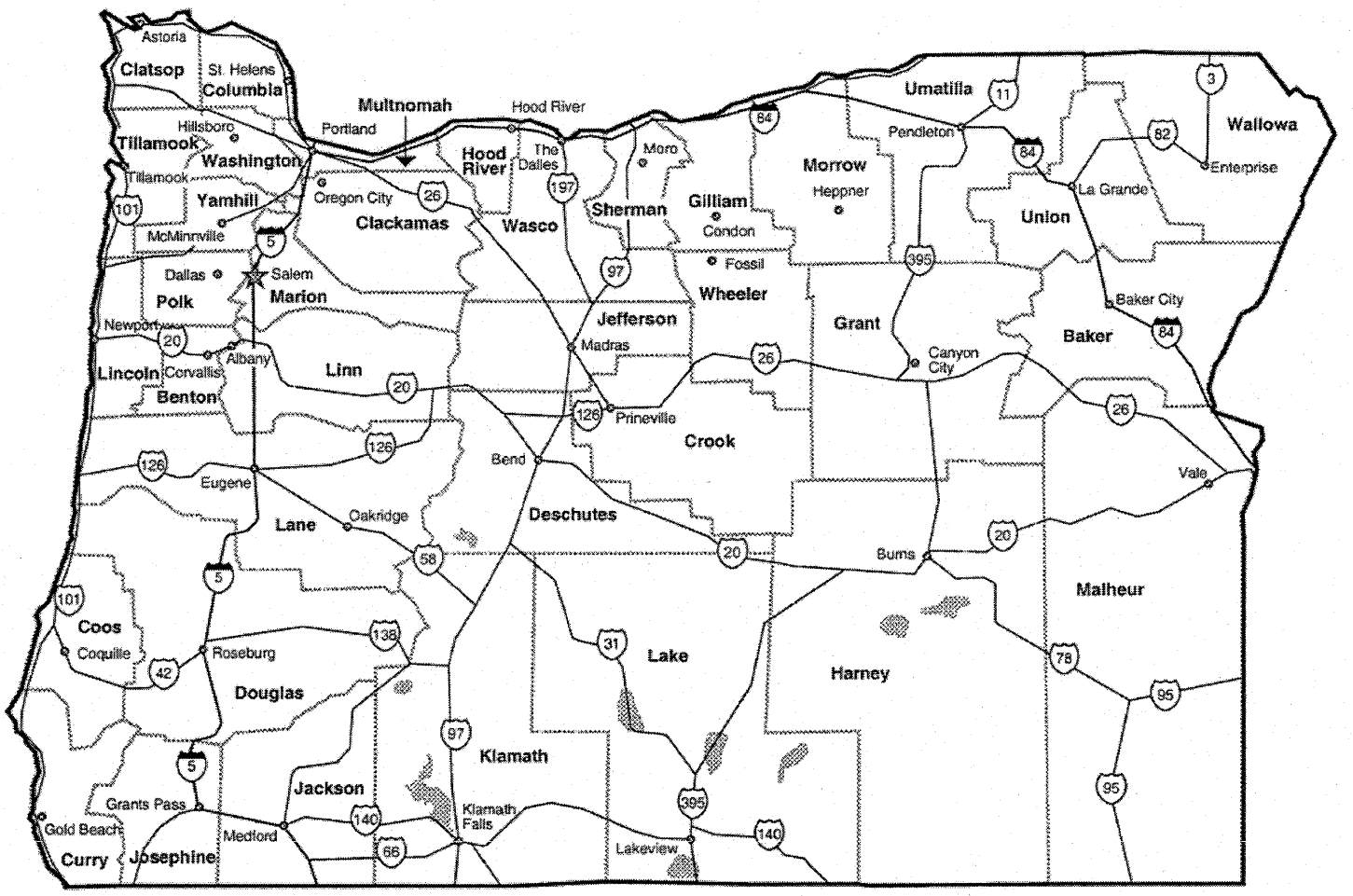


EXHIBIT L

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

IN THE MATTER OF:

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

ORDER OF RELEASE AND CONDITIONS

ADDENDUM #:

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

Additional conditions:

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

INDETERMINATE SENTENCE REVIEW BOARD

Member's signature:

5-11-2017
Date of Decision:

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

This order overrules and conflicts directly with the terms & conditions of my J&S (*)

Offender's signature:

Date Served on Offender:

Witness's signature:

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

EXHIBIT M

May 24, 2017

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

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

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

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

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

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

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

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

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

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

Sincerely,

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

EXHIBIT N

INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

July 7, 2017

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

Mr. Winton,

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

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

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

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

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

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

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

Sincerely

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

Cc: file

NEWTON AND HALL, ATTORNEY AT LAW, PLLC

May 11, 2018 - 4:05 PM

Filing Personal Restraint Petition

Transmittal Information

Filed with Court:	Court of Appeals Division I
Appellate Court Case Number:	Case Initiation
Trial Court Case Title:	State of Washington Vs Winton, Don Wesley
Trial Court Case Number:	06-1-02237-8
Trial Court County:	Clark Superior Court
Signing Judge:	
Judgment Date:	

The following documents have been uploaded:

- PRP_Personal_Restraint_Petition_20180511155206D1197656_9908.pdf
  This File Contains:
  Personal Restraint Petition
  The Original File Name was Personal Restrain Petition.pdf

Comments:

Sender Name: Angel Lombardo - Email: Angel@Newtonandhall.com
Filing on Behalf of: Elizabeth Mount Penner - Email: elizabeth@newtonandhall.com (Alternate Email:)

Address:
610 Central Avenue South
Kent, WA, 98032
Phone: (253) 852-6600

Note: The Filing Id is 20180511155206D1197656