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NO. 97452-7

(Court of Appeals No. 52371-0-II)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re the Personal Restraint Petition of:

DON WESLEY WINTON,

Petitioner.

MOTION FOR DISCRETIONARY REVIEW

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I. INTRODUCTION

Donald Winton is a sex offender. Winton began molesting his niece at age seven and his stepdaughter at age nine, and he continued molesting the girls for approximately five to seven years. The victims eventually reported the crimes, and Winton pled guilty to three counts of child molestation in the first degree.

The superior court sentenced Winton to prison with a minimum term of 98 months and a maximum term of life. Under the sentence, the Indeterminate Sentence Review Board (ISRB or Board) could transfer Winton to a term of community custody after he served 98 months, but like a paroled offender, Winton would remain subject to the Board's jurisdiction. The Board could return Winton to prison for violating conditions of community custody. By definition, community custody is not outright release to the community. Rather, community custody is the portion of the sentence of confinement served in the community subject to controls placed on the person's movement and activities. RCW 9.94A.030(5).

The Board transferred Winton to community custody in 2014, to reside in King County. Winton does not work or have community support in Clark County. Because both victims resided in Clark County, the Board imposed a geographic condition requiring Winton to obtain prior approval before entering Clark County.

Winton filed a personal restraint petition challenging the geographical condition and other conditions. The Court of Appeals granted the petition, concluding among other things that the geographic condition impermissibly infringed upon Winton's fundamental right to travel because it was not narrowly tailored. Appendix A. However, Winton's right to travel was qualified while he served his criminal sentence. The Court of Appeals misapplied the precedent of the United States Supreme Court and this Court by equating right to travel cases involving welfare recipients and applicants for civil service jobs with individuals currently serving criminal sentences. The court below erred in requiring that the condition be narrowly tailored.

Moreover, even assuming that Winton retained an unfettered right to travel not affected by his sentence, the Court of Appeals erred in concluding the geographical condition at issue here improperly restricted that right. The Board's requirement that Winton obtain permission before traveling to Clark County was the less restrictive means available to protect the victims in this case. This is particularly so where the Board provided evidence it could not carve out particular areas for Winton to freely travel within Clark County without alerting Winton to location of the victims' work and residence. The Court of Appeals incorrectly invalidated the reasonable and justified geographic condition of community custody. This Court should grant review and reverse.

II. IDENTITY OF MOVING PARTY AND DECISION

The Board asks this Court to accept review of the Court of Appeals' unpublished decision, *In re Pers. Restraint of Winton*, No. 52371-0-II, 2019 WL 2811126 (Wash. Ct. App. July 2, 2019) (Appendix A).

III. STATEMENT OF THE ISSUES

1. Equating Winton's situation with that of a person not serving a criminal sentence, the Court of Appeals incorrectly concluded that the condition requiring Winton to obtain permission before entering Clark County violated a fundamental right to travel. However, this Court and the Supreme Court have recognized that a conviction and sentence confines the right to travel so that the State may legitimately impose limits, ranging from the most restrictive limit of imprisonment to lesser forms such as conditions requiring approval of residence locations. Does the Court of Appeals' decision to invalidate the geographic condition here conflict with the precedent of this Court and the Supreme Court?

2. Even under the standard applied by the Court of Appeals, did the Board abuse its discretion by imposing a condition requiring prior approval before entering a county in which victims reside, for the purpose of ensuring compliance with no contact conditions and notifying victims and their families that the offender will be in the area, thereby limiting the potential for contact and trauma to the victims and families?

IV. STATEMENT OF THE CASE

A. Winton Received an Indeterminate Life Sentence for his Convictions of Child Molestation in the First Degree

In January 1999, Winton at age 45 began sexually assaulting his 7-year-old niece. Winton and his wife were legal guardians of the girl. The abuse continued at least until August 2004. In November 2006, school officials contacted Winton's wife after receiving a note from the girl. When asked about the note, the victim was uncomfortable speaking, and she instead wrote out a statement describing Winton's sexual abuse of her. Winton's wife then contacted the police.

Winton's stepdaughter, a cousin of the victim, then came forward and disclosed that Winton at age 46 began sexually abusing her when she was 9 years old. The stepdaughter said that the sexual abuse stopped at about the time Winton and her mother were attempting to gain custody of her cousin. Appendix B (Decision and Reasons).

Winton pled guilty to three counts of child molestation. The court imposed a determinate sentence on counts one and three. For count two, the court imposed an indeterminate sentence under former RCW 9.94A.712 (2004)¹ with a minimum term of 98 months and a maximum term of life

¹ Currently codified at RCW 9.94A.507.

under the jurisdiction of the Board. Appendix C (Judgment and Sentence) at 6-7.

B. The Board Transferred Winton to Community Custody, Imposing Appropriate Conditions, Including the Condition to Obtain Permission Prior to Entering Clark County

On February 5, 2014, the Board conducted a release hearing under RCW 9.95.420 (.420 hearing) to determine whether to transfer Winton to community custody at the end of his minimum term. Appendix B. The Board found at that time that Winton was not releasable and added 12 months to the minimum term to allow for completion of the sex offender treatment program (SOTP). *Id.*, at 1. The Board noted that upon receipt of the SOTP treatment summary, the Board would conduct an administrative review and either schedule another .420 hearing or request an Offender Release Plan. *Id.*, at 1-2. On July 3, 2014, the Board requested a release plan. Appendix D (Administrative Board Decision).

In August 2014, the Board approved Winton's proposed release plan to reside at an address in King County. Appendix B, at 3. The Board ordered Winton's release with a release date of September 29, 2014. Appendix E (Order of Release). The release plan contained an express condition that Winton could not enter the City of Seattle, or Clark or Clallam County without prior written approval of his CCO and the Board. *Id.*, at 2 (Additional Specific Condition C). Winton signed and agreed to the

conditions of his release to community custody on September 12, 2014. *Id.*, at 2.

On July 16, 2018, the Board Chair Kecia Rongen signed an order of release and conditions addendum. Appendix F (Order of Release and Conditions Addendum). The Board modified Winton's geographic conditions, striking all limitations regarding entering King County or Oregon. *Id.* The only remaining geographic condition limited Winton from *entering* Clark County, without prior written approval from his CCO and the Board. *Id.* In support of the condition requiring approval before entering Clark County, the Board provided a declaration from the victim liaison stating:

I mapped the areas where the victims live, work and attend school and safety concerns cover two separate cities and areas which are unincorporated. In determining a boundary, it became difficult to map specific areas without highlighting the victims' locations. Requiring Mr. Winton to obtain prior approval before traveling to Clark County allows the Victim Liaison and the Board to ensure victims in the area are notified and the risk of contact with Mr. Winton is minimized during his time in the county.

Appendix G (Declaration of Sheila Lewallen).²

² The Board also imposed a separate condition requiring urinalysis testing due to a condition in the judgment and sentence prohibiting Winton from unlawfully possessing controlled substances while on community custody. Appendix C, at 7. The superior court issued an order on January 30, 2019, correcting the judgment and sentence to strike the drug condition imposed by the court. Appendix H (Order Correcting Judgment and Sentence). Upon receipt of the order correcting the judgment and sentence, the Board promptly removed its urinalysis condition. Appendix I (Order of Release and Conditions Addendum). The Board notified the Court of Appeals that the urinalysis issue was moot

C. The Court of Appeals Found the Geographic Condition Violated the Right to Travel

Winton filed a personal restraint petition challenging the condition requiring prior approval before entering Clark County. Prior to oral argument, the Board moved to supplement the record with evidence of the Board's most current geographic condition. The Board removed the requirement that Winton obtain prior approval before traveling *through* Clark County, such as driving on I-5 to Oregon without stopping in Clark County. Appendix J (Supplement Re: Geographic Condition). Instead, the condition now prohibited Winton from *entering* Clark County as the destination (as opposed to traveling *through* Clark County to a different destination). The Court of Appeals denied the Board's motions to supplement the record.³ Appendix K (Order Denying First Motion to Supplement); Appendix L (Order Denying Third Motion to Supplement).

The Court of Appeals granted Winton's personal restraint petition. Appendix A. Relying on *Eggert v. City of Seattle*, 81 Wn.2d 840, 845, 505 P.2d 801 (1973) and *State v. Schimelpfenig*, 128 Wn. App. 224, 115 P.3d 338 (2005), the court below determined that the only remaining geographic

before the Court of Appeals issued its decision. The issue of the urinalysis condition is not before the Court in this motion for discretionary review.

³ By not accepting the evidence of the change in the applicable conditions, the Court of Appeals appeared to disregard this Court's decision of *In re Higgins*, 152 Wn.2d 155, 95 P.3d. 330 (2004), which held the Department of Corrections may grant the relief sought in a personal restraint petition while the petition is pending in the Court of Appeals.

condition requiring prior approval before entering into Clark County impermissibly infringed upon Winton's right to travel because the condition was not narrowly tailored. Appendix A.

The Court of Appeals noted that the condition requiring prior approval had the effect "on at least one occasion of preventing inadvertent contact between Winton and one of the victims' family members." Appendix A, at 8. Despite this recognition, believing a more narrowly tailored condition might still protect the victims, the court remanded for the Board to revisit that condition finding it unconstitutionally restricted his right to travel. Appendix A, at 8, 11. In doing so, the court did not acknowledge the evidence that further attempts to narrow the condition would alert Winton to the victims' residence and work locations.

V. STANDARD OF REVIEW

A Court of Appeals' decision granting a personal restraint petition is subject to review by this Court through a motion for discretionary review. RAP 13.5A; RAP 16.14(c). This Court applies the standards set forth in RAP 13.4(b) in deciding whether to grant discretionary review. The Court will grant review if the decision of the Court of Appeals conflicts with a decision of this Court or another Court of Appeals' decision. RAP 13.4(b)(1) and (2). The Court will also grant review if the case raises

significant questions of constitutional law or involves issues of substantial public interest. RAP 13.4(b)(3) and (4).

VI. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

The Court should grant review for two reasons. First, by concluding that Winton has an unfettered right to travel comparative to persons not serving a criminal sentence, the court below issued a decision that conflicts with the precedent of this Court and the United States Supreme Court which recognizes that a criminal conviction and sentence qualifies the right to travel. The Court should grant review to resolve this conflict in case law involving a significant question of law under the Constitutions of the United States and State of Washington. RAP 13.4(b)(1) and (3).

Second, review is justified because the issue involves matters of substantial public interest. RAP 13.4(b)(4). The statutes governing conditions of community custody expressly authorize geographic restrictions as part of supervision, and the Board regularly imposes such conditions to reduce recidivism and to avoid significant risks to public safety. RCW 9.94A.704(3)(b); RCW 9.95.420(3)(b). By severely limiting the Board from imposing geographic conditions meant to limit an offenders contact with victims and ensure compliance with no contact orders, the Court of Appeals undermines the Board's ability to protect public safety.

A. The Court of Appeals Ruling Conflicts with Precedent that Criminal Convictions and Sentences Necessarily Restrict Fundamental Rights, Including the Right to Travel

Having been convicted and sentenced to a life term, Winton does not have an unqualified right to travel. Rather, Winton is subject to the jurisdiction of the Board for life, and the Board has express legal authority to impose appropriate conditions of community custody, including authority to require an offender remain outside a geographic boundary, considering the interests of public safety and Winton's risk of re-offense. *See In re Martinez*, 2 Wn. App. 2d 904, 912, 413 P.3d 1043, (2018). The Board's authority includes imposing a condition requiring Winton to obtain permission prior to entering Clark County. RCW 9.95.420 (authorizing Board to impose geographical boundaries).

Contrary to the holding of the Court of Appeals, Winton's convictions and sentence restricted his right to travel. In *Jones v. Helms*, 452 U.S. 412, 419, 101 S. Ct. 2434, 69 L. Ed. 2d 118 (1981), the Supreme Court expressly recognized that while every person has a fundamental right to travel, there are situations where a State may properly restrict such travel. "Most obvious is the case in which a person has been convicted of a crime within a State." *Id.* Where the person is convicted of a crime, that person's "own misconduct had qualified the right to travel interstate before he sought to exercise that right." *Id.*, at 420. The Supreme Court declared that its case

law preventing a State from restricting the right to travel involved “a burden on the exercise of the right to travel by citizens whose right to travel had not been qualified in any way.” *Jones*, 452 U.S. at 421. “In contrast, in this case, appellee’s criminal conduct . . . necessarily qualified his right thereafter freely to travel interstate.” *Id.*

Of particular import is the Supreme Court’s distinction in *Jones* between the travel rights of convicted persons versus those of other people. The prior cases involved the “validity of state enactments that were said to penalize the exercise of the constitutional right to travel, taxes on residents who desire to leave the State, bringing a nonresident indigent person into the State and state statutes imposing durational residence requirements that deprived new residents of rights or benefits available to old residents.”

Jones, 452 U.S. at 420. The Supreme Court held:

In all of those cases, the statute at issue imposed a burden on the exercise of the right to travel by citizens whose right to travel had not been qualified in any way. In contrast, in this case, appellee’s criminal conduct within the State of Georgia necessarily qualified his right thereafter freely to travel interstate. Appellee’s claim is therefore on a different footing from the claims at issue in *Crandall*, *Edwards*, and the durational residence requirement cases.

Jones, 452 U.S. at 421.

Like *Jones*, a long line of federal case law demonstrates that a State may place legitimate restrictions on the rights of a person serving a

sentence. For instance, *Morrissey v. Brewer*, 408 U.S. 471, 478, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972), noted that parolees typically must seek permission before engaging in specific activities such as changing employment or residence, operating a car, or traveling. In *Jones v. Cunningham*, 371 U.S. 236, 83 S. Ct. 373, 9 L. Ed. 2d 285 (1963) the Court recognized that parole involves significant restraints on person's liberty to do things which other people may freely do. In *Bagley v. Harvey*, 718 F.2d 921 (9th Cir. 1983), the Ninth Circuit recognized that a person's constitutional right to interstate travel was extinguished upon valid conviction and imprisonment, and is not revived by a change in status from prisoner to parolee. And in *Berrigan v. Sigler*, 499 F.2d 514, 521-22 (D.C. Cir. 1974), the circuit court concluded that when considering the legitimacy of travel restrictions, parole status is inescapably significant and it is unrealistic to consider a person's rights wholly separate and apart from the status as a parolee.

Likewise, this Court has previously acknowledged the limitations on liberty following conviction and sentence that are not experienced by the general population. "[A] parolee, unlike the ordinary citizen, is subject to supervision and limited in his mode, manner, and place of living and travel . . . Thus, he is not a free man in the commonly accepted sense." *Monohan v. Burdman*, 84 Wn.2d 922, 925, 530 P.2d 334 (1975). Division Three of

the Court of Appeals acknowledged this limitation when it evaluated a statute limiting areas where drug traffickers could frequent, holding individuals convicted of felonies may be deprived of some of their constitutional liberties including the right to travel and further that reasonable restrictions on travel during community supervision after felony conviction do not violate the right to travel. *See State v. McBride*, 74 Wn. App. 460, 465-67, 873 P.2d 589 (1994).

The Court of Appeals based its decision primarily on its prior holding in *State v. Schimelpfenig*, 128 Wn. App. 224, 115 P.3d 338 (2005). In *Schimelpfenig*, the superior court banished the defendant from Grays Harbor County for life. *Id.*, at 225. The Court of Appeals, relying on *Shapiro v. Thompson*, 394 U.S. 618, 630-31, 634, 89 S. Ct. 1322, 22 L. Ed. 2d 600 (1969), *overruled on other grounds by Edelman v. Jordan*, 415 U.S. 651, 94 S. Ct. 1347, 39 L. Ed. 2d 662 (1974) and this Court's decision in *Eggert v. City of Seattle*, 81 Wn.2d at 845, concluded that, "banishment orders encroach on an individual's constitutional right to travel." *Schimelpfenig*, 128 Wn. App. at 226. But there are significant differences between *Schimelpfenig* and Winton's case. First, the Board's condition is not "banishment"; the condition requires that Winton first obtain approval before entering Clark County, but it does not "banish" him from the county. More importantly, unlike the present case, which involves a geographic

condition imposed while the person is serving the criminal sentence, the banishment order in *Schimelpfenig* lasted beyond the expiration of the sentence of confinement and supervision. *Id.*, at 225. The banishment order in *Schimelpfenig* lasted for the remainder of the defendant's life, even after the defendant had served the sentence. The Court of Appeals did not recognize this key distinction when applying *Schimelpfenig* to the facts here.

Nor does the United States Supreme Court's decision in *Shapiro*, relied upon by the Court of Appeals in *Schimelpfenig*, require invalidation of the geographic condition at issue in Winton's case. In *Shapiro*, the court considered whether a statute denying welfare assistance to persons who had not resided within the state for at least one year denied equal protection and violated the constitutional right to travel. *Shapiro*, 394 U.S. at 626-27. The Supreme Court held the statute unconstitutional stating, "If a law has 'no other purpose than to chill the assertion of constitutional rights by penalizing those who choose to exercise them, then it is patently unconstitutional.'" *Shapiro*, 394 U.S. at 631. But as the Supreme Court recognized in *Jones*, the constitutional right to travel protected in *Shapiro* may be properly restricted when the person is convicted of a crime. *Jones*, 452 U.S. at 418-20 (distinguishing prior case law including *Shapiro*).

Similarly, this Court's ruling in *Eggert v. City of Seattle* did not deal with criminal defendants. Instead, the Court considered whether a residency requirement for civil service positions infringed upon the constitutionally protected right to travel. *Eggert*, 81 Wn.2d at 840. Relying on *Shapiro's* holding regarding the right to interstate travel, the Court concluded the right to travel extends to intrastate travel as well. *Id.*, at 845.

The Board does not dispute that people not serving a sentence have a fundamental right to travel. However, people serving a sentence are different. The very nature of the active criminal sentence qualifies the right to travel.

B. Even Assuming Winton Has an Unqualified Right to Travel, the Court of Appeals Erred in its Analysis of the Board's Geographic Condition

By ignoring Winton's status as a convicted sex offender serving a sentence, the Court of Appeals erred in its analysis of his right to travel. The court reviews community custody conditions for an abuse of discretion. *State v. Irwin*, 191 Wn. App. 644, 652, 364 P.3d 830 (2015). The abuse of discretion standard applies even when the court is reviewing the condition for alleged constitutional defects, such as vagueness. *State v. Irwin*, 191 Wn. App. at 652, 656; *State v. Valencia*, 169 Wn.2d 782, 792-92, 239 P.3d 1059 (2010); *Bagley v. Harvey*, 718 F.2d. at 925.

The Board's geographic restriction requiring prior approval before Winton enters Clark County is not an abuse of discretion. Winton does not live, work, or have any support in Clark County, but both victims and their families reside and work in Clark County. The condition for prior approval before entering Clark County as a destination is a reasonable restriction on the qualified right to travel intended to ensure compliance with no contact conditions and to protect the victims from further trauma.

The condition serves a purpose similar to the condition requiring persons on community custody to obtain prior approval of their living arrangements and residence locations. Both conditions prevent contact with victims or potential victims, assures compliance with other conditions, and minimizes risk. The Board is unaware of any case applying strict scrutiny when evaluating such other conditions that also have the effect of limiting travel. Rather, the Court has upheld such conditions absent an abuse of discretion. *See, e.g., In re Mattson*, 166 Wn.2d 730, 214 P.3d 141 (2009) (recognizing that the Department of Corrections has discretion to approve the place of residence of persons convicted of sex offenses). In requiring the condition satisfy strict scrutiny, the Court of Appeals applied a different standard than one commonly used to evaluate conditions.

The Court of Appeals also incorrectly concluded that the Board's geographic condition is more restrictive than the banishment order in

Schimelpfenig because the Board’s original condition had prohibited travel “even through a county.” Appendix A, at 10. As noted above, the Board amended the condition prior to oral argument to allow travel *through* Clark County, and to require permission only before Winton enters Clark County as a destination. Appendix F. The current condition is less restrictive than the order in *Schimelpfenig* because it does not “banish” Winton.

Winton may likely argue that the Court of Appeals simply followed the reasoning of *Schimelpfenig*, as the court had done to vacate a banishment order in *State v. Sims*, 152 Wn. App. 526, 216 P.3d 470 (2009), *aff’d but criticized by State v. Sims*, 171 Wn.2d 436, 256 P.3d 285 (2011). In *Sims*, the defendant received a suspended sentence under the Special Sex Offender Sentencing Alternative (SSOSA), RCW 9.94A.670. One condition of the suspended sentence was lifetime banishment from Cowlitz County. *Sims*, 152 Wn. App. at 530-31. The Court of Appeals concluded the lifetime geographical restriction was overbroad and not narrowly tailored. *Id.*, at 532-33. Because the banishment order was inextricably linked to the court’s discretionary decision to grant a SSOSA, the court remanded the case for resentencing. *Id.*, at 533-35. However, this Court never reviewed the actual validity of the banishment order because the county prosecutor did not contest the issue in the Court of Appeals and did not seek review of the particular issue when seeking review by this Court.

Similarly, in *State v. Alphonse*, 147 Wn. App. 891, 197 P.3d 1211 (2008), *review denied*, 166 Wn.2d 1011, 210 P.3d 1018 (2009), the sentencing court ordered that the defendant not enter the city of Everett as a condition of his sentence. Division One of this Court held that the banishment order failed under *Schimelpfenig*'s principles because (1) less restrictive means were available to serve the State's interest in protecting the victim, (2) the restriction was unrelated to the defendant's rehabilitation, and (3) the sentencing court's order would not have allowed the defendant to petition the court to temporarily lift the restriction. *Id.*, at 910-11. This Court again denied review, without reaching the merits of the issue.

It is important to remember that the cases cited above pertain only to a *trial court's* authority to impose "banishment" as a condition of the defendant's sentence. The cases do not purport to limit, or even address, the authority of the Board to impose geographical conditions in the administration of a sentence. There are good reasons not to extend *Schimelpfenig* and its progeny to the Board's conditions. Unlike court-imposed conditions that generally cannot be altered, the Board's conditions are not static and can be changed throughout the course of supervision. The Board may modify a geographical condition at any time if changed circumstances arise, such as the victims relocating to another county.

In contrast, once a judgment and sentence becomes final, the sentencing court loses jurisdiction to the Board and generally does not have authority to modify the conditions of the sentence. *January v. Porter*, 75 Wn.2d 768, 773-74, 453 P.2d 876 (1969); accord *State v. Harkness*, 145 Wn. App. 678, 685, 186 P.3d 1182 (2008); see also *In re Chatman*, 59 Wn. App. 258, 262-63, 796 P.2d 755 (1990) (sentencing court cannot direct Department where to house an offender or how to calculate good time). As this Court recognized long ago, trial courts retain limited jurisdiction to alter a sentence “only in those limited circumstances where the interests of justice most urgently require.” *State v. Shove*, 113 Wn.2d 83, 88, 776 P.2d 132 (1989) (citing CrR 7.8(b); CR 60(b)).

For example, in *Schimelpfenig* the court imposed a *lifetime* condition that the defendant not reside in Grays Harbor County. *Schimelpfenig*, 128 Wn. App. at 225. The court generally would not have the authority to remove or modify that condition in the future (which would not even go into effect until the defendant was released from prison some 20 or more years after he was sentenced), even if there was a change in circumstances. The Board’s flexibility to modify conditions is a sound reason to treat Board-imposed conditions differently from those imposed by a sentencing court.

In any event, the condition here is not comparable to a true “banishment.” Winton is not completely forever barred from entering Clark County; the condition merely requires that he obtain the prior approval before entering the county. The record shows that Winton can and regularly has obtained approval and a travel pass to enter the county. *See* Appendix M (OMNI Chronos). Even under *Schimelpfenig*, the condition is not improper: “we do not imply that countywide or other types of jurisdictional prohibitions will always be inappropriate. Relying on the well-defined boundaries of a county or city fosters the uniform enforcement of such a restriction.” *Schimelpfenig*, 128 Wn. App. at 230.

VII. CONCLUSION

For the reasons stated above, the Board respectfully requests that the Court grant the motion for discretionary review, and reverse the decision of the Court of Appeals.

RESPECTFULLY SUBMITTED this 1st day of August, 2019.

ROBERT W. FERGUSON
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s/ Mandy L. Rose
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CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed the foregoing MOTION FOR DISCRETIONARY REVIEW with the Clerk of the Court using the electronic filing system which will serve the document to the following case participants as indicated below:

Via email to: elizabeth@dellinolaw.com

ELIZABETH MOUNT PENNER
DELLINO LAW GROUP
5000 30TH AVE NE SUITE 105
SEATTLE WA 98105-3157

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

EXECUTED this 1st day of August, 2019, at Olympia, Washington.

s/ Clinton Gauthier
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Appendix A

July 2, 2019

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the
Personal Restraint of

DON WESLEY WINTON,

Petitioner.

No. 52371-0-II

UNPUBLISHED OPINION

MARTIN, J.P.T.* — Don W. Winton, who had pleaded guilty to two counts of first degree child molestation and one count of third degree child molestation, was placed on conditional release following his conviction and the Indeterminate Sentence Review Board (ISRB) imposed additional restrictions. Winton filed a personal restraint petition (PRP) challenging the ISRB's conditions. Winton argues that (1) the ISRB's conditions prohibiting him from entering the City of Seattle, Clallam County, Skamania County, or the State of Oregon north of Highway 20, and Clark County without approval are unconstitutional¹ and (2) the ISRB's condition requiring random urinalysis (UA) testing is unconstitutional.

* Judge Elizabeth P. Martin is serving as a judge pro tempore for the Court of Appeals, pursuant to RCW 2.06.150.

¹ After Winton filed his PRP, the ISRB eliminated all geographic conditions except the prohibition against entering Clark County. The ISRB addressed only the Clark County geographic condition in its response to the petition. Winton originally challenged all geographic conditions, however,

We hold that the geographic condition prohibiting entry into Clark County is unconstitutional because it is not narrowly tailored and that the ISRB did not have the authority of law to impose random urinalysis (UA) testing under the facts of this case. Accordingly, we grant Winton's PRP and remand for the ISRB to strike the UA condition and to narrowly tailor the remaining Clark County geographic condition.

FACTS

On July 5, 2007, Winton pleaded guilty to two counts of first degree child molestation involving his niece (G.L.D.)² from January 1, 1999 to August 31, 2001 (count I) and from September 1, 2001 to August 7, 2004 (count II). He also pleaded guilty to one count of third degree child molestation involving his stepdaughter (A.L.D.) from July 2, 2000 to July 1, 2002 (count III).

On October 23, 2007, the sentencing court imposed determinate sentences of 98 and 44 months for counts I and III, respectively. For count II, the superior court imposed an indeterminate sentence under former RCW 9.94A.712 (2001), *recodified* as RCW 9.94A.507 with a minimum term of 98 months and a maximum term of life. The trial court ordered Winton's sentences be served concurrently. The sentencing court imposed a lifetime no-contact order with respect to

in his reply to the ISRB's response, Winton agreed that the only remaining geographic condition at issue is the one relating to Clark County. Accordingly, we address only that geographic condition.

² We use initials instead of names for victims of sex crimes to protect their privacy. Gen. Order 2011-1 of Division II, *In re Use of Initials or Pseudonyms for Child Witnesses in Sex Crime Cases* (Wash. Ct. App.).

G.L.D. and a five-year no-contact order with respect to A.L.D.³ Winton refused to sign the no-contact orders and they took effect on the court's signatures.

Prior to Winton's release from custody, the ISRB imposed additional conditions of no contact with eight individuals, including victim A.L.D. Winton signed this "Order of Release and Conditions."

I. 2014 RELEASE AND GEOGRAPHIC CONDITIONS

On September 29, 2014, the ISRB ordered Winton's conditional release from confinement and placed conditions on him. The ISRB restricted Winton's ability to travel to "the City of Seattle, Clark or Clallam County without prior written approval of [his] CCO and the ISRB." PRP, Ex. D at 2.

On October 24, the ISRB imposed another condition stating, "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." PRP, Ex. I at 1. The ISRB later amended this condition on March 4, 2016, to also prohibit Winton from traveling to Arch Cape, Oregon without prior written approval of his CCO.

On both July 15, 2015, and June 29, 2016, Winton requested that the ISRB remove the prohibition on travel to Seattle. The ISRB denied both requests.

On July 16, 2018, the ISRB signed an order of release and conditions addendum. In this addendum, the ISRB modified Winton's geographic conditions by striking all of the geographic conditions except the condition that he "must not enter Clark County without prior written approval of [his] CCO and ISRB." Resp. of ISRB, Ex. 8 at 1.

³ The sentencing court erroneously referred to A.L.D. as "A.L.W." in the order. PRP, Ex. C at 1.

II. URINE COLLECTION AND TESTING

Winton's original judgment and sentence contained a clause that stated that he shall "not consume controlled substances except pursuant to lawfully issued prescriptions." Resp. of ISRB, Ex. 1 at 7. The sentencing court, however, crossed out a prechecked box and wrote "no" next to a condition that said Winton "shall not possess, use or deliver drugs prohibited by the Uniform Controlled Substances Act[, ch. 69.50 RCW], or any legend drugs, except by lawful prescription." Resp. of ISRB, Ex. 1 at 8. The sentencing court also did not check a box next to the following conditions:

- The defendant shall not consume any alcohol.
.....
- Defendant shall not use or possess alcoholic beverages at all to excess.
.....
- Defendant shall submit to urine, breath or other screening whenever requested to do so by the treatment program staff and/or the [CCO].

Resp. of ISRB, Ex. 1 at 7-9.

The judgment and sentence attached the prosecutor's pretrial offer as appendix A, which included a condition that "[y]ou shall not possess, consume, or deliver controlled substances, except pursuant to a lawfully issued prescription." Resp. of ISRB, Ex. 1, App. A at 5. However, the pretrial offer specifically struck out the condition prohibiting consumption of alcohol nor did it require Winton to submit to urine, breath, or other screening whenever requested by the CCO.

On May 11, 2017, the ISRB issued an addendum to its order of release and conditions requiring Winton to

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 [ISRB].

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PRP, Ex. L at 1. Winton refused to sign this addendum to the order of release and conditions. On May 24, he objected in writing on the basis that it directly conflicted with his judgment and sentence. The ISRB responded by noting that the judgment and sentence ordered Winton not to consume controlled substances except pursuant to lawfully issued prescriptions and the judgment and sentence stated that he shall submit to affirmative acts necessary to monitor compliance with the orders of the court. Winton filed a PRP challenging the ISRB's conditions.

While this petition was pending, the superior court issued an order correcting the judgment and sentence on the joint motion of the parties. Resp't's Mot. to Suppl. the R. and Notice of Mootness Regarding UA Condition, *In re Pers. Restraint of Winton*, No. 52371-0-II (Wash. Ct. App. Feb. 5, 2019), Ex. 1. The superior court corrected the judgment and sentence by removing the condition that Winton "not consume controlled substances except pursuant to lawfully issued prescriptions" and removing the condition from appendix A attached to the judgment and sentence, which stated, "[Y]ou shall not possess, consume, or deliver controlled substances, except pursuant to a validly issued prescription." Resp't's Mot. to Suppl. the R. and Notice of Mootness Regarding UA Condition, *In re Pers. Restraint of Winton*, No. 52371-0-II (Wash. Ct. App. Feb. 5, 2019), Ex. 1. We initially denied the ISRB's motion to supplement the record with this order, however, at oral argument Winton said he would not object to it being part of the record. Wash. Court of Appeals oral argument, *In re Pers. Restraint of Winton*, No. 52371-0-II (Feb. 28, 2019), at 15 min., 52 through 57 sec.; 39 min., 0 through 1 sec. Therefore, we consider the corrected judgment and sentence in our analysis below.

ANALYSIS

STANDARD OF REVIEW

In general, to obtain relief through a PRP, a petitioner must “establish that a constitutional error has resulted in actual and substantial prejudice, or that a nonconstitutional error has resulted in a fundamental defect which inherently results in a complete miscarriage of justice.” *In re Pers. Restraint of Martinez*, 2 Wn. App. 2d 904, 909, 413 P.3d 1043 (2018) (quoting *In re Pers. Restraint of Isadore*, 151 Wn.2d 294, 298, 88 P.3d 390 (2004)). However, if a petitioner had no prior opportunity for judicial review, then he need only demonstrate that he is restrained under RAP 16.4(b) and the restraint is unlawful under RAP 16.4(c). *In re Pers. Restraint of Cashaw*, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994); RAP 16.4. Because Winton has not had a prior opportunity for judicial review of his ISRB-imposed conditions, Winton must establish that he is restrained and his restraint is not lawful. *See Martinez*, 2 Wn. App. 2d at 909.

Under RAP 16.4(b), a petitioner is under restraint if he

has limited freedom because of a court decision in a civil or criminal proceeding, the petitioner is confined, the petitioner is subject to imminent confinement, or the petitioner is under some other disability resulting from a judgment or sentence in a criminal case.

Under RAP 16.4(c), a restraint is unlawful if it falls within a listed category, which includes RAP 16.4(c)(6). RAP 16.4(c)(6) states, “The conditions or manner of the restraint of petitioner are in violation of the Constitution of the United States or the Constitution or laws of the State of Washington.” Thus, if a condition or manner of restraint violates the federal or state constitutions, the condition is an unlawful restraint.

The condition prohibiting Winton from entering Clark County without approval from his CCO and the ISRB and requiring him to submit to random UA testing limit his freedom. *See* RAP 16.4(b). Therefore, Winton is restrained.

I. GEOGRAPHIC RESTRICTION

Winton argues that the geographic condition prohibiting him from entering Clark County is unconstitutional. We agree that this condition unconstitutionally restricts Winton's right to travel because it is not narrowly tailored.

A. PRINCIPLES OF LAW

Under Washington law, offenders sentenced under former RCW 9.94A.712 must comply with "any conditions imposed by the [ISRB] under . . . RCW 9.95.420 through 9.95.435." RCW 9.95.420(3)(a)⁴ provides that the ISRB "shall order the offender released, under such affirmative and other conditions as the [ISRB] determines appropriate."

Our Supreme Court has recognized a constitutional right to travel, which includes both intrastate and interstate movement. *Eggert v. Seattle*, 81 Wn.2d 840, 845, 505 P.2d 801 (1973). In *State v. Schimelpfenig*, we specified that we apply strict scrutiny when reviewing a banishment order and therefore the order must be narrowly tailored to serve a compelling governmental interest. 128 Wn. App. 224, 226, 115 P.3d 338 (2005).

B. CLARK COUNTY GEOGRAPHIC RESTRICTION

Winton argues that the geographic restriction prohibiting him from entering Clark County unconstitutionally restricts his travel. Winton specifically argues that the geographic condition

⁴ We cite to the current version of RCW 9.95.420 because for our purposes, it has remained substantively the same.

prohibiting him from entering Clark County is overly broad to serve the presumptive purpose of protecting the victims. He argues that the no-contact orders in place are sufficient to achieve this purpose.

The ISRB appears to argue that the geographic condition serves a compelling interest because the condition has both a “rehabilitative purpose and a community safety purpose.” Resp. of ISRB at 14. The ISRB acknowledges that there are no-contact orders already in place but emphasizes that, at the time of sentencing, Winton refused to sign the no-contact orders. A declaration from the ISRB’s victim liaison states that both of Winton’s adjudicated victims, one unadjudicated victim, and the mother of two of the victims still reside in Clark County.

The ISRB further argues that the condition is not a “true ‘banishment’” because Winton may travel through Clark County so long as he obtains approval from his CCO and the ISRB. Resp. of ISRB at 14. The ISRB contends that this is not an onerous burden for Winton to get approval from the CCO and the ISRB. To show this, the ISRB relies on documentation showing when previous approvals were granted for Winton to travel to various counties and other states. At oral argument, the ISRB justified the request for advance approval by noting that it had the effect on at least one occasion of preventing inadvertent contact between Winton and one of the victims’ family members. Wash. Court of Appeals oral argument, *In re Pers. Restraint of Winton*, No. 52371-0-II (Feb. 28, 2019), at 29 min. through 30 min., 30 sec. We agree with Winton that the geographic restriction imposed on Winton unconstitutionally restricted his travel.

In *Schimelpfenig*, we set forth a nonexclusive set of factors to consider in determining whether a geographic restriction infringes on a defendant’s right to travel including

- (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.

128 Wn. App. at 229.

Citing *Schimelpfenig*, we held in *State v. Sims*, 152 Wn. App. 526, 530, 532-33, 216 P.3d 470 (2009), *aff'd*, 171 Wn.2d 436, 256 P.3d 285 (2011), that a trial court's sentence containing a lifetime banishment barring residence in Cowlitz County, entry into Cowlitz County other than to travel from a location outside the county to a destination outside the county, and entry into the City of Castle Rock was an unconstitutional encroachment on the defendant's right to travel, not narrowly tailored to any compelling governmental interest.

More recently, in *Martinez*, we struck down a condition imposed by the ISRB prohibiting the defendant from entry into Thurston County without prior written approval from his CCO and the ISRB, based on the residence of the victim. 2 Wn. App. 2d at 916. In that case, Martinez asserted that the victim had subsequently moved to Texas and therefore Martinez maintained that the rationale for the condition no longer existed. *Martinez*, 2 Wn. App. 2d at 915. We held that a lifetime ban from entry into Thurston County was akin to a banishment order and unconstitutional because Martinez had no readily available means to modify the condition even if the basis for the prohibition no longer existed. *Martinez*, 2 Wn. App. 2d at 913, 916. Application of the *Schimelpfenig* factors and our holdings in the *Sims* and *Martinez* cases inform our analysis here.

In looking at the first *Schimelpfenig* factor⁵ “(1) whether the restriction is related to protecting the safety of the victim or witness of the underlying offense” we recognize that the ISRB has a compelling interest in preventing contact between Winton and the victims and the victims’ families still residing in Clark County. 128 Wn. App. at 229; see *Martinez*, 2 Wn. App. 2d at 915. However, the ISRB conceded during oral argument that a condition preventing Winton from even “traveling through” Clark County would be overly broad. Wash. Court of Appeals oral argument, *In re Pers. Restraint of Winton*, No. 52371-0-II (Feb. 28, 2019), at 26 min., 47 sec. through 27 min., 0 through 6 sec. It follows that if a condition that prevents Winton from “traveling through” Clark County is overly broad then a condition that prevents Winton from “enter[ing] Clark County without prior written approval of [his] CCO and ISRB” also is overly broad. Resp. of ISRB, Ex. 8 at 1.

The ISRB’s geographic condition in this case is more restrictive than the order in *Schimelpfenig* because the order in *Schimelpfenig* prohibited the defendant from residing in a county, but here, it prohibits travel *even through* a county. 128 Wn. App. at 225. This condition is also more restrictive than the condition in *Sims*, which allowed Sims to travel through a county if the ultimate destination was outside the county. 152 Wn. App. at 530. We note that the challenged condition is almost identical to the condition the ISRB imposed in *Martinez*, one which we deemed “akin” to a banishment order. 2 Wn. App. 2d at 913. Thus, we agree with Winton that the condition prohibiting Winton from entering Clark County without permission is akin to

⁵ We do not address *Schimelpfenig* factors two and three in our analysis because the parties do not rely on these factors for their arguments and the record does not support that these factors apply to this case.

banishment and is more restrictive than the conditions in *Schimelpfenig* and *Sims*. We, therefore, accept the ISRB's concession as to "travel through" and ultimately conclude that like *Schimelpfenig* and *Sims*, the geographic condition here is overly broad to accomplish the ISRB's purpose of protecting the victims and their families.

Furthermore, Winton contends that he was released in 2014 and has not violated any conditions of his release. Therefore, he argues that the condition is overly broad to serve the presumptive purpose of protecting the victims in this case. The ISRB agreed during oral argument that Winton had not violated any conditions, including the no-contact orders. Wash. Court of Appeals oral argument, *In re Pers. Restraint of Winton*, No. 52371-0-II (Feb. 28, 2019), at 27 min., 28 through 36 sec. There are already no-contact orders prohibiting his contact with the victims, and there is no indication from the record that Winton would not abide by those orders. Likewise, the *Schimelpfenig* court also took into consideration the fact that Schimelpfenig was already prohibited from contacting the victim's family and there was no evidence in the record that Schimelpfenig posed a threat or desired contact with the victim's family. 128 Wn. App. at 230.

The fifth *Schimelpfenig* factor is "whether less restrictive means are available to satisfy the State's compelling interest." 128 Wn. App. at 229. Here, a more narrowly tailored geographical restriction would still protect the victims and the victims' families residing in Clark County.

The ISRB contends that unlike *Martinez*, here, Winton has a readily available means of modifying his condition if the justification ceases to exist. Winton was notified when he signed his conditions of release that "[a]ll conditions including the condition(s) in question will remain in effect until the ISRB rules that the condition does not correlate to an item above." Resp. of ISRB, Ex. 5 at 3. These items include "[t]he crime of conviction," the "risk to reoffend," and "[t]he safety

of the community.” Resp. of ISRB, Ex. 5 at 3. The ISRB also notes that Winton was informed of the procedure to appeal an ISRB-imposed condition.

Winton responds that *Schimelpfenig*’s fourth factor, which states, “[W]hether the defendant may petition the court to temporarily lift the restriction if necessary,” concerns a person’s right to seek address in the court, but does not refer to an internal review process. 128 Wn. App. at 229. Winton argues that an internal review process does not ensure Winton’s constitutional rights will be protected.

We agree with Winton that this internal review process does not adequately protect Winton’s constitutional rights and that he does not have a readily available means of modifying his condition. This is demonstrated by the fact that the ISRB did not strike the other travel conditions until shortly before it responded to Winton’s PRP. Therefore, we find ISRB’s argument unpersuasive.

Applying the relevant *Schimelpfenig* factors and our holdings in *Sims* and *Martinez*, we find that the geographic condition relating to Clark County is not sufficiently tailored and is therefore an unconstitutional encroachment on Winton’s right to travel. We remand to the ISRB to narrowly tailor the Clark County geographic restriction.

II. URINALYSIS TESTING

Winton argues that the condition requiring him to submit to UA testing is an unconstitutional intrusion into his private affairs. The ISRB argues that this condition is directly related to Winton’s judgment and sentence and contends that the ISRB has authority to impose this condition to monitor Winton’s compliance with the judgment and sentence. We hold that the ISRB does not have authority of law to impose this condition under the facts of this case.

A. PRINCIPLES OF LAW

The Washington State Constitution states that “[n]o person shall be disturbed in his private affairs, or his home invaded, without authority of law.” WASH. CONST. art. I, § 7. “It is well established that in some areas, this provision provides greater protection than the Fourth Amendment, its federal counterpart.” *State v. Olsen*, 189 Wn.2d 118, 122, 399 P.3d 1141 (2017). The collection and testing of urine is one of these areas of increased protection. *Olsen*, 189 Wn.2d at 122.

In general, suspicion-less UA testing constitutes a disturbance of one’s private affairs that, absent authority of law, violates article I, section 7. *York v. Wahkiakum Sch. Dist. No. 200*, 163 Wn.2d 297, 306, 316, 178 P.3d 995 (2008). Two inquiries are implicit in an article I, section 7 claim: (1) whether the contested state action “disturbed” a person’s private affairs and, if so, (2) whether the action was undertaken with “authority of law.” *State v. Reeder*, 184 Wn.2d 805, 814, 365 P.3d 1243 (2015).

Typically, an intrusion into an individual’s private affairs is conducted with authority of law when it is supported by a warrant or a recognized exception to the warrant requirement. *Olsen*, 189 Wn.2d at 126. However, “because probationers have a reduced expectation of privacy, the

State does not need a warrant, an applicable warrant exception, or even probable cause to search a probationer.” *Olsen*, 189 Wn.2d at 126. Even so, some authority of law must still justify the intrusion into their reduced expectation of privacy. *Olsen*, 189 Wn.2d at 126. This authority of law is limited to when “a compelling interest, achieved through narrowly tailored means, supports the intrusion.” *Olsen*, 189 Wn.2d at 128.

B. AUTHORITY OF LAW

Here, the ISRB imposed a condition that Winton must submit to periodic and random drug and/or alcohol monitoring. Winton argues that there is no authority of law authorizing this invasion of privacy into his private affairs.

In *Olsen*, our Supreme Court addressed the constitutionality of a court requiring a probationer to submit to random UA testing. 189 Wn.2d at 122. Olsen pleaded guilty and was convicted of driving under the influence (DUI). *Olsen*, 189 Wn.2d at 121. As a condition of her sentence, the superior court ordered, and the judgment and sentence reflected, that Olsen could not consume alcohol, marijuana, or nonprescribed drugs. *Olsen*, 189 Wn.2d at 121-22. The superior court also required Olsen to submit to random UA screens to ensure compliance with her conditions. *Olsen*, 189 Wn.2d at 121.

The court determined that the condition was constitutional because it held that the judgment and sentence constituted sufficient authority of law. *Olsen*, 189 Wn.2d at 126. The court held that the State had a compelling interest in supervising a probationer in the context of a conviction for DUI in order to assess her progress towards rehabilitation and compliance with probation conditions. *Olsen*, 189 Wn.2d at 129, 135. The court further held that the screens were narrowly tailored because it was a monitoring tool “to assess compliance with a valid prohibition on drug

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and alcohol use.” *Olsen*, 189 Wn.2d at 130, 135. We apply the standard set out in *Olsen* and look at whether there is authority of law justifying the intrusion. 189 Wn.2d at 126.

Here, at oral argument, Winton said he would not object to the corrected judgment and sentence being part of the record and therefore, we consider it. Wash. Court of Appeals oral argument, *In re Pers. Restraint of Winton*, No. 52371-0-II (Feb. 28, 2019), at 15 min., 52 through 57 sec.; 39 min., 0 through 1 sec. The corrected judgment and sentence removes the condition that Winton “not consume controlled substances except pursuant to lawfully issued prescriptions” and removes the condition that stated, “[Y]ou shall not possess, consume, or deliver controlled substances, except pursuant to a validly issued prescription.” Resp’t’s Mot. to Suppl. the R. and Notice of Mootness Regarding UA Condition, *In re Pers. Restraint of Winton*, No. 52371-0-II (Wash. Ct. App. Feb. 5, 2019), Ex. 1. Thus, the judgment and sentence as corrected cannot constitute authority of law for the UA testing condition because the trial court affirmatively intended not to impose a controlled substances prohibition, nor does the record support any additional authority under RCW 9.94A.704.⁶ We, therefore, remand for the ISRB to strike this condition.

⁶ RCW 9.94A.704(2)(a) provides, “The [Department of Corrections (DOC)] shall assess the offender’s risk of reoffense and may establish and modify additional conditions of community custody based upon the risk to community safety.” Thus, it appears that DOC or the ISRB may impose a UA condition in the future if Winton shows a “risk.” *See* RCW 9.94A.704. However, under RCW 9.94A.704(6), “[t]he [DOC] may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions.” Given that the ISRB now concedes that the corrected judgment and sentence no longer authorizes UA testing and because there is no present risk identified, we need not address this issue further.

CONCLUSION

We grant Winton's PRP and remand to the ISRB to strike the UA condition and to narrowly tailor the remaining geographic condition.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.


MARTIN, J.P.T.

We concur:


LFE, A.C.J.


SUTTON, J.

Appendix B



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

DECISION AND REASONS

NAME:	WINTON, Don
DOC #:	308321
FACILITY:	MCC-TRU
TYPE OF HEARING:	.420 Hearing
HEARING DATE:	February 5, 2014
PANEL MEMBERS:	DT & KR
FINAL DECISION DATE:	March 20, 2014

This matter came before Dennis Thaut and Kecia Rongen who are members of the Indeterminate Sentence Review Board (ISRB or the Board) on the above date for a release hearing in accordance with the provisions of RCW 9.95.420. Mr. Winton appeared in person. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) M.L. McBride DOC Sex Offender Treatment Program (SOTP) therapist Urszula Gaweda and Mr. Winton.

BOARD DECISION:

This was a Deferred Decision. Based on the burden of proof set out in RCW 9.95.420 and the totality of evidence and information provided to the Board, the Board does find by a preponderance of the evidence that Mr. Winton is more likely than not to commit a sex offense if released on conditions. Consequently, the Board finds Mr. Winton not releasable and adds 12 months to his minimum term to allow for the completion of SOTP.

NEXT ACTION:

Upon receipt of SOTP treatment summary the Board members will conduct an administrative

review to determine whether to schedule a .420 hearing or request an Offender Release Plan (ORP).

JURISDICTION:

Don Winton is under the jurisdiction of the Board on a 2007 conviction of Child Molestation in the First Degree Count II in Clark County; Cause #06-1-02237-8. His time start is November 2, 2007. His minimum term was set at 98 months from a Sentencing Reform Act (SRA) range of 98 to 130 months. His maximum term is Life. He has served approximately 76 months plus 120 days of jail time credit.

The Board notes that there is a companion SRA sentence under the same cause for Count I Child Molestation in the First Degree (OAA) and Count III for Child Molestation in the Third Degree. Mr. Winton was sentenced to 98 months of confinement on Count I and 44 months on Count III, to be served concurrently with each other as well as concurrent to Count II.

NATURE OF INDEX OFFENSE(S):

File materials describe the underlying offense as occurring between January 1999 and August 2004 where Mr. Winton at age 45-51 sexually abused his niece between her ages of 7-12 years old. Mr. Winton and his wife were legal guardians of the victim. In November 2006 Mr. Winton's wife was contacted by the victim's school after a note that had been written by the victim was turned into the school office. School officials asked the victim about the note; however she was uncomfortable speaking about the contents and instead wrote out a statement describing Mr. Winton's sexual abuse of her. Mr. Winton's wife then contacted the police.

The victim stated that the sexual abuse consisted of Mr. Winton touching her breasts and fondling her vaginal area. She also described incidents of Mr. Winton placing his mouth on her vaginal area and having the victim touch his penis. She stated that he would walk around the house with little or no clothing on and would order pornographic movies for them to watch. The victim also described going out on Mr. Winton's boat with him when he would take her near

nude beaches and locations where people swam in the nude. He would then remove his clothing and have the victim also remove her clothing.

It should be noted that after Mr. Winton's conviction, he filed an appeal asserting that he should have been granted a SOSSA sentence. He argued that he was not granted the sentencing alternative because the court considered information regarding un-adjudicated victims and gave undue weight to the victim's sentencing preferences. He also cited he was not given due process regarding the victim's statements. The court of appeals affirmed the conviction and the appeal was denied.

PRIOR CRIMINAL CONDUCT:

On October 23, 2007 Mr. Winton was convicted of Count I Child Molestation in the First Degree (OAA) and Count III Child Molestation in the Third Degree (OAA). A description of count I has been provided above. With regard to count III, upon hearing the current victim's disclosures Mr. Winton's wife became concerned that he may have also sexually abused her daughter who is now an adult. Mr. Winton's step-daughter, cousin of the current victim, then came forward and disclosed that Mr. Winton at age 46 began sexually abusing her at the age of 9. She stated that the abuse began with Mr. Winton rubbing lotion all over her body including her vaginal area. In addition, she recalled an incident where he requested she rub lotion on his buttocks. She refused and remembered getting into trouble. The victim stated the abuse became less frequent until her ages of 14-16. During that period Mr. Winton would come into her bedroom to say goodnight and would fondle and rub her bare vaginal area. She advised that the sexual abuse stopped at about the time Mr. Winton and her mother were attempting to gain custody of her cousin (the current victim). Mr. Winton was sentenced to 44 months confinement on this count to run concurrently with counts I and II.

During the adjudication of this offense Mr. Winton's 12 year old son wrote a letter to the court alleging that Mr. Winton had sexually abused his older brother between the ages of 5-15. In addition, the 12 year old son described an incident during which he and a friend were on a boat

with Mr. Winton and he took them to a nude beach. The son stated Mr. Winton drove the boat close enough to the beach that they could see nude adults and children. The 12 year old stated that the incident was uncomfortable for both he and his friend. It should be noted that Mr. Winton took a polygraph exam regarding the allegation of his eldest son and passed with no deception indicated regarding sexually touching any minor males.

Mr. Winton has no other criminal record.

HISTORY/COMMENTS:

This is the Board's first meeting with Mr. Winton.

EVIDENCE CONSIDERED:

In preparation for Mr. Winton's hearing and its decision in this case, the Board completed a review of his Department of Corrections (DOC) and ISRB files. The Board considered all information contained in those files, including but not limited to: the End of Sentence Review Committee's Report dated December 9, 2013 wherein he was determined to be a Level I for notification purposes. Actuarial scoring places him with groups of offenders who scored in the Low range for both general and sexual re-offense; the most recent DOC facility plan; information regarding institutional behavior and programming; any letters of support and/or concerns sent to the Board and the Pre-Sentence Investigation report. The Board also considered the testimony of the witnesses listed above.

REASONS:

Mr. Winton has made good use of his time during his incarceration. He has completed Basic Skills programming, Standardized Stress and Anger Management, Moral Reconation Therapy and the Redemption program. It appears that Mr. Winton has also obtained his Masters in Business Administration while incarcerated.

Most significantly Mr. Winton entered the SOTP in May 2013. The Board notes that he had been evaluated for the SOSSA prior to sentencing and actually participated in approximately six

months of treatment prior to sentencing. The court did not grant Mr. Winton a SOSSA sentence which is likely due to the combination of negative recommendation by the DOC and opposition by the victim and her family.

Mr. Winton is obviously an intelligent man and has done well in treatment. He readily admits to the offending behavior resulting in convictions. He vehemently denies any allegations that he offended against his son and cites non-deceptive polygraph examinations to support his position.

Mr. Winton can readily identify his high risk behaviors which include deviant attraction to minor females, depression/rejection, use of pornography, sexual entitlement and sexual preoccupation and boredom. Mr. Winton stated that he developed a significant problem with pornography beginning in 1998 wherein he was viewing pornography mostly of young girls on almost a daily basis.

Mr. Winton's therapist indicates he has done a good job of addressing his deviance and that she has confronted him significantly about disclosures of other sexual behavior. Mr. Winton did admit to having sex with an adult female who was passed out when he was in his late 20's, but has not disclosed any other victims. His therapist indicates that she has not detected any signs of manipulation. She further indicated that initially he demonstrated a significant lack of empathy for his victim; however he has worked on improving that during his treatment. He has done therapeutic disclosures with friends and business partners, and the therapist is satisfied that he is making significant progress in treatment.

The Board will review his treatment summary prior to making a release decision, and although we have concerns about Mr. Winton's disclosure or lack of as indicated by his family, at this

WINTON, Don – DOC # 308321

Page 6 of 6

time we are unaware of any evidence which would likely overcome a presumption of release.

DT: ch

March 7, 2014

cc: Institution
Don Winton
File

Appendix C

PHELAN

FILED

S1

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.

SID:

DOB: [REDACTED]

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

I. HEARING

07-9-06913-4

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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XXX

- 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					

- 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	SERIOUSNESS 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(B).

- 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

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 \$1,110.00 539 5196 -	Restitution to be paid to: CVCP \$550.84; Danielle Winton \$405.16 \$5455.16 <input type="checkbox"/> 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

CDF/LDI/FCD/ NTF/SAD/SDI	\$ _____	Drug fund contribution to be paid within two (2) years Fund # <input type="checkbox"/> 1015 <input type="checkbox"/> 1017 (TF)	RCW 9.94A.760
CLF	\$ _____	Crime lab fee - <input type="checkbox"/> 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,

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, [REDACTED], A L W (female, [REDACTED]) including, but not limited to, personal, verbal, telephonic, electronic, written or contact through a third party for 6-10 ~~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:

98 days/months on Count 01

44 days/months on Count 03

Actual number of months of total confinement ordered is: 98
(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:

COUNT	Minimum Term	Maximum Term
02	FS	CL PE

(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 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 committed 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 committed on or after July 1, 2000. Use paragraph 4.7 to impose community custody following work ethic camp.] *Life Court TP*

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 committed 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

- 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.

- 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.

- 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.

- 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-WITHOLDING 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

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

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


JUDGE OF THE SUPERIOR COURT

Print Name: Robert A. Harris


Kimberly R. Farr, WSBA #08728
Deputy Prosecuting Attorney


Thomas C. Phelan, WSBA #11373
Attorney for Defendant


DON WESLEY WINTON
Defendant

SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v.

DON WESLEY WINTON,

Defendant.

SID:

DOB: XXXXXXXXXX

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 100 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.

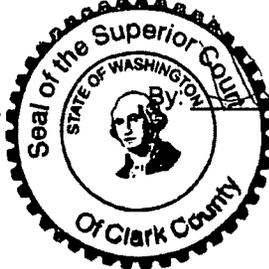
WITNESS, Honorable

Robert Adams

JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE:

Oct 23, 2007

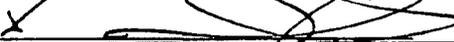
SHERRY W. PARKER, Clerk of the
Clark County Superior Court



Robert Adams

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 9A.84.660.

Defendant's signature: 

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.

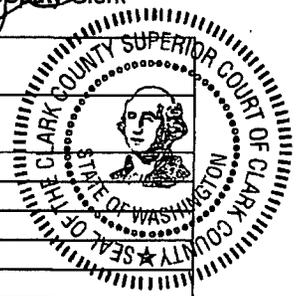
Interpreter signature/Print name: _____

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: October 25, 2007

Clerk of said County and State, by: Marlene S. Dodge Deputy Clerk

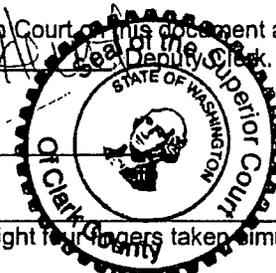
IDENTIFICATION OF DEFENDANT DON WESLEY WINTON	
SID No. (If no SID take fingerprint card for State Patrol)	Date of Birth [REDACTED]
Race: W	Sex: M
Driver License No. [REDACTED]	Driver License State: WA
FBI No.	Local ID No. (CFN):
Alias name, SSN, DOB:	Corrections No.
Other	

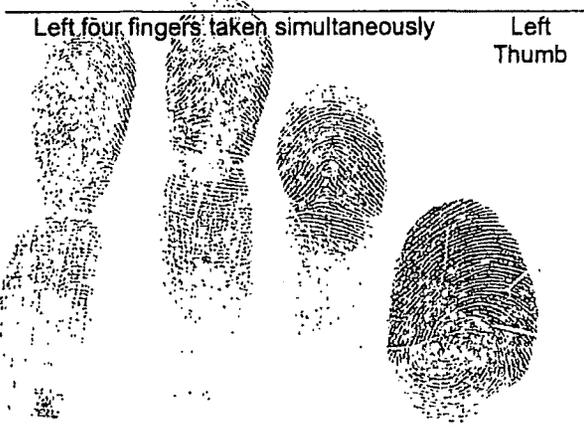
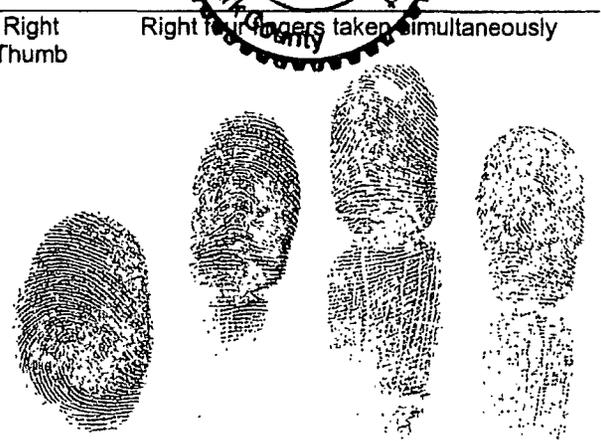


FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto. Clerk of the Court: Marlene S. Dodge Deputy Clerk

Dated: Oct 23, 2007

DEFENDANT'S SIGNATURE: 



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

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**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:

PRETRIAL OFFER - 1

Revised: June 14, 2007

(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: G.L.D.
9-1-01 to 8-7-04

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

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

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

PRETRIAL OFFER - 2

Revised: June 14, 2007

- 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**

- 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.

1) 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) 397-8002).

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 ALLEGED 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 INDIST.

PRETRIAL OFFER - 4

Revised: June 14, 2007

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**"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, ~~recreation~~ 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.

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- 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.

KCF ~~14. You shall not possess or consume alcohol.~~

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

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

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

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

KCF ~~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

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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.

PRETRIAL OFFER - 7

Revised: June 14, 2007

- 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: Day Winton (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 where nudity is practiced

DATE

JUDGE, CLARK COUNTY SUPERIOR COURT

SF/dc

Appendix D

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

DATE: July 3, 2014
TO: MCC – Twin Rivers Unit
Attn: Records
FROM: Jody Swails, CRT
SUBJECT: Administrative Board Decision
RE: WINTON, Don
#308321

An administrative decision of the Board in regard to the above-named individual has been made and is as follows:

Next Action is:

The Board requests an ORP (Offender Release Plan) be submitted for Board approval.

Reasons:

Mr. Winton is described as making 'significant progress' in his SOTP Treatment Summary.

File/jas

Appendix E



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: [REDACTED]
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 must 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.



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

RECEIVED
JUN 11 2014
INDETERMINATE SENTENCE
REVIEW BOARD

IN THE MATTER OF:

CCB Offender: WINTON, Don
DOC #: 308321

The conditions of your release must reasonably relate to at least one of the following:

1. The crime of conviction;
2. Your risk to reoffend;
3. The safety of the community.

If you feel the conditions are not related to the list above, you may file an appeal with ISRB under RCW 9.94A.704 (10) (c). To file an appeal, contact the ISRB with a written request that clearly states which condition(s) does not relate to the list above. Explain why you believe it is unrelated. Mail your appeal to the ISRB at PO Box 40907, Olympia, WA 98504-0907. Appeals must be postmarked no later than one business day from the day you sign the Release Order and Conditions. ISRB business days are Monday through Friday.

The ISRB will hold an Administrative Review of your appeal. The ISRB will notify you in writing with the results of the review.

IMPORTANT NOTE:

All conditions including the condition(s) in question will remain in effect until the ISRB rules that the condition does not correlate to an item above.

I have read, or have had read to me, this notice of my right to appeal a condition or conditions of my release. I understand that I have the right to appeal and that my appeal must be postmarked no more than one business day from today. I understand that I must comply with all conditions until the Board makes a decision regarding my appeal.

9/12/14

Date:

Offender's Signature:

Appendix F

Appendix G

NO. 52371-0-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

DON WESLEY WINTON,

Petitioner.

DECLARATION OF
SHEILA LEWALLEN

I, SHEILA LEWALLEN, make the following declaration:

1. I am a Victim Liaison to the Indeterminate Sentence Review Board (ISRB). In my capacity as a Victim Liaison, I provide services to victims/survivors of the offenders under the ISRB supervision, including crisis intervention and counseling. I am responsible for communications regarding ISRB hearings and decisions, victims' rights and inmate status. I have training in victim and offender dynamics and utilize that training in preparation of reports and case analysis to supplement ISRB decisions.

2. I have knowledge of facts and information pertaining to Don Winton, DOC #308321. I have confirmed that there are current safety concerns in Clark County as it relates to Mr. Winton's geographic conditions. Both of Mr. Winton's adjudicated victims, and one unadjudicated victim, as well as the mother of two of the victims reside in Clark County.

3. I mapped the areas where the victims live, work and attend school and safety concerns cover two separate cities and areas which are

unincorporated. In determining a boundary, it became difficult to map specific areas without highlighting the victims' locations. Requiring Mr. Winton to obtain prior approval before traveling to Clark County allows the Victim Liaison and the Board to ensure victims in the area are notified and the risk of contact with Mr. Winton is minimized during his time in the county.

I declare under the penalty of perjury of the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 19th day of July, 2018, at Lacey, Washington.


SHEILA LEWALLEN

Appendix H

FILED

2019 JAN 30 PM 4: 14

SCOTT G. WEBER, CLERK
CLARK COUNTY

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

STATE OF WASHINGTON,

Plaintiff,

v.

DON WESLEY WINTON,

Defendant.

No. 06-1-02237-8

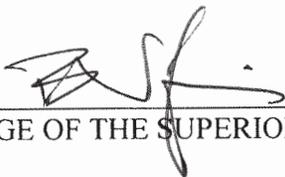
ORDER CORRECTING JUDGMENT AND
SENTENCE

THIS MATTER having come before the Court on joint motion of the parties to correct an error in the judgment and sentence, and the Court being fully advised in the premises,

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Judgment and Sentence entered in the above-captioned case on October 23, 2007 is hereby corrected to remove the condition, located on page 7, in section 4.6, that the defendant "not consume controlled substances except pursuant to lawfully issued prescriptions." The Judgment and Sentence is also hereby corrected to remove condition #4 from Appendix A which states "you shall not possess, consume, or deliver controlled substances, except pursuant to a validly issued prescription." These provisions shall be stricken from the judgment and sentence.

IT IS SO ORDERED.

DATED this 30 day of January, 2019.

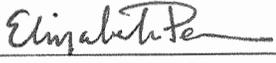


JUDGE OF THE SUPERIOR COURT

Agreed to by:



Rachael Rogers, WSBA #37878
Deputy Prosecuting Attorney



Elizabeth Mount Penner, WSBA #44261
Attorney for Defendant

Appendix I



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)

DELETE special condition "a" listed on the Order of Release Conditions Addendum dated May 11, 2017, which ordered him to submit to periodic and random urinalysis testing.

AUTHORIZED BY Kecia Rongen
 Indeterminate Sentence Review Board
 Board Member

p.p. *Irene Seifert*

2-5-2019
 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 #:

 Date Served on Offender:

 Offender's signature:

 Witness's signature:

**NOTICE OF RIGHT TO APPEAL A CONDITION OR CONDITIONS
RCW 9.94A.704 (10) (c)**

IN THE MATTER OF:

Offender: WINTON, Don
DOC #: 308321

The conditions of your release must reasonably relate to at least one of the following:

1. The crime of conviction;
2. Your risk to reoffend;
3. The safety of the community.

If you feel the conditions do not relate to the list above, you may file an appeal with ISRB under RCW 9.94A.704 (10) (c). To file an appeal, contact the ISRB with a written request that clearly states which condition(s) does not relate to the list above. Explain why you believe it is unrelated. Mail your appeal to the ISRB at PO Box 40907, Olympia, WA 98504-0907. ***Appeals must be postmarked no later than one business day from the day you sign the Release Order and Conditions.*** ISRB business days are Monday through Friday.

The ISRB will hold an Administrative Review of your appeal. The ISRB will notify you in writing with the results of the review.

IMPORTANT NOTE:

All conditions on the Release Order, including the condition(s) in question, will remain in effect until the ISRB rules on the Appeal request.

I have read, or have had read to me, this notice of my right to appeal a condition or conditions of my release. I understand that I have the right to appeal and that my appeal must be postmarked no more than one business day from today. I understand that I must comply with all conditions until the Board makes a decision regarding my appeal.

Date:

Offender's signature:

Don WINTON

Offender's Name

Appendix J

FILED
Court of Appeals
Division II
State of Washington
1/10/2019 1:16 PM
NO. 52371-0-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

In re the Personal Restraint Petition of:

DON WESLEY WINTON,

Petitioner.

RESPONDENT'S
MOTION TO
SUPPLEMENT THE
RECORD

Respondent, the Indeterminate Sentence Review Board (Board), hereby moves to supplement the record pursuant to RAP 9.10.

Winton is under the jurisdiction of the Board, and his petition (which was filed with this Court on May 11, 2018) challenges the travel restriction the Board has placed on him under RCW 9.95.420 as a condition of his supervised release. The Board filed its response to the petition on July 23, 2018.

On December 4, 2018, Mr. Winton signed an updated geographic condition relating to his travel through Clark County. Exhibit 1, Order of Release and Conditions Addendum. This matter is set for oral argument on February 28, 2019. Respondent moves to supplement the record with the most current geographic condition.

RESPECTFULLY SUBMITTED this 10th day of January, 2019.

ROBERT W. FERGUSON

Attorney General

s/ Mandy L. Rose

MANDY L. ROSE, WSBA #38506

Assistant Attorney General

Corrections Division OID #91025

(360) 586-1445

MandyR@atg.wa.gov

CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed the foregoing RESPONDENT’S MOTION TO SUPPLEMENT THE RECORD with the Clerk of the Court using the electronic filing system and I hereby certify that this system will serve the document to the following case participants as indicated below:

Via email to: elizabeth@newtonandhall.com

ELIZABETH MOUNT PENNER
NEWTON & HALL
610 CENTRAL AVENUE S
KENT WA 98032-6111

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

EXECUTED this 10th day of January, 2019, at Olympia, Washington.

s/ Katrina Toal _____
KATRINA TOAL
Legal Assistant 3
Corrections Division
PO Box 40116
Olympia WA 98504-0116
(360) 586-1445
KatrinaT@atg.wa.gov

Exhibit 1



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)

Amend the Addendum dated 7-19-2018 to:

Maintain condition: You must not enter Clark County without prior written approval of your CCO and the ISRB.

Update wording on added condition to now reflect:

You are allowed to travel through Clark County via Interstate 5 (I-5) or Interstate 205 (I-205), as long as you make no stops while in Clark County.

INDETERMINATE SENTENCE REVIEW BOARD

8-9-2018

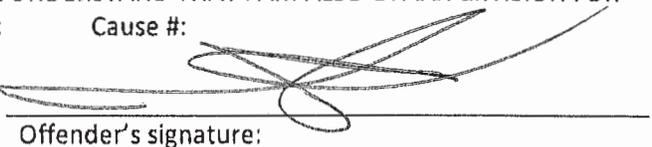
Date of Decision:

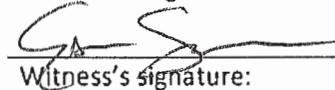
I have read, or have had read to me, the foregoing conditions of my community custody and have been given a copy; I fully understand and I agree, in consideration of granting of community custody, to observe and abide by such conditions. I FURTHER UNDERSTAND THAT I AM ALSO ON SUPERVISION FOR THE FOLLOWING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

12/4/18

Date Served on Offender:


 Member's signature:


 Offender's signature:


 Witness's signature:

NOTICE OF RIGHT TO APPEAL A CONDITION OR CONDITIONS
RCW 9.94A.704 (10) (c)

IN THE MATTER OF:

Offender: WINTON, Don
DOC #: 308321

The conditions of your release must reasonably relate to at least one of the following:

1. The crime of conviction;
2. Your risk to reoffend;
3. The safety of the community.

If you feel the conditions do not relate to the list above, you may file an appeal with ISRB under RCW 9.94A.704 (10) (c). To file an appeal, contact the ISRB with a written request that clearly states which condition(s) does not relate to the list above. Explain why you believe it is unrelated. Mail your appeal to the ISRB at PO Box 40907, Olympia, WA 98504-0907. **Appeals must be postmarked no later than one business day from the day you sign the Release Order and Conditions.** ISRB business days are Monday through Friday.

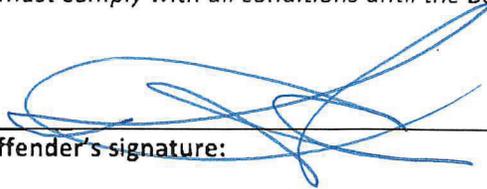
The ISRB will hold an Administrative Review of your appeal. The ISRB will notify you in writing with the results of the review.

IMPORTANT NOTE:

All conditions on the Release Order, including the condition(s) in question, will remain in effect until the ISRB rules on the Appeal request.

I have read, or have had read to me, this notice of my right to appeal a condition or conditions of my release. I understand that I have the right to appeal and that my appeal must be postmarked no more than one business day from today. I understand that I must comply with all conditions until the Board makes a decision regarding my appeal.

12/4/18
Date:


Offender's signature:

Don WINTON
Offender's Name

Appendix K

February 14, 2019

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the
Personal Restraint of

DON WESLEY WINTON,

Petitioner.

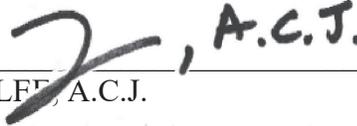
No. 52371-0-II

**ORDER DENYING FIRST MOTION TO
SUPPLEMENT THE RECORD**

RESPONDENT Indeterminate Sentence Review Board moved to supplement the record on January 10, 2019 in the above entitled matter with documentation regarding Winton's travel restrictions. Following consideration, the court **DENIES** the motion. Accordingly, it is

SO ORDERED.

FOR THE COURT:



LFE, A.C.J.

Appendix L

February 14, 2019

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the
Personal Restraint of

DON WESLEY WINTON,

Petitioner.

No. 52371-0-II

**ORDER DENYING THIRD MOTION TO
SUPPLEMENT THE RECORD**

RESPONDENT Indeterminate Sentence Review Board moved to supplement the record on February 5, 2019, in the above entitled matter with documentation regarding Winton's urinalysis testing. Following consideration, the court **DENIES** the motion.

But the court directs the Petitioner to be prepared to identify for the court the remaining issues he is pursuing in his petition at oral argument on February 28, 2019. Accordingly, it is

SO ORDERED.

FOR THE COURT:



LEE, A.C.J.

Appendix M

Field Offender: WINTON, Don Wesley (308321)

Gender: Male	DOB: [REDACTED]	Age: 64	Body Status: Active Field
RLC: LOW	Wrap-Around: No	Comm. Concern: Yes	Location: Burien Office
SED: Life			CC/CCO: Castillo, Jermaine O (NW56)
	County SO Lvl:	ESR SO Lvl: Level 1 (09/04/2013)	

Details

Text

Date & Time Created: 07/11/2018 10:52 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/11/2018 09:30 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported as instructed on this date. P completed an offender report form, no changes. Checked discis on this date and it appears that there are no new criminal law violations/pending new criminal law violations. P denies contact with law enforcement, denies contact with minors, and denies victim contact. POLY: Due November. P was given a TP to Las Vegas. P will be staying at the ARIA and is going to look at a property that he may purchase. Instructed p to report back on: 08/01/18

Date & Time Created: 05/03/2018 07:47 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 05/03/2018
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P was granted TP to Kennewick for purposes only. Address is identical from the passes previously granted. TP will expire on 05/4/18

Date & Time Created: 04/13/2018 08:10 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/13/2018
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P was granted TP on this date for Kennewick. Valid from 04/17/18 expires on 04/20/18.

Date & Time Created: 04/04/2018 08:44 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/04/2018 08:40 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported as instructed on this date. P completed an offender report form, no changes. Checked discis on this date and it appears that there are no new criminal law violations/pending new criminal law violations. P denies contact with law enforcement, denies contact with minors, and denies victim contact. POLY: Due April. TP was granted for P to go to Kennewick for work purposes. P will be staying at the Quality Inn 7901 W. Quinalt Ave. Kennewick, WA and then his work site located at: 530 N. Edison St. Kennewick, WA. P will gone from 04/4/18 and will return on 04/7/18. Instructed p to report back on: 05/02/18

Date & Time Created: 02/08/2018 11:41 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/07/2018 11:00 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported as instructed. P completed an offender report form, no changes. DISCIS indicates no new criminal law violations. P was granted TP to 530 N. Edison St. Kennewick, WA for work. P will stay at Quality Inn 7901 W. Quinalt Ave. Kennewick, WA. TP is valid from 02/13-02/17. P was instructed to report back on 03/7/18.

Date & Time Created: 11/21/2017 09:50 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/21/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P req travel to: Work Address: 530 N Edison Street, Kennewick, Benton County, WA
 Hotel Address: Quality Inn, 7901 W Quinalt Ave, Kennewick, Benton County, WA for work. P would be leaving on 12/4 and return on 12/5- P was granted TP.

Date & Time Created: 11/02/2017 07:41 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/01/2017 11:00 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley

P reported as instructed on this date. P completed an offender report form, no changes. Checked discis on this date and it appears that there are no new criminal law violations/pending new criminal law violations. P denies contact with law enforcement, denies contact with minors, and denies victim contact. POLY: Due March UA/BA: will give one next month. P was given travel passes for work in pierce

Details

Text

Author Name: Castillo, Jermaine O
 Events: Contact (CN)

county, trip to las vegas from 11/20-11/23 will stay at ARIA hotel, and then was given a tp to WCC for a reentry program. Instructed p to report back on: 12/06/17

Date & Time Created: 10/24/2017 02:34 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/24/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P requested tp to las vegas for his and his gf's birthday's. P was granted tp. information: Aria Resort & Casino, 3730 S. Las Vegas Blvd, Las Vegas, Clark County, NV 89158. P will be leaving on 11/20/17 and will return on 11/23/17.

Date & Time Created: 10/05/2017 04:46 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/04/2017 10:00 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported as instructed. P completed an offender report form, no changes. DISCIS indicates no new criminal law violations. POLY: completed on 09/11-passed, will need to schedule another one. P was granted TP for work purposes to Thurston and Pierce county. NRD: 11/1/17.

Date & Time Created: 09/29/2017 03:25 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/29/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P granted tp to TRU on 10/13 to be a guest speaker and was also given a TP for work to 123 2nd ave s Edmonds, WA and 12121 harbor reach Dr. Mukileteo, WA on 10/3. P has been instructed to abide by all laws and conditions and return home after each visit.

Date & Time Created: 09/20/2017 02:05 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/20/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P requested TP for 2600 Willamette Dr, Lacey, Thurston County, WA to look at some potential property P could buy. P requested to leave on 09/22 and stated he will return on the same day. The TP has been granted. P was reminded of the conditions he is to follow and laws he is to abide by.

Date & Time Created: 09/20/2017 01:58 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/20/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P requested TP for a church service in Cascade Community Church, 14377 Frylands Blvd, SE, Monroe, Snohomish County, WA. P said that he was invited to play music at this event with his worship team. P was granted the pass and was instructed to abide by all laws and imposed conditions on the J&S and ISRB order of release. P will be leaving and returning on 10/7/17.

Date & Time Created: 09/07/2017 01:30 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/06/2017 11:00 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported to the office as instructed on this date. P filled out offender report form, no changes. P denies contact with law enforcement, victim, and minors. **DISCIS: Checked on this date, no new criminal law violations **SOTP: complete **POLY: scheduled in Kent. P was reminded. **UA: none **NRD: 10/4/17

Date & Time Created: 09/05/2017 03:12 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/05/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

p was granted a TP to pierce county for work, exp on 10/4. P was granted a TP to fife for the purpose of car service, valid and expires on 09/8. P was granted a TP to Stafford creek corrections center for a resource fair dated on 09/20.

Date & Time Created: 08/22/2017 05:13 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 08/22/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P was granted TP to TRU for the purpose of being a guest speaker for offenders releasing to the community on 08/25/17.

Details

Date & Time Created: 08/03/2017 12:53 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 08/02/2017 01:00 PM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

Text

P reported to the office as instructed on this date. P filled out offender report form, no changes. P denies contact with law enforcement, victim, and minors. **DISCIS: Checked on this date, no new criminal law violations **SOTP: complete **POLY: Due Sept. P will need to scheduled asap. **UA: P is currently in contact with his attorney to appeal the ISRB's decision in trying to remove the UA condition. P was told that because his appeal was already denied, he will still need to provide a UA. P voiced compliance. P was given a tp to Pierce County for work purposes. The Pierce County tp will expire by his nrd. P was also given a TP to 400 N. State Route 89A, Sedona AZ from 08/9-08/12, then will go to Carrie and Merlin Peterson's address located in 1125 W. 1375 N. St. George, Utah from 08/12-08/14. P will then leave to Las Vegas and will stay at Mandalay Bay from 08/14-08/17. P will return home on 08/17. The trip pass will expire on 08/17/17 P understands he is to abide by all laws and imposed conditions. **NRD:09/06/17, P voiced compliance. OSP signed.

Date & Time Created: 07/14/2017 11:19 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/14/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

P was granted a tp to 4216 N. McDonald Rd., Spokane Valley, WA 99216-for work only. He will be staying at Quality Inn Valley Suites, E. 8923 Mission Ave, Spokane, WA 99212. He will be leaving on 07/17 and will return on 07/19.

Date & Time Created: 07/06/2017 05:42 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/05/2017 02:00 PM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported to the office as instructed on this date. P filled out offender report form, no changes. P denies contact with law enforcement, victim, and minors. **DISCIS: Checked on this date, no new criminal law violations **SOTP: complete **POLY: due sept **UA: none. P was given a TP for July 7-4216 N. McDonald Rd. Spokane for work purposes only. P will return on the same day. P was given another TP fo August 8, 2502 S. Tyler St. Tacoma, WA. P will also return on the same day. **NRD: 08/02/17

Date & Time Created: 06/08/2017 02:57 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/07/2017 02:00 PM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Contact (CN)

P reported to the office as instructed on this date. P filled out offender report form, no changes. P denies contact with law enforcement, victim, and minors. **DISCIS: Checked on this date, no new criminal law violations **SOTP: complete **POLY: Due Sept **UA: none **07/5/17 P sent an appeals letter to the isrb regarding his ua condition.

Date & Time Created: 06/01/2017 11:15 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/01/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

p requested a tp to 4902 Pacific Hwy E. Fife, WA. for 06/02/17 to purchase a vehicle. P was granted the tp. TP expires on 06/2/17. P was reminded to follow conditions ordered by the court and imposed by the isrb.

Date & Time Created: 05/10/2017 11:05 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 05/10/2017
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Telephone Offender (TP)

I talked to P on this date about scheduling a disclosure with a potential woman he would like to have an intimate relationship with. Her name is Nhu Dang. He informed me that she has a 28 y/o son who does not have any kids. P indicates that her son is gay. He also informed me that there are absolutely no children involved. We scheduled disclosure for 05/16 @ 0830. P was also granted a TP to pierce county for work purposes only. P was reminded of the conditions that he has been ordered to abide by. The pass expires on 06/7/17.

Date & Time Created: 04/13/2017 03:21 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/10/2017 10:30 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p w/ attached safety plan for request to travel to Hawaii from 4/26 -5/3. Emailed p back and let him know that I would review and issued TP at his nrd of 4/18.

Date & Time Created: 04/10/2017 10:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/10/2017 10:20 AM
 DOC No.: 308321

Recv'd email from p requesting permission to travel to Olympia on 4/12 to register his new business. Issued p TP back via email.

Details

Text

Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Date & Time Created: 03/07/2017 09:19 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/07/2017 08:30 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p requesting permission to attend his colleague's funeral on 3/11 @ 19920 1st St. Ct. E.Lake Tapps, WA 98391. Will issue p a TP when he reports in today.

Date & Time Created: 03/03/2017 10:15 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/01/2017 05:13 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p on 3/1 requesting a travel permit to go to dinner w/ his business partner, Rob Murnen, on 3/4 at The Lobster Shop (4015 N. Ruston Way, Tacoma 98402). Approved travel and emailed back a TP.

Date & Time Created: 02/21/2017 10:14 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/17/2017 01:45 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p w/ attached safety plan for request to travel to Las Vegas 3/13-3/16 to visit friends. Reviewed safety plan, and will issue TP to p at his nrd after polygraph.

Date & Time Created: 02/17/2017 01:22 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/15/2017 01:25 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p requesting a travel permit to go register his new limited liability company with the Secretary of State at 801 Capital Way S., Olympla, WA 98501 on 2/22/17. Emailed p back TP.

Date & Time Created: 02/02/2017 09:31 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/02/2017 09:30 AM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd email from p requesting permission to attend the Palmer Wirfs Antinque Show 2/3-2/5 at 110 9th Ave SW, Puyallup 98371. Emailed p back a TP this date.

Date & Time Created: 12/20/2016 09:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/20/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Offender (LP)

Recv'd email from p w/ attached safety plan requesting permission to travel to Las Vegas w/ Mei on 1/11-1/14. Reviewed safety plan and emailed p back a TP for this travel.

Date & Time Created: 12/19/2016 02:50 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/19/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Offender (LP)

Recv'd the following email from p: I would like to watch (on TV) the Huskies Peach Bowl college playoff football game that is on December 31. If you have the time and are willing, I would greatly appreciate a pass so I can go. Below are the specifics:
 Date: December 31, 2016 Location: Emerald Queen Casino, 2024 E. 29th Street, Tacoma, Pierce County, WA Purpose: To watch the Huskies Peach Bowl football game with friends. Rob Murnen (my business partner and DOC approved sponsor will be there) along with his wife. Method of Transportation: My personal Vehicle My Contact Info: 253-670-9193 The game starts at noon (PST). Emailed p back a TP.

Date & Time Created: 10/31/2016 10:29 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/31/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley

Recv'd the following email from p: I would like to attend the Palmer Wirfs Antique Show this Friday, Saturday, and Sunday (11/4-11/6, 2016). Location: 110 9th Ave S.W., Puyallup, WA 98371 Purpose: To shop for antiques and also to visit with show dealer friends I have that sell at the show. I will travel in my personal vehicle and likely attend alone.



Details

Text

Author Name: Stearns, Amber M
 Events: Letter Offender (LP)

Issued p TP back via email.

Date & Time Created: 10/24/2016 09:16 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/21/2016 04:22 PM
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Contact (CN)

Recv'd an email from p requesting a Travel Permit to go to the Pantages Theatre at Broadway Center for the Performing Arts, 901 Broadway, Tacoma, WA 98402 to see a Ballot on 10/28/16. Issued p back a TP via email.

Date & Time Created: 10/13/2016 03:00 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/13/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting permission to go to Stafford Creek Corrections Center on Monday October 17 for a church service and Wednesday, October 26 for the semi-annual resource fair. P has been approved by the prison to attend these functions. Emailed p back TP for both events.

Date & Time Created: 10/03/2016 10:26 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/03/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Office Collateral (OC) ,
 Office Offender (OP)

P reported this date as directed for polygraph exam. Per polygrapher, no deception indicated. P provided MR. P reported no changes/violations/LE contact. P continues working as a self-employed real estate agent and has completed Court ordered TX. No UA taken, as p is not required to provide UA's. Provided p w/ TP's for his work travel today. P reports that he and Christie have ended their relationship b/c Christie refuses to tell her daughter about him, which is upsetting to him b/c he really liked her. Told p unfortunately there is nothing he can do about that and must respect her wishes. P stated he understood. P directed to report back on 11/1/16 by 11am.

Date & Time Created: 09/30/2016 04:46 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/30/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting TP to travel into Kitsap County for work purposes on 10/3. P reports he will travel to 3232 Pine Road NE and 614 Sheridan Road in Bremerton, Kitsap County, Washington to view the properties for potential purchase. Told p I would issue him a TP at his nrd since he is reporting for a polygraph on that date.

Date & Time Created: 09/13/2016 01:34 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/13/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting permission to travel into Thurston County for work purposes as follows: Date: Leave and return on the same day - Thursday, September 15 Destination Address: 2421 Heritage Court SW, Olympia, Thurston County, WA Purpose: To visit a commercial property to determine whether or not to make an offer to purchase. We will be meeting a commercial real estate broker at the site. Method of Travel: Personal Vehicle Persons traveling with me: My business partner and DOC approved sponsor, Robert Murnen. Issued p TP back via email.

Date & Time Created: 09/09/2016 08:02 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/09/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting permission to go visit his girlfriend, Christie, for one night in Moses Lake on 9/12/16. Issued p TP for the following details: Travel Dates: Monday, September 12 and return Tuesday, September 13, 2016. Address: Comfort Suites, 1700 E. Kittleson Road, Moses Lake, Grant County, Washington 98837 Method of travel: Personal Vehicle - 2014 Ford F-150, Gray, Plate C74688B, WA Contact Number: 253-670-9193.

Date & Time Created: 09/06/2016 09:29 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/06/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Office Offender (OP)

P reported this date as directed. P provided MR and a signed copy of his safety plan. P reports no changes/violations/LE contact. P continues working as a self-employed real estate agent and has completed Court ordered TX. No UA taken, as p is not required to provide UA's. Provided p w/ TP's for his upcoming travel. P scheduled for polygraph exam on 10/3/16 @ 9:30am, which will suffice for his nrd.

Date & Time Created: 08/30/2016 09:25 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 08/30/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley

Recv'd email from p w/ attached safety plan and request to travel to Arizona, Utah and Nevada on Sept 19-26. Will review and Issue TP's as necessary.

Details

Text

Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Date & Time Created: 08/29/2016 11:56 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 08/29/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting permission to go visit his girlfriend, Christie, for one night in Moses Lake on 8/31/16. Issued p TP for the following details: Travel Dates: Leave Wednesday, August 31 and return Thursday, September 1, 2016. Address: Comfort Suites, 1700 E. Kittleson Road, Moses Lake, Grant County, Washington 98837 Method of travel: Personal Vehicle - 2014 Ford F-150, Gray, Plate C74688B, WA Contact Number: 253-670-9193

Date & Time Created: 08/16/2016 01:24 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 08/16/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting permission to travel to Olympia on 8/18 to register his new business, Winton Capital, LLC. Issued p TP back via email.

Date & Time Created: 06/30/2016 11:38 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/30/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p stating that he is working on getting a closing date set for the purchase of the Spokane home. P stated the following: It appears that I will sign documents on July 7 and close on July 8. So, the following is my trip request: Travel Start Date: 7/6/16 (Hotel check in is 4:00 PM) Travel Return Date: 7/9/16 (Hotel check out is 11:00 AM) Destination: Comfort Inn 923 3rd Ave E., Spokane, Spokane County, WA 99202, 509-535-9000. Confirmation# 30468528 Purpose of Trip: To complete the purchase of a home located at 1923 W. Summit Parkway, Spokane, WA 99201 Method of Travel: Personal Vehicle - 2014 Ford F-150, Gray, C74688B, WA Contact# Don Winton 253-670-9193, Christie 509-294-9692 Completed TP and emailed back to p.

Date & Time Created: 06/28/2016 09:51 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/28/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting an open-ended TP to Spokane b/c he and his girlfriend, Christie, bought a home there for her to live in and it is supposed to be closing within the next two weeks, but he does not have the exact dates at this time. Emailed p back and let him know that this is not something I would issue an open-ended TP for and that he will have to let me know the specific date(s) he needs to go and I can issue one then.

Date & Time Created: 06/21/2016 08:40 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/21/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Telephone Offender (TP)

Recv'd email from p requesting permission to fly to Spokane today and drive back w/ his girlfriend, Christie, the same day. Issued p TP via email w/ the following details: Pass issue date: 6/21 Pass expiration date: 6/21 Address: 1923 W. Summit Parkway, Spokane, Spokane County, WA 99201 Travel to Spokane: Alaska Air Return Travel: 2014 Range Rover Sport, black, BAA3456 Contact number for me: 253-670-9193 Traveling with: To Spokane by myself. Return with Christie Gardner

Date & Time Created: 06/07/2016 09:35 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/07/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Offender (LP) ,
 Office Offender (OP)

P reported this date as directed. P provided MR. P reports no changes/violations/LE contact. P submitted request to go to his home in Arch Cape, OR 6/27-7/2. Told p since he has already been given permission by myself and the board to travel to this residence numerous times, I am going to issue him an open-ended TP w/ the expectation that he calls to let me know when he plans to travel to & from his residence. P volced compliance. No UA taken, as p is not required to provide UA's. P directed to report back on 7/5/16 by 11am.

Date & Time Created: 05/26/2016 07:39 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 05/25/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd an email from p requesting permission to go to Spokane to help Christie look for a house to buy on 5/26-5/27. Emailed p back a TP.

Date & Time Created: 05/06/2016 08:58 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 05/06/2016

Recv'd an email from p requesting permission to stand in as a witness at a his friend's daughter's wedding 5/13/16 at 4:00pm at the Pierce County District Court, 2nd Floor, Court Room 2, 930 Tacoma Ave South, Tacoma, WA 98502. P reports that

Details

DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Date & Time Created: 03/21/2016 09:57 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/21/2016
 DOC No.: 308321

Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Office Offender (OP)

Date & Time Created: 03/18/2016 12:25 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/18/2016
 DOC No.: 308321

Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Telephone Offender (TP)

Date & Time Created: 03/03/2016 07:48 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/03/2016
 DOC No.: 308321

Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Telephone Offender (TP)

Date & Time Created: 03/01/2016 11:14 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 03/01/2016
 DOC No.: 308321

Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Office Offender (OP)

Date & Time Created: 02/25/2016 01:35 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/25/2016
 DOC No.: 308321

Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Date & Time Created: 02/23/2016 09:00 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 02/23/2016
 DOC No.: 308321

Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Date & Time Created: 01/22/2016 09:11 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/22/2016
 DOC No.: 308321

Text

there will be only four people present; his friend Patty Hale, her daughter Erica Hale (the bride, age 37), the groom (Kevin), and himself. Emailed p back a TP and told him I would approve him attending this event.

P reported into the office this date to p/u TP and sign ISRB conditions. P signed and was given a copy of conditions. Signed documents forwarded to ISRB. Reminded p of nrd of 4/4/16 @ 9:30am for polygraph exam.

Recv'd email from p w/ his request to travel to SCCC on April 6 to attend the Easter Event. P included the email from the Chapln @ SCCC clearing him to attend. Called p to let him know that I got the request and that I also received a copy of his updated conditions from the ISRB that I need to serve him with. Asked p if he could report into the office on 3/21 to that I could serve him w/ the updated conditions and give him his TP. P stated he would be here.

Recv'd the following email from Jill Getty: "Sorry, the ISRB Victim Liaison has been in contact the concerned citizens and we've been trying to give them an opportunity to provide a response. Mr. Winton has permission to attend the antique show in Portland, OR on March 4, 2016 and travel to his beach house on weekends through April 2016, as outlined in his safety plans. I have also requested that his conditions be amended to allow for travel to Arch Cape, OR with CCO approval only. Unfortunately, there have not been any Board Members in the office to approve the change. I'll have to keep you posted on that piece." Called p to let him know this info and that I would update his TP for Oregon and issue his TP for travel to SCCC on 3/16/16 and email them to him.

P reported this date as directed. P provided MR. P reports no changes/violations/LE contact. P asked if he could get an open-ended TP to his doctor in Tacoma, as he can see that he is going to be having to go there a lot. Changed p's TP from the 3/15/16 date to an open-ended TP. P also submitted travel request to attend a resource fair at SCCC on 3/16/16. Told p I would review it and issue him a TP within the next week. P also had questions regarding going to the mall, as the J&S I have states he is not allowed to go there, but p brought all of his legal documents and showed me where that was amended. Told p I would review these documents and get back to him. P also wanted to know if I had heard back from the board regarding safety plans submitted at his last report date. Told p I had not, but would send an email and see if I could get a response. No UA taken, as p is not required to provide UA's. P scheduled for polygraph on 4/4/16 @ 9:30am, which will suffice for his nrd.

Recv'd email from p stating that his doctor appointment has been changed from 3/1 to 3/15. Told p I would update the TP and give it to him at nrd.

Recv'd email from requesting travel permit to attend a medical appointment in Pierce County on 3/1/16. Emailed p back and told him I would issue him the TP at his nrd.

Recv'd the following email from p: Last night I cancelled my San Diego trip. Christie is very ill and is returning to Spokane for a possible surgery. I understand that this is very last minute. But there is an antique show at the Puyallup Fairgrounds (Pierce County) this weekend. I attended this show in November. See trip permit attached

Details

Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Text

(FYI that permit has a typo it has Child Mol. 1 & 2 instead of 1 & 3). If you have time and would let me go to this show, I would very much appreciate it. I would request to attend all three days. The days are today (1/22), 1/23, and 1/24. I used to sell antiques at this show and still know many of the dealers. The show promoter Christine Palmer knows me and is well aware of the nature of my crimes. She communicated with me in prison and wrote a support letter to the ISRB when they were considering my release. If you don't have the time to process this or don't want to do it due to the short notice, I will fully understand. Granted p permission to go and issued him a TP back via email.

Date & Time Created: 01/19/2016 07:49 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/19/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd signed copy of TP from p for his trip to San Diego on 1/22/16. Placed in p's file.

Date & Time Created: 01/14/2016 09:42 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/14/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Comment (CM)

Issued TP via email to p for his request to travel to CA 1/22-1/25. Requested p sign it and email back.

Date & Time Created: 01/14/2016 07:58 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/12/2016
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd the following email from p: Attached is a trip request to go to San Diego Jan 22 - 25 to spend the weekend with Christie, who will be there attending a training course. Hopefully, you will find the Safety Plan attached to be reasonably self explanatory. I have not yet made any reservations. I will do so after you give tentative approval of the trip. If you allow me to go on this trip, then for that week, I will either not go to check on construction at the beach house that week or will go down and back on Thursday, the 21st. Whether I go to the beach house or not on that week will all depend on discussions with the general contractor that week. I would prefer to not go that week. Will review safety plan and issue TP accordingly.

Date & Time Created: 12/22/2015 08:13 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/22/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Telephone Offender (TP)

Called p this date to let him know that his travel request to his beach house in Oregon has been approved by the ISRB, however, the board is still reviewing/gathering info to make a decision on his request to modify his travel restriction condition. Told p I would issue him one travel permit starting 12/31/15 and ending 3/5/16. Told p I will email him TP and he will need to sign it and send it back to me. P voiced compliance.

Date & Time Created: 12/07/2015 09:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/07/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd email from p requesting permission to travel into Snohomish County today to shop at the Seattle Premium Outlets w/ his adult niece, Christie Gardner (age 49), who is in from out of town. Told p I would grant his request and emailed him back a TP.

Date & Time Created: 12/01/2015 09:48 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 12/01/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Office Offender (OP)

P reported this date as directed. P provided MR. P reports no changes/violations/LE contact. Provided p w/ TP so that he can speak at the SOTP Family Seminar @ MCC on 12/11/15. P provided safety plan proposal for his beach house on the Oregon coast. P states that his home is going to be remodeled and the contractors are requiring that he be there once a week from Dec 31-Mar 5. Told p that this is going to require board approval due to the geographical restrictions the board imposed on p traveling through Oregon. P understood. Told p I would speak w/ the board and get back to him. P also discussed buying a home in Texas for his girlfriend to live in. P states he would only request to travel there once a month. Told p I do not see this being an issue, however, he needs to keep me updated. P voiced compliance. No UA taken, as p is not required to provide UA's. P directed to report back on 1/5/16 by 11am.

Details

Date & Time Created: 11/10/2015 09:47 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/10/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC) ,
 Office Offender (OP) ,
 Testing (TS)

Text

P reported this date as directed. P provided MR and all info for his trip to Texas. Issued p TP for this trip. P reports no changes/violations/LE contact. P also requested an updated TP for work purposes. P reports that he is self-employed in real estate and his work is primarily in Pierce County. Provided p w/ TP for work purposes. Asked p to provided UA. P states the board stated he no longer had to provide UA's, but that he would until I could get verification. Looked in p's file and OMNI, but could not find anything indicating he no longer had to provide UA's. P provided UA, which was negative for controlled substances. Told p I would look into this for him. Sent email to the board. P also informed me that he has sent a request to the board to modify his travel restriction to allow him to enter into Oregon and other restricted parts of WA. Thanked p for letting me and told him if the board grants his request that they would let me know. P is also requesting permission to attend an SOTP seminar at Twin Rivers on 12/11 and provided me w/ a travel pass request worksheet. Told p I would review this and let him know if he can go. P voiced compliance. P directed to report back on 12/1/15 by 11am.

Date & Time Created: 10/23/2015 12:22 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/23/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Stearns, Amber M
 Events: Letter Collateral (LC)

Recv'd a copy of p's Safety Plan via email for requested travel to San Antonio, TX on 11/15-11/23. Emailed p back and told him I would review plan and issue a TP at his nrd. P understood.

Date & Time Created: 10/08/2015 03:49 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/08/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

****10/7/15**** P reported to the office as instructed. P completed offender report form. There are no changes in address or telephone number, Discs indicates no new criminal law violations. P denies contact with anyone that would place him in violation of supervision. UA:NOT NEEDED POLY:Scheduled in Pierce County SOTP: Waiting on completion letter. P was informed that his case is going to be transferred to FW field office. However, we are still waiting on when this will take effect. Signed LA Fitness Safety plan for P. P understands his conditions and was instructed to not violate any of them. P was instructed to avoid minor contact at all cost. P voiced compliance.NRD11/4/15.

Date & Time Created: 09/16/2015 12:46 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 09/16/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

P reported to the office as instructed. P completed offender report form. UA: Due this month, September. POLY: requested schedule for Pierce County. I had scheduled a poly in Seattle, however, due to victim concerns I had to cancel the poly and am waiting on Scott Harris in Pierce County to inform me when they have and opening so P can complete his poly. SOTP: P is almost done. We are waiting on P to have his exit paperwork typed and signed by his treatment provider. I gave 2 TP to P: 1) Stafford Creek Corrections Center for a resource fair that has been okay'd by the acting superintendent Dan VanOgle. I emailed Dawn Taylor asking her if this was okay, she said it was approved. NRD: 10/07/15.

Date & Time Created: 08/04/2015 10:03 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 08/04/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

P reported to the office as instructed. P completed offender report form. SOTP: P indicates compliance. UA: Due September 9. Gave P a travel pass to Texas. he will be gone from 09/06 and will return on 09/11/15. P understands he is to have no contact with any minors under any circumstance. P was also instructed to abide by all doc imposed conditions as well as state, local, and federal laws. P's nrd is 09/16/15

Date & Time Created: 07/31/2015 12:12 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/31/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Telephone Collateral (TC) ,
 Telephone Offender (TP)

I talked with Mary Burttschell, the woman P wants to begin a relationship with and she said that she knows all about P's conviction. She said she knows all details, how old the victims were, who the victims are, etc. She indicated that she has a 17 year old kid who lives with his father and a 22 year old. She understands fully that P is to not have any contact with any minors whatsoever. She even stated that if P did have contact with minors, she would report it. She said that she spoke with Brendan Playle, P's SOTP provider, and he approved. I then called Brendan and he approved of the relationship. All of the issues that I discussed with her, he discussed with her. I then spoke with P and told him that I would sign off on the relationship and also his trip permit to Texas. P was told that he is on strict supervisions and he is to not have any contact with minors. P voiced full compliance. P is to report on 08/4/15

sent tp for P for sotp and work in pierce county.

Details

Text

Date & Time Created: 07/02/2015 10:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/02/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Comment (CM)

Date & Time Created: 07/01/2015 12:48 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 07/01/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

P reported to the office as instructed. P filled out offender report form. DISCIS indicates no niv. UA: due in August POLY: due in December. SOTP: indicates compliance. NRD: 08/5/15

Date & Time Created: 06/29/2015 10:06 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/29/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

The board has approved P to go to Oregon. P reported to the office for TP. P was informed that he will be polygraphed when he returns. P will be leaving on 07/05/15 and return on 07/10/15.P.will still need to report on 07/01/15.

Date & Time Created: 06/03/2015 08:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 06/03/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

P reported to the office as instructed. P completed offender report form. SOTP: indicates compliant. Poly: June 11, 2015. P asked about a trip to Oregon at his beach house. P was told I would need to ask the board about this matter. P's NRD: 07/01/15

Date & Time Created: 05/14/2015 01:02 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 05/14/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Castillo, Jermaine O
 Events: Office Offender (OP)

05/13/15 P reported to the office as instructed. SOTP: P is completing in Pierce County because he cannot enter Seattle due to victim issues, per board. P is participating in tx with Brnedon Playle. UA: Scheduled for next month in June. Poly: June 11, 2015. P turned in a work related trips log.DISCIS: indicates no new law violations. NRD: 06/03/15

Date & Time Created: 04/30/2015 05:33 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/29/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Letter Offender (LP)

Email from P stating he's returned from his New Mexico trip (brother's funeral) without incident. No minor/victim contact. P further requests TP to participate in a Transition Support class at TRU, as approved and monitored by CSOTP Playle. Granted and scanned to P.

Date & Time Created: 04/22/2015 03:17 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/22/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Letter Collateral (LC)

Final review of safety plan for New Mexico trip, approved by treatment provider and Board CVL. P has reviewed SO registration laws for New Mexico. TP Issued for 4/25 through 4/29.

Date & Time Created: 04/08/2015 05:22 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/08/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Letter Collateral (LC) ,
 Office Offender (OP) ,
 Testing (TS)

P reported as directed and provided a UA sample, which tested negative. P is scheduled for a poly on 6/11 at 10:30. P provided a "Work Safety Plan," approved by his treatment provider, Pierce Co CSOTP Playle. This covers travels for property investment and management, which sometimes requires trips into Pierce County. On-going travel pass for work purposes requires P to keep a log of all Pierce County trips. NOTE that P's conditions do not allow any trips inside Seattle city limits, except with ISRB approval--also certain areas of WA state and OR, in the area of Portland. NRD 5/13.

Details

Date & Time Created: 04/01/2015 03:12 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 04/01/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Playle, Brendan R
 Events: Sex Offender Treatment Program Aftercare (GC)

Text

CSOTP group ran. Group members discussed offense history as well as high-risk behaviors and progress with community treatment. Group discussed the process of Safety Planning and how to identify high risks and minimize and avoid them in the community. Pt was active and involved in group discussions. Pt expressed some anxiety when falling on his head caused temporary blindness in his good eye, stating he's already blind in the other eye. States he had an emergency laser surgery and it appears to be getting better. Discussed having friends around and his gratefulness for his business partners and his church associates.

Date & Time Created: 01/20/2015 02:38 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/20/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Telephone Offender (TP)

P phoned to ask about 2 TP's. Friend Rob's sister is selling a sofa in Tacoma, no minors in house. Wants to travel with Rob to view a piece of vacant land they own in Milton. These will be issued when P provides dates and addresses.

Date & Time Created: 01/14/2015 04:33 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 01/14/2015
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Office Offender (OP),
 Testing (TS)

P reported as directed and provided a UA sample which tested negative. P reported 1 minor contact last Friday at a Starbucks, handled appropriately. P denies any other minor contact, D/A use, or travel to city of Seattle. P has an on-going TP for work purposes, to Pierce County. NRD 2/10 for disclosure meeting with proposed chaperone.

Date & Time Created: 11/21/2014 02:07 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/21/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Playle, Brendan R
 Events: Sex Offender Treatment Program Aftercare (GC)

CSOTP group ran. Discussed group members' offense-related high risk thoughts and behaviors and current issues in the community. Discussed the DOC Chaperone Process and paperwork involved. Discussed finding an appropriate chaperone who is aware of the offending behavior and individual-specific high-risks. Pt was involved in group discussions, did not report any deviant ideation or behaviors. Pt states he is still upset with not being allowed a travel pass, and was upset with some things he was told, however he stated he made a mistake in arguing and called to apologize to his CCO. We discussed working on accepting things versus trying to be right all the time. He agreed and stated it's better to work on what is effective versus getting caught up in "being right". States he will continue to set positive goals and work on building his business.

Date & Time Created: 11/20/2014 08:25 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/19/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Telephone Offender (TP)

****Late Chrono****P phoned on 11/19 to request TP to Tacoma to transact a potential business deal. P presented as unaware of the need to address any safety issues (although he had rushed through a safety plan from his treatment provider after talking with duty officer yesterday). P also presented as troubled by excessive demands on him to curtail his normal activities, even though his prison release date was 9/29/14, and I have often explained to him that rules will be loosened up when, as, and if I notice his willingness to comply with rules. TP for this week was denied, and I further explained that an on-going (not case-by-case) TP will be available for him as I am able to get comfortable with his transition into the community.

Date & Time Created: 11/18/2014 03:04 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/18/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Dalton, Bryan R
 Events: Letter Collateral (LC),
 Telephone Offender (TP)

P called this date requesting travel pass to a medical office for work. P states he is meeting with several doctors in regards to a rental space in Tacoma. P states his business partner and him wanted to meet thursday with them, but one of the four doctor's only had availability wed 11/19/14 at 8:30. P committed to this meeting, but stated if he could not be issued the travel pass, his business partner would go for him. P requested travel pass for 11/19/14 & 11/20/14 for tacoma. I received Email from SOTP stating it was an approved travel safety plan which P provided. Sent email to CCO Knoblauch. P stated he wouldn't be able to get approval for travel 11/19/14 in time for meeting, so P mentioned he would call his CCO in regards to travel 11/20/14. Staffed with CCO Schemnitzer about issuing travel for 11/19/14, he agreed with me that P would need to request travel permit from CCO Knoblauch 11/19/14 in the morning.

Date & Time Created: 11/18/2014 11:48 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/18/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley

P called this date requesting travel permit to Tacoma for a business property he is interested in. P stated the property is within a medical center of some kind which has a walk-in clinic, dentist, even a pediatrician. I told P that this would not be approved, and that for it to even be considered he would need to provide a safety plan and talk with his SOTP about the plan. At that point I could speak with his SOTP, then my

Details

Author Name: Dalton, Bryan R
 Events: Telephone Offender (TP)

Text

CCS to consider it, but more than likely he would need to try to get ahold of his CCO and request travel permit another day. P understood, and knew he would need a safety plan regardless of if I approved the travel, so he stated he would do that today and get back to me.

Date & Time Created: 11/05/2014 03:27 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 11/05/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Letter Collateral (LC) ,
 Office Offender (OP)

P in office per his appointment to have me review and consider his Safety Plan for Internet Use Request. Per this approved plan, he will be able to access the Internet on one laptop and one smart phone, as soon as both devices are covered by X3Watch (I believe) with SOTP Pleyle as his accountability partner. I signed and provided P with copies of the entire plan. I decided to have this be P's report day for this month. Reviewed and signed new Board imposed condition against entering Skamania County or Oregon north of Hwy 20. P states he will appeal this. Reviewed conditions. P denies any violations, and no unreported incidental contact. P is requesting 3 supervisors of contact: Ron Strayer to cover events such as going to P's beach house in Oregon (which he will not plan on requesting for several months); Rob Murnen, business partner, to supervise on visits to real estate development sites; Russell Wolf, friend and business associate, to supervise on personal recreational events, such as movies. I gave P copies of supervisor of contact forms and advised him to work through his treatment provider to schedule beginning this process, further advising him that the entire process would take some time to complete. P wanted to discuss the issue of "Danielle having too much power over him," and I advised him to try a higher level of humility regarding her (and his) situation. P states that Joelle (his daughter he is trying to reconcile with) has told him that Danielle has told her that, if she (Joelle) tries to connect with P, then Danielle will make sure that none of Joelle's siblings will ever talk to her again. I reminded P that all of these people are adults, capable of making up their own minds about these things. By accepting this "scary person" idea about Danielle as fact, he (P) is actually giving Danielle power. I confronted P about his "Portland antique show plan" which implied little or no chance of Danielle or her family being at the event. P maintains that Danielle has never "owned" an antiques business, only helped out in his old business. He finally admitted that she does collect antiques, and that he might have imagined that she might likely attend such an event. I advised him to take a wider scope at "possible risks" when drawing up safety plans. P disclosed the plan he has been working on for at least a year with House of Mercy, which Pastor James had already disclosed to me. He has put \$1 million dollars into a trust to essentially incubate and mentor new businesses for people living at HOM residences, then have these businesses grow to the point that they create jobs for other HOM members. Due to the fact that he cannot enter Seattle without Board permission, he has hired a new law firm in Bellevue to advise him regarding this trust. NRD 12/19 for 1:30 polygraph.

Date & Time Created: 10/24/2014 02:29 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/24/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Playle, Brendan R
 Events: Sex Offender Treatment Program Aftercare (GC)

CSOTP group ran. Group watched a video from the TED Talks Series on one man's negative experiences from viewing pornography. Group discussed some of the problems with viewing pornography including increased hostile masculinity, sexual preoccupation, and sexual objectification. Group members discussed how some of these factors played a role in their own offense behaviors. Pt was active and involved in group discussions. Pt discussed his frustrations with being denied access to an antique show in Portland, and states he feels his ex-wife is being "vindictive". He states he knows ultimately this is a result of his choices and offending, and he working towards accepting his conditions while still achieving his personal goals.

Date & Time Created: 10/23/2014 11:01 AM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/23/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Letter Collateral (LC) ,
 Telephone Offender (TP)

Heard back from ISRB that P is approved to travel through Clark County only for the purpose of a one-day trip to Portland on Sunday. He is not to stop in Clark County for any purpose. I phoned P to give him that information. He mentioned that he was going to get to see his daughter, Joelle Badinich. I confirmed with him that Joelle cannot function as a chaperone, and that he does not have any chaperones. P agrees and knows that he needs to specifically avoid all contact with minors on this trip. He will pick up TP on Friday afternoon.

Date & Time Created: 10/10/2014 04:00 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/10/2014
 DOC No.: 308321

CSOTP group ran. Group members discussed their personal high risks and problem behaviors related to sexual offense cycle and their progress with meeting community goals. Pt was active and involved in group. No deviant or problematic issues reported this week. Pt reviewed safety plans for trip to antique show in Portland and a safety

Details

Offender Name: WINTON, Don Wesley
 Author Name: Playle, Brendan R
 Events: Sex Offender Treatment Program Aftercare (GC)

Text

plan for computer use. Discussed high risks related to both. He was told he may be asked by the ISRB to take a different route into Portland, as he is not allowed into Clark County. Told him I would staff his computer use plan with his CCO.

Date & Time Created: 10/01/2014 03:39 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 10/01/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Office Offender (OP) ,
 Testing For Drugs (TD)

P in office requesting TP for CSOTP in Tacoma. P provided a UA sample (1st) which tested negative. Completed ONAT questions and OSP. P is even more congenial today that at his first report. Inquired again about TP's out of county for his business. I again reminded him of safety plans. Disputes that he has ever had any MH issues, but asserts that his crime may have been connected to his "depression" at the time. NRD changed to 11/12.

Date & Time Created: 09/16/2014 12:18 PM
 Offender Location At Occurrence: MCC-TRU
 Date & Time Of Occurrence: 09/16/2014
 DOC No.: 308321
 Offender Name: WINTON, Don Wesley
 Author Name: Knoblauch, Lauren R
 Events: Letter Collateral (LC)

Received ISRB permission for P to enter city of Seattle on PRD to register at King County Sheriff's SAU office at 516 3rd Ave, Seattle. Issued TP for above and scanned to CC Watts.

CORRECTIONS DIVISION ATTORNEY GENERAL'S OFFICE

August 01, 2019 - 11:55 AM

Filing Motion for Discretionary Review of Court of Appeals

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: Case Initiation
Appellate Court Case Title: Personal Restraint Petition of Don Wesley Winton (523710)

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