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RECEIVED
COURT OF APPEALS
DIVISION ONE

MAY 28 2009

No. 63565-4

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

IN RE THE PERSONAL RESTRAINT

OF

STEVEN DANIEL SWENSON,

Petitioner.

OPENING BRIEF IN SUPPORT OF
PERSONAL RESTRAINT PETITION

Sheryl Gordon McCloud #16709
710 Cherry St.
Seattle, WA 98104-1925
(206) 224-8777
Attorney for Petitioner,
Steven D. Swenson

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I. CLAIM FOR RELIEF

The deputy who prosecuted Mr. Swenson for a prior felony conviction was the judge who sentenced him in this case. This violates the due process clauses of the state and U.S. Constitutions, Canon 3(D) of the CJC, and the appearance of fairness doctrine.

II. QUESTION PRESENTED BY CLAIM

Whether a judge can impose sentence on a criminal defendant whom she previously prosecuted, without violating the due process clauses of the state and U.S. Constitutions, CJC Canon 3(D), and the appearance of fairness doctrine?

III. STATEMENT OF THE CASE

A. The Original Charges

According to the state, in late November of 2007 minor child A.M. told another child that "Steve" has sex with her and her little sister N.M. when he babysits them. The mother of A.M., N.M., and K.M. verified that Steven Swenson babysat those three children at his home in Ballard for the two preceding years. Sub No. 1, Information and Certification for Determination of Probable Cause (attached hereto as Appendix A).

After taking statements from the children, a search warrant was served on Mr. Swenson's home in Ballard. That November 21,

2007, search resulted in seizure of CDs, DVDs, a video camera and computers, as well as photographs of Mr. Swenson's body. Certification, Appendix A. Then, on December 5, 2007, Mr. Swenson was charged with Count 1, rape of a child in the first degree, in violation of RCW 9A.44.073, alleging intercourse with K.M.; Count 2, rape of a child in the first degree alleging intercourse with the same child during the same time period; Count 3, child molestation in the first degree, in violation of RCW 9A.44.083, alleging sexual contact with the same child, K.M.; Counts 4 and 6, alleging communication with a minor for immoral purposes in violation of RCW 9.68.090 and naming victims N.M. and A.M.; and Count 5, sexual exploitation of a minor in violation of RCW 9.68A.040(1) for photographing N.M. Information, Sub No. 1 (Appendix A).

B. The Amended Information and Guilty Plea

On April 1, 2008, following defense counsel-initiated competency evaluations, Mr. Swenson pled guilty to 5 of 6 counts in an Amended Information. Sub. No. 33 (Appendix B). The Amended Information changed the victim listed in Counts 2 and 3. It contains the following charges: Count 1, rape of a child in the first degree, in violation of RCW 9A.44.073, alleging intercourse with K.M.; Count 2, rape of a child in the first degree alleging intercourse with N.M. during

the same time period; Count 3, child molestation in the first degree, in violation of RCW 9A.44.083, alleging sexual contact with N.M.; Counts 4 and 6, alleging communication with a minor for immoral purposes in violation of RCW 9.68.090 and naming victims N.M. and A.M.; and Count 5, sexual exploitation of a minor in violation of RCW 9.68A.040(1) for photographing N.M.

Mr. Swenson entered guilty pleas on April 1, 2008. Transcript (Appendix C). The hearing began with the state's motion to amend the Information, keeping the same number of counts and charges, but changing some of the victim designations on some counts and ultimately dismissing Count 3. Transcript, p. 3. The defense acknowledged receipt of the Amended Information and defense counsel stated that Mr. Swenson would plead guilty to the felonies listed in Count 1 – first-degree rape of a child, naming victim K.M.; Count 2 – first-degree rape of a child, nameing victim N.M.; and Count 5 – sexual exploitation of a minor, naming victim N.M., and to the misdemeanor charges of communication with a minor in Counts 4 and 6. Transcript, pp. 2-3.

The state then queried Mr. Swenson about his guilty pleas. It asked whether Mr. Swenson "understand[s] that you are now being charged with one count – actually, two counts of rape of a

child in the first degree, one count of sexual exploitation of a minor, and two counts of communicating with a minor for immoral purposes,” and Mr. Swenson answered, “yes.” Transcript, p. 5. The prosecutor explained paragraph 6 of the Statement of Defendant on Plea of Guilty to the felonies, stating the standard range for both counts 1 and 2, and asking about indeterminate sentencing. Transcript, pp. 6-8. The state explained that the sentencing judge would make the final determination about the sentence. Transcript, pp. 10-12.

The deputy prosecutor explained the agreed recommended sentence to Mr. Swenson by stating, “that means you are agreeing to the same recommendation that the state is asking for, and that is that you serve an agreed high end minimum sentence of 216 months to life on Count I and the rape of a child counts to run concurrently with one another; that you serve 102 month’s [sic] confinement on Count V to run concurrently to the other counts; that you be on community custody for a period of life when you’re released on Counts I and II, and 36 to 48 months of community custody on Count V ...” Transcript, pp. 8-9. It made clear, however, that the sentencing judge would make the final decision about the length of the sentence. Transcript, pp. 10-12.

The trial court found Mr. Swenson guilty of Counts 1, 2, 4, 5, and 6. Judgment and Sentence - Non-Felony re Counts 4 and 6 only, Sub No. 50 (Appendix D); Judgment and Sentence - Felony re Counts 1, 2 and 4 only, Sub. 51 (Appendix E).

C. Sentence to the High End of the Standard Range

Mr. Swenson has no prior adult criminal history. With an offender score of 6, his sentencing range on Count 1 was 162-216 months as a minimum term; his sentencing range on Count 2 was 162-216 months as a minimum term; and his sentencing range on Count 4 was 77-102 months. Counts 4 and 6 were gross misdemeanors, so the court could sentence anywhere within the 0-365 day range on those.

Both the prosecution and the state recommended a sentence of 216 months of indeterminate total confinement on Counts 1 and 2, to run concurrently and 102 months of determinate confinement on Count 5, to run concurrently, with Counts 1 and 2. Sub No. 43, Defendant's Sentencing Memorandum; Sub. No. 52, State's Sentencing Memorandum.

The sentencing judge still had the discretion to impose any standard range minimum term that she chose, or to impose a

minimum term outside the standard range. The sentencing judge, however, turned out to be the same person who prosecuted Mr. Swenson for a prior juvenile felony. Copies of documents from that prior juvenile case, showing the name of the deputy prosecutor, are attached as Appendix F.

No one mentioned this at sentencing. The sentencing judge ended up imposing the highest terms possible while still remaining within the standard range on all the felonies. Thus, that court imposed 12 months of confinement, suspended, on each of the misdemeanors, that is, Counts 4 and 6. Sub No. 50, Judgment and Sentence – Non Felony, Appendix D. It then imposed a life term of confinement on each of Counts 1 and 2, along with a minimum indeterminate term of 216 months, as well as a determinate term of 102 months on Count 4. Sub No. 51, Judgment and Sentence – Felony, Appendix E.

ARGUMENT

I. THE SENTENCING JUDGE'S IMPARTIALITY MIGHT REASONABLY BE QUESTIONED BECAUSE SHE PREVIOUSLY PROSECUTED MR. SWENSON; THE COURT'S FAILURE TO RECUSE THUS WARRANTS RESENTENCING

The judge who sentenced Mr. Swenson on this case had prosecuted him for an unrelated juvenile crime in 1986. See

Appendix F.

Canon 3 of the Code of Judicial Conduct, however, provides that judges shall perform the duties of their office not just without bias, but without even the appearance of bias. CJC 3(D)(1) states in part:

(1) Judges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances in which:

(a) the judge has a personal bias or prejudice concerning a party...;

(b) the judge previously served as a lawyer ... in the matter in controversy ...

This Canon requires disqualification not just where the judge actually “has a personal bias or prejudice.” It also requires disqualification “in a proceeding in which their impartiality might reasonably be questioned....” The list of examples following that Canon is illustrative only and incomplete.¹ See generally *State v. Chamberlin*, 161 Wn.2d 30, 162 P.3d 389 (2007).

This Canon is consistent with the due process-based rule that a criminal defendant is entitled to not only a fair tribunal, but also to a tribunal with the “appearance of fairness” in all proceedings. See

¹The Code of Judicial Conduct is binding upon judges. See generally *In re Anderson*, 138 Wn.2d 830, 981 P.2d 426 (1999), as amended.

generally In re Murchison, 349 U.S. 133, 75 S.Ct. 623, 99 L.Ed. 942 (1955); *Offutt v. United States*, 348 U.S. 11, 75 S.Ct. 11, 99 L.Ed. 11 (1954); *Dimmel v. Campbell*, 68 Wn.2d 697, 414 P.2d 1022 (1966); *State v. Madry*, 8 Wn. App. 61, 504 P.2d 1156 (1972).

Thus, due process, the appearance of fairness doctrine, and Canon 3(D)(1) of the Code of Judicial Conduct all require disqualification of a judge if he or she is biased against a party *or if his or her impartiality might be reasonably questioned*. *State v. Dominguez*, 81 Wn. App. 325, 328, 914 P.2d 141 (1996) (numerous citations omitted). This is because the appearance of fairness doctrine requires more than just an impartial judge; “it also requires that the judge appear to be impartial.” *State v. Post*, 118 Wn.2d 596, 618, 826 P.2d 172, *modified by*, 837 P.2d 599 (1992); *State v. Madry*, 8 Wn. App. at 70. The appearance of fairness doctrine is especially important where, as here, the person with the allegedly disqualifying problem is the actual judge or decisionmaker. *State v. Post*, 118 Wn.2d 596, 826 P.2d 172. That prerequisite is obviously satisfied by Judge MacInnes’ position as the sentencing judge here.

Prejudice, however, cannot be presumed; evidence of either actual or potential bias must be shown before the appearance of fairness doctrine requires reversal due to lack of disqualification or

disclosure. *State v. Post*, 118 Wn.2d at 618-19 & n. 9; *State v. Carter*, 77 Wn. App. 8, 11-12, 888 P.2d 1230, *review denied*, 126 Wn.2d 1026 (1995). *Accord State v. Dominguez*, 81 Wn. App. at 330. In determining whether such a showing is made, it is important to note whether there is any documentation supporting the allegations. *State v. Dominguez*, 81 Wn. App. 325 at 328-9. Mr. Swenson's allegations here are supported by the file of King County Superior Court – Juvenile Court No. 86-8-02275-1, portions of which are attached as Appendix F. That file shows that the current sentencing judge previously prosecuted Mr. Swenson for a different crime.²

The key question, however, is “whether a reasonably prudent and disinterested observer would conclude [Mr. Swenson] obtained a fair, impartial, and neutral [hearing].” *Dominguez*, 81 Wn. App. at 330. Given the discretionary nature of the decision to be made at Mr. Swenson's sentencing hearing, and given the judge's decision to

² Another factor in determining whether there is sufficient evidence to prove an appearance of bias is the time between the potentially disqualifying event and the challenged proceeding. Where the potentially biasing incident occurs “some seven years earlier,” *Dominguez*, 81 Wn. App. at 328-9, the evidentiary threshold for showing a nexus between the two is lower. We acknowledge a similar, or greater, passage of time here.

impose the highest available sentence, it is certainly arguable that the length of the sentence was affected by the trial judge's prior representation and not just by the nature of the charges.

Unfortunately, we find no Washington decisions addressing this precise issue of whether a former prosecutor can sit as a judge on a case involving a criminal defendant whom he or she previously prosecuted. Other jurisdictions have, however, addressed it.

Some of those jurisdictions have adopted a rule *barring* a former prosecutor from sitting as a judge on the case of a criminal defendant that he or she previously prosecuted. *E.g.*, *Penoyer v. State*, 945 So.2d 586 (Fla. 2nd DCA 2006); *Goines v. State*, 708 So.2d 656 (Fla. 4th DCA 1998). In *Goines*, for example, the court explained:

We have only recently granted prohibition to disqualify a trial judge under the identical ground raised in this case. In *W.I. v. State*, 696 So. 2d 457 (Fla. 4th DCA 1997), the trial judge had previously prosecuted the same defendant, although more recently than in the present case. In finding this ground sufficient to require disqualification, we said:

“While the fact that the presiding judge prosecuted petitioner in a previous case does not present a direct conflict of interest, it does support petitioner's claim of a well founded fear that he will not receive a fair trial before this judge.”

Goines v. State, 708 So.2d at 659 (quoting *W.I. v. State*, 696 So.2d

at 458) (footnote omitted) (other citations omitted).

In fact in *State v. Kettles*, 785 A.2d 925 (N.J. App. Div. 2001), *review denied*, 794 A.2d 182 (N.J. 2002), the appellate court reversed a conviction where the trial judge had served as an assistant prosecutor before being appointed to the bench. She had presented evidence against the same defendant in another matter before a grand jury, and had successfully procured an indictment. The defendant in that case was informed of the conflict, and stated that he did not want another judge to try his case. The defendant was convicted and given an extended sentence. Nevertheless, his motion for post-conviction relief on the basis of this conflict of interest was ultimately granted. The appellate court ruled that the defendant and the public were both entitled to have a judge with no interest at all in the case preside, and that the judge's conflict of interest interfered with that goal.

Other jurisdictions have rejected an argument for automatic disqualification of a judge who previously prosecuted the same defendant. *E.g.*, *Del Vecchio v. Illinois Dept. of Corrections*, 31 F.3d 1363, 1375 (7th Cir. 1994) (*en banc*), *cert. denied*, 514 U.S. 1037 (1995); *Madden v. State*, 911 S.W.2d 236 (Tex. App. Waco 1995) ("The fact that Judge Warder prosecuted a prior case used

for enhancement in the present case does not present a conflict of interest.”).³

Washington courts have interpreted CJC 3(D)(1) and the appearance of fairness doctrine robustly in favor of individual rights. The Washington Supreme Court, for example, recently stated that a judge cannot sit on the appeal of a case that he or she initially decided, because of the appearance of fairness doctrine. *Chamberlin*, 161 Wn.2d at 37-38. On the other hand, the same Court held that it does not violate the appearance of fairness doctrine, due process clause protections, or Canon 3(D)(1) when a judge who issued a search warrant on a particular case thereafter presides over the criminal matter resulting once it is charged. *Id.*, 161 Wn.2d at 39-40. The difference, the state Supreme Court ruled, was that “the probable cause inquiry does not draw judges into an adversarial position.” *Id.*, 161 Wn.2d at 40. Such non-adversarial “pretrial involvement” does not disqualify a judge from serving as a neutral arbitrator thereafter. *Id.*

³ Similarly, other jurisdictions have ruled that there is not necessarily a conflict of interest in having a former prosecutor be appointed as a public defender for the same criminal defendant in a different case. *E.g.*, *State v. Childers*, 595 S.E.2d 872 (S.C. Ct. App. (2004) (numerous citations for same rule within).

The sentencing judge's prior involvement with Mr. Swenson, however, was adversarial rather than non-adversarial: she prosecuted him in juvenile court. The rationale behind the *Chamberlin* decision thus militates in favor of recusal in this case, even though it did not require recusal in that case. In fact, the rationale behind the *Chamberlin* decision – the focus on whether the prior contact between the current judge and the criminal defendant was adversarial and hence improper or non-adversarial and hence proper – is in line with the rationale of the Florida and New Jersey decisions cited above, which reversed convictions in which the presiding judge previously prosecuted the same criminal defendant. With the *Chamberlin* focus on whether the prior contact was adversarial or not, it becomes clear that the prior contact in Mr. Swenson's case was sufficiently adversarial that Judge MacInnes should have been barred from sitting as a judge over Mr. Swenson.

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II. CONCLUSION

For all of the foregoing reasons, this personal restraint petition should be granted. Mr. Swenson should be re-sentenced before a different judge.

DATED this 28th day of May, 2009.

Respectfully submitted,



Sheryl Gordon McCloud,
WSBA No. 16709
Attorney for Petitioner,
Steven D. Swenson

RECEIVED
COURT OF APPEALS
DIVISION ONE

MAY 28 2009

CERTIFICATE OF SERVICE

I certify that on the 28th day of May, 2009, a true and correct copy of the foregoing Opening Brief in Support of Personal Restraint Petition was served upon the following individuals by depositing same in the U.S. Mail, first-class, postage prepaid:

Michael Mohandeson, DPA
King County Prosecuting Attorney
W554 King County Courthouse
516 Third Ave.
Seattle, WA 98104



Sheryl Gordon McCloud

APPENDIX A

WARRANT ISSUED
CHARGE COUNTY \$200.00

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KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

STEVEN DANIEL SWENSON,

Defendant.

No. 07-1-08484-0 SEA

INFORMATION

COUNT I

I, Daniel T. Satterberg, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse STEVEN DANIEL SWENSON of the crime of **Rape of a Child in the First Degree**, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, being at least 24 months older than K.M., had sexual intercourse with K.M., who was less than 12 years old and was not married to the defendant;

Contrary to RCW 9A.44.073, and against the peace and dignity of the State of Washington.

COUNT II

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Rape of a Child in the First Degree**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

1 That the defendant STEVEN DANIEL SWENSON in King County, Washington, during
2 a period of time intervening between January 1, 2006 through September 15, 2007, being at least
3 24 months older than K.M., had sexual intercourse with K.M., who was less than 12 years old
4 and was not married to the defendant;

5 Contrary to RCW 9A.44.073, and against the peace and dignity of the State of
6 Washington.

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COUNT III

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Child Molestation in the First Degree**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, being at least 36 months older than K.M., had sexual contact for the purpose of sexual gratification, with K.M., who was less than 12 years old and was not married to the defendant;

Contrary to RCW 9A.44.083, and against the peace and dignity of the State of Washington.

COUNT IV

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Communication with a Minor for Immoral Purposes**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, did communicate with N.M., a child under the age of 18 years, or a person he believed to be a minor, for immoral purpose of a sexual nature;

Contrary to RCW 9.68A.090, and against the peace and dignity of the State of Washington.

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

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COUNT V

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Sexual Exploitation of a Minor**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, did compel, aid, invite, employ, authorize or cause N.M., a person under 18 years of age, to engage in sexually explicit conduct, knowing that such conduct would be photographed or part of a live performance;

Contrary to RCW 9.68A.040(1)(a)(b), (2), and against the peace and dignity of the State of Washington.

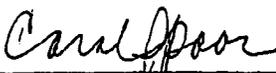
COUNT VI

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Communication with a Minor for Immoral Purposes**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, did communicate with A.M., a child under the age of 18 years, or a person he believed to be a minor, for immoral purpose of a sexual nature;

Contrary to RCW 9.68A.090, and against the peace and dignity of the State of Washington.

DANIEL T. SATTERBERG
Prosecuting Attorney

By: 
Carol D. Spoor, WSBA #15525
Senior Deputy Prosecuting Attorney

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

CAUSE NO. 07 - 1 - 08484 - 0 SEA



**CERTIFICATE FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 07-471956
UNIT FILE NUMBER

That D. Stangeland is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case Number 07-471956;

There is probable cause to believe that Steven Daniel Swenson, date-of-birth 08/04/72 committed the crime (s) of Rape of a Child 1st Degree, Child Molestation 1st Degree, and Communication with a Minor for Immoral Purposes.

This belief is predicated on the following facts and circumstances:

Reference Seattle Police Department incident number 07-471956:

On 11/20/07 Seattle Police Department received a referral from the Kitsap County Sheriff's office regarding the sexual abuse of 3 children who are now living in Kitsap County. The initial report of abuse was made to Child Protective Services in Kitsap County, and the Kitsap County Child Interview Specialist interviewed the children in the Kitsap County Prosecutor's Office on 11/19/07. It was determined that the abuse occurred in Seattle, Washington within the last 2 years. The last incident of abuse was approximately September 2007. The information was forwarded to Seattle Police for further investigation.

Detective Stangeland was assigned as the case detective.

The three female victims are A.M. age 10, N.M. age 6, and K.M. age 4. The original C.P.S. referral was made on 11/14/07, after the oldest victim, age 10, told another child that "Steve" has sex with her and her little sister (age 6), when he babysits them.

The three victims later disclosed sexual abuse by family friend Steve Swenson during their interviews on 11/19/07. The victims' mother verified that Steven Swenson has routinely babysat her three daughters (the victims) at his home for about the last 2 years. Swenson resides at 1107 Northwest 65th Street, City of Seattle, County of King, State of Washington.

A.M. age 10 disclosed that she is worried about her little sister N.M. age 6, because she spends a lot of time alone with Steve. A.M. provided Steve's full name as Steven Swenson during the interview.

A.M. said that on one occasion she entered Steve's bedroom to find Steve laying on his bed, watching as her sister N.M. disrobed. A.M. stopped her sister from disrobing.

A.M. reported that Steve plays a card game called 21 with her and her sisters. A.M. said, "If you go over 21 at any time you have to take off a piece of clothing and if you get naked and you lose and you go over another time, you have to do something that Steve wants you to do." A.M. reported that she has gotten naked during the game one time. Steve has stripped down to his underwear. N.M. age 6 and A.M. age 4 have gotten naked during the game. When A.M. has told them to put their clothes back on, Steve yelled at them.

A.M. said that she was worried, because the things that Steve wants them to do if they lose are "getting worse." He wants them to go have a bath with him. A.M. said that Steve has asked her to take a bath with him about 5 times, but that she has refused. She reported that Steve has taken baths with N.M. age 6 and K.M. age 4.



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 07-471956
UNIT FILE NUMBER

A.M. said she is also worried because Steve goes into his bedroom alone with her two little sisters, shuts the door, and locks it.

A.M. said that Steve told her not to tell her mom about what they do.

A.M. said that the games started when she was 9 and that the last time it happened was about 2 months ago, when Steve last babysat them. A.M.'s mother verified that Steve Swenson last babysat her daughters about 2 months ago.

N.M., age 6, was also interviewed by the Child Interview Specialist on 11/19/07.

N.M. talked about playing "21" with Steve. N.M. appeared hesitant to talk about things that happened between her and Steve. She said she couldn't remember what happened with her clothes when she plays 21 with Steve.

N.M. did talk about taking baths with Steve. She said that sometimes it is just one of them in the water and sometimes they are all in the bathtub, naked together. She named the people who bathe together as herself, Steve, A.M. and K.M.

N.M. named body parts. She called the front genital part the "front of the butt" and the buttocks "the butt."

The interviewer asked N.M. what the front of the butt on Steve looks like. N.M. said "It has this little thing attached to it. I don't know what that's called." N.M. said that "juice" and "pee" come out of the thing that is attached to Steve. She said that the "juice" is "white" and comes out "whenever he wants it to."

N.M. said that she saw the white juice come out of the thing attached to Steve before, "a long time ago." She said that Steve was in the room and he was playing with her little sister K.M. (age 4). Steve asked K.M. if she wanted to "earn something." She said she would like to earn something. N.M. said "What she chose was earn money."

N.M. said that K.M. age 4 touched Steve's "thing" with her hands to earn money. Steve said, "Good job" and then the white juice came out.

N.M. reported that K.M.'s clothes were off because Steve told K.M. to take everything off. N.M. said that Steve's thing that is attached to him where the pee comes out touched K.M. on her "waist" (pointed at her abdomen). N.M. said that afterwards, Steve asked her to get toilet paper and then Steve cleaned K.M. off. Then "she gets money." N.M. said that next, "She puts her clothes back on" and Steve put his clothes back on.

N.M. said this occurred on Steve's bed in his room. She accurately described Steve Swenson's room as having "real swords around the bed." She said his blankets on his bed were itchy.

N.M. was asked if that happened to her sister once, or more than once. N.M. said it happened once. She said that K.M. was 4 when it happened, and that she (N.M.) was 5 (she is now 6).

N.M. denied that anything happened to her. She said, "He asked if I wanted to do something and I said no and he said why not, it's fun, but I didn't do anything."



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 07-471956
UNIT FILE NUMBER

N.M. said that the thing attached to Steve had touched her older sister A.M. (age 10), too. N.M. said that they had gotten out of the bath and that A.M. was just wrapped in a towel. They were in Steve's bedroom. Steve's clothes were off, too. The thing attached to Steve where the pee comes out touched A.M.'s private, on the outside of her private. Afterwards, "They put their clothes back on." This happened "more than once". (Note: A.M.'s original disclosure to her friend was that Steve was "having sex" with her and N.M., however A.M. did not disclose that she was molested or raped during the child interview.)

N.M. said that Steve took a picture of her crotch. She said that Steve was "seeing what humans look like." She was sitting in a chair and her clothes were off. Steve "wanted to see what color skins people can have." Steve took pictures of her. She described the video camera that was used to take the pictures.

N.M. said she has seen Steve watch "other girls doing other stuff" on the computer. There were kids on the computer and they were "having fun with their dads." N.M. said that some of the dads have things like Steve and the kids are touching them (on the computer).

K.M. age 4 was interviewed by the Child Interview Specialist on 11/19/07.

K.M. described Steve's home. She was asked about games she plays at Steve's home. She was asked about how her clothes were when she plays games at Steve's. The interviewer asked, "I heard you were playing in a room and something else happened to your clothes." K.M. said, "Yea, Steve let me take em off for a sexy thing." The interviewer asked, "What happened with that?" K.M. said, "I didn't cry."

The interviewer asked K.M. "What's a sexy thing?" K.M. said, "Where you take some of your clothes off and you take the sexy thing and put it in someone else's butt sexy thing." The interviewer asked what a sexy thing is. K.M. said, "It's a long thing that you put in someone else's thing", then added "A long thing that you put in someone else's butt." The interviewer asked, "Where is your butt" and K.M. pointed to her crotch.

The interviewer asked again for the definition of a "sexy thing." K.M. said, "It comes out of your butt. If you're a boy you have one, but if you're a girl you don't get it."

The interviewer asked, "What does it look like?" K.M. said, "It's a round thing with a pee thing where he pee out of it." The interviewer asked K.M. what happens with the sexy thing. She said, "It goes into someone else's butt." The interviewer asked whose butt the sexy thing went in. K.M. said, "Mine when we were at Steve's and someone else was gone."

The interviewer said, "Tell me where Steve's sexy thing went." K.M. pointed at herself. The interviewer asked her to show where exactly it went and K.M. lifted her leg and pointed to her crotch. The interviewer asked K.M. what she calls that part of her body. K.M. said "sexy." The interviewer asked, "Steve put his sexy thing in your sexy?" and K.M. nodded "yes." The interviewer asked K.M. where her clothes were. K.M. said, "On the bed somewhere." She said that Steve's clothes were "off the bed somewhere."

The interviewer tested K.M. about "inside" and "outside" with a pen "inside" and "outside" of the box. K.M. correctly told the interviewer when the pen was inside, versus outside of the box. The interviewer then asked K.M. if Steve's sexy was on the inside or the outside of her sexy thing.



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 07-471956
UNIT FILE NUMBER

K.M. said, "inside, just halfway." The interviewer asked K.M. what made it stop and K.M. said, "He just takes it out and puts his underwear on." K.M. said this happened more than once.

K.M. disclosed seeing kids and grownups on the computer at Steve's. She said that some of their clothes were off. The interviewer asked K.M. what the people on the computer were doing. K.M. said, "They're sexing their sisters."

The interviewer asked K.M. about baths at Steve's house. K.M. said "me, N.M. and A.M. and sometimes Steve goes in" to the bathtub. She said they were all naked in the tub. The interviewer asked where K.M. is in the bathtub. K.M. said, "I'm sitting down and pretending I'm a mermaid." The interviewer asked if anyone washed her with soap. She said that Steve does. He washes her back, leg, sexy thingy, and arm. He is behind her when he washes her. His sexy thing is "on his butt." It "wiggles around". It touches the bottom of the bathtub.

The interviewer asked, "What's happened with your sisters and Steve's sexy thing?" K.M. said, "Steve sexes up N.M. and me and that's all." The interviewer asked, "What happened with N.M.?" K.M. said, "I watched Steve do it." She said, "I just saw him sexy up N.M.."

The interviewer asked where Steve's sexy thing is. K.M. said it was on Steve's butt. She asked what he did with it (with N.M.). K.M. said, "He put it in N.M.'s sexy thing." She added, "It hurt when he did it to me."

The interviewer asked if Steve ever gives K.M. anything. She said that he gives her food and toys and lets her write on paper. The interviewer asked if Steve ever gives K.M. money. K.M. said, "Nope, but he gives me money when I'm done doing the sexy thingy." (She indicated coins rather than paper money).

She said, "He says not to tell Mama."

The interviewer asked K.M. if there was anything else to tell. K.M. said, "I know that he does sexy." The interviewer asked who Steve does sexy with and K.M. said, "Me and N.M..". K.M. said that when Steve put his sexy in her sexy, she was laying on his bed. Her head was on the pillow but her butt and her legs were on the blanket.

A search warrant was served on Swenson's home on 11/21/07. Swenson came to the door and was asked if he could speak with Detectives for a few minutes. He said he needed his attorney. Swenson indicated that he knew that the victims had made disclosures of abuse.

Swenson's home is decorated with a "dragon" motif. This is consistent to the victims' references to "dragons" in their interviews. (Apparently Swenson is very involved in Dungeons and Dragons games). Swenson's bed is surrounded by swords. He has other weaponry in his bedroom, including other cutting weapons and guns under his mattress (unknown if "real" or pellet guns).

ORIGINAL



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 07-471956
UNIT FILE NUMBER

His bedroom was filled with CDs and DVDs. There was a video camera next to the computer and a digital camera behind one of his two computers.

He has a large Jacuzzi-type bathtub in the main bathroom.

Swenson's roommate verified that the victims have taken baths at the home. He said he didn't believe that Swenson took baths with the victims. He said that he is usually in his room when the children visit and that the children are usually in Swenson's bedroom with him. He verified that Swenson has a lock on his bedroom door. (Victim A.M. was concerned because Swenson reportedly locked the door when he was in the bedroom alone with the 4-year-old and 6-year-old victims.)

A forensic search of the computers is pending.

Request that Swenson be charged with Rape of a Child 1st Degree, Child Molestation 1st Degree, and Communication with a Minor for Immoral Purposes.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 30th day of November, 2007, at Seattle, Washington.

O Stangland 4949

ORIGINAL

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8 CAUSE NO. 07-1-08484-0 SEA

9 PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR
10 CONDITIONS OF RELEASE

11 The State incorporates by reference the Certification for Determination of Probable
12 Cause written by Detective Donna Stangeland in Seattle Police Department incident number 07-
13 471956, and signed on November 30, 2007.

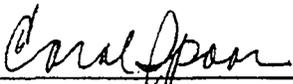
14 REQUEST FOR BAIL

15 The State requests bail in the amount of \$350,000, pursuant to CrR 2.2 (b) (2) (i), (ii),
16 (iii), and (iv). The amount set at first appearance was \$350,000. The defendant has criminal
17 history from 1986 when he was a juvenile. He was originally charged with Assault in the First
18 Degree and Unlawful Imprisonment; he pled guilty in 1987 to two counts of Assault in the
19 Fourth Degree and Unlawful Imprisonment. No adult criminal history was located.

20 The current allegations are extremely serious and cause concern for community safety.
21 The victims here are very young and vulnerable. The defendant took advantage of his position
22 of trust as a family friend and babysitter in order to gain the victims' compliance, as well as
23 paying them for participation in sexual acts.

The State also requests a no contact order be issued for the protection of A.M., N.M.,
K.M. and their mother, Devonna McKay, as well as no contact with minors.

Signed this 27th day of December, 2007.



Carol D. Spoor, WSBA #15525

APPENDIX B

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KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)

Plaintiff,)

v.)

No. 07-1-08484-0 SEA

STEVEN DANIEL SWENSON,)

AMENDED INFORMATION

Defendant.)

COUNT I

I, Daniel T. Satterberg, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse STEVEN DANIEL SWENSON of the crime of **Rape of a Child in the First Degree**, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, being at least 24 months older than K.M., had sexual intercourse with K.M., who was less than 12 years old and was not married to the defendant;

Contrary to RCW 9A.44.073, and against the peace and dignity of the State of Washington.

COUNT II

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Rape of a Child in the First Degree**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

AMENDED INFORMATION - 1

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

33



1 That the defendant STEVEN DANIEL SWENSON in King County, Washington, during
2 a period of time intervening between January 1, 2006 through September 15, 2007, being at least
3 24 months older than N.M., had sexual intercourse with N.M., who was less than 12 years old
4 and was not married to the defendant;

5 Contrary to RCW 9A.44.073, and against the peace and dignity of the State of
6 Washington.

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COUNT III

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Child Molestation in the First Degree**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, being at least 36 months older than N.M., had sexual contact for the purpose of sexual gratification, with N.M., who was less than 12 years old and was not married to the defendant;

Contrary to RCW 9A.44.083, and against the peace and dignity of the State of Washington.

COUNT IV

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Communication with a Minor for Immoral Purposes**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, did communicate with N.M., a child under the age of 18 years, or a person he believed to be a minor, for immoral purpose of a sexual nature;

Contrary to RCW 9.68A.090, and against the peace and dignity of the State of Washington.

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COUNT V

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Sexual Exploitation of a Minor**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, did compel, aid, invite, employ, authorize or cause N.M., a person under 18 years of age, to engage in sexually explicit conduct, knowing that such conduct would be photographed or part of a live performance;

Contrary to RCW 9.68A.040(1)(a)(b), (2), and against the peace and dignity of the State of Washington.

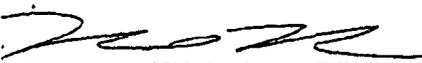
COUNT VI

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Communication with a Minor for Immoral Purposes**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, did communicate with A.M., a child under the age of 18 years, or a person he believed to be a minor, for immoral purpose of a sexual nature;

Contrary to RCW 9.68A.090, and against the peace and dignity of the State of Washington.

DANIEL T. SATTERBERG
Prosecuting Attorney

By: 
Michael P. Mohandeson, WSBA #30389
Deputy Prosecuting Attorney

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

APPENDIX C

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

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STATE OF WASHINGTON,)
)
 PLAINTIFF,)
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 VS.)
)
 STEVEN SWENSON,)
)
 DEFENDANT.)

NO. 07-1-00000-1
RECEIVED
APR 14 2009
Law Offices of
Sheryl Gordon McCloud

TRANSCRIPT OF PLEA PROCEEDINGS
ON APPEAL

HEARD BEFORE JUDGE JIM ROGERS, AT THE KING COUNTY
COURTHOUSE, 516 THIRD AVENUE, SEATTLE, WASHINGTON

APPEARANCES:

MR. MICHAEL MOHANDESON,
DEPUTY PROSECUTING ATTORNEY,
REPRESENTING THE PLAINTIFF;

MS. EMMA SCANLAN,
ATTORNEY AT LAW,
REPRESENTING THE DEFENDANT.

DATE: APRIL 1, 2008

REPORTED BY: LADD SUTHERLAND, OFFICIAL COURT REPORTER

COPY

1 APRIL 1, 2008

2
3 MR. MOHANDESON: GOOD AFTERNOON, YOUR HONOR. THIS
4 IS THE STATE OF WASHINGTON VS. STEVEN SWENSON; CAUSE NO.
5 07-1-08484-0, SEA.

6 MIKE MOHANDESON FOR THE STATE. MR. SWENSON IS
7 PRESENT OUT OF CUSTODY WITH HIS ATTORNEY, EMMA SCANLAN.
8 AND MR. SWENSON IS ALSO REPRESENTED BY JOHN HENRY BROWNE.
9 WE ARE HERE FOR A CHANGE OF PLEA TO AN AMENDED
10 INFORMATION.

11 AT THIS TIME THE STATE IS MOVING TO AMEND THE
12 INFORMATION, I GUESS KEEPING THE SAME NUMBER OF COUNTS
13 AND CHARGES, ULTIMATELY DISMISSING COUNT III AT THE TIME
14 OF SENTENCING AND JUST CHANGING SOME OF THE VICTIMS'
15 DESIGNATIONS ON SOME OF THE COUNTS.

16 SO I'VE PREVIOUSLY PROVIDED A COPY OF THE AMENDED
17 INFORMATION TO MS. SCANLAN. AND I BELIEVE I JUST WILL
18 ASK THAT THEY ACKNOWLEDGE RECEIPT AND WAIVE FORMAL
19 READING AFTER THE COURT GRANTS THE MOTION.

20 MS. SCANLAN: OKAY. WE'D ACKNOWLEDGE RECEIPT OF THE
21 AMENDED INFORMATION. WE WAIVE FORMAL READING OF COUNTS
22 I, II, IV, V AND VI OF THE AMENDED INFORMATION.

23 THE COURT: SO THE PLEA WILL BE TO COUNTS I, II, IV,
24 V AND VI?

25 MS. SCANLAN: THAT'S MY UNDERSTANDING.

KING COUNTY SUPERIOR COURT

1 THE COURT: DO YOU WANT TO PASS THE ORDER FORWARD TO
2 MY BAILIFF, PLEASE?

3 MR. MOHANDESON: YES, YOUR HONOR.

4 THE COURT: ALL RIGHT, YOU HAVE.

5 HAVE YOU SIGNED THE ORDER GRANTING THE AMENDMENT FOR
6 PURPOSES OF THIS HEARING? A PLEA OF NOT GUILTY IS
7 ENTERED AS TO COUNT III.

8 MR. MOHANDESON: THANK YOU, YOUR HONOR. MAY I
9 INQUIRE?

10 THE COURT: YOU MAY.

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EXAMINATION

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BY MR. MOHANDESON:

Q. IS YOUR TRUE AND CORRECT NAME STEVEN SWENSON?

A. YES.

Q. IS YOUR CORRECT DATE OF BIRTH AUGUST 4, 1972?

A. YES.

Q. AND HAVE YOU RECEIVED YOUR GED?

A. YES.

Q. DO YOU YOURSELF HAVE ANY DIFFICULTY READING OR WRITING OR UNDERSTANDING THE ENGLISH LANGUAGE?

A. NO.

Q. AND YOU HAVE IN FRONT OF YOU A COPY OF TWO DIFFERENT PLEA FORMS. ONE IS ENTITLED, STATEMENT OF DEFENDANT ON PLEA OF GUILTY TO FELONY SEX OFFENSE; THE OTHER IS A STATEMENT OF DEFENDANT ON A MISDEMEANOR PLEA.

HAVE YOU HAD A CHANCE TO GO OVER BOTH OF THOSE FORMS IN THEIR ENTIRETY WITH YOUR ATTORNEY?

A. YES.

Q. WERE THEY ABLE TO ANSWER ALL OF YOUR QUESTIONS ABOUT ALL OF THE INFORMATION IN THOSE FORMS?

A. YES.

Q. WE'RE GOING TO GO OVER THE FORMS ONE MORE TIME HERE IN OPEN COURT. IF YOU HAVE ANY QUESTIONS, PLEASE DON'T HESITATE TO STOP ME AND HAVE MS. SCANLAN OR THE JUDGE EXPLAIN THEM TO YOU.

1 THE COURT: PROBABLY MS. SCANLAN, TO BEGIN WITH.

2 BY MR. MOHANDESON:

3 Q. DO YOU UNDERSTAND THAT YOU ARE NOW BEING CHARGED
4 WITH ONE COUNT -- ACTUALLY, TWO COUNTS OF RAPE OF A
5 CHILD IN THE FIRST DEGREE, ONE COUNT OF SEXUAL
6 EXPLOITATION OF A MINOR, AND TWO COUNTS OF
7 COMMUNICATING WITH A MINOR FOR IMMORAL PURPOSES?

8 A. YES.

9 Q. DO YOU UNDERSTAND WHAT THE STATE WOULD HAVE TO PROVE
10 FOR EACH OF THOSE CHARGES, THAT IS, THE ELEMENTS OF
11 EACH OF THOSE CHARGES, HAD YOU DECIDED TO TAKE THE
12 MATTER TO TRIAL?

13 A. YES.

14 Q. AND BY PLEADING GUILTY TO EACH OF THESE CRIMES, YOU
15 GIVE UP A NUMBER OF RIGHTS THAT ARE CONTAINED ON
16 PAGE TWO OF EACH OF THOSE GUILTY PLEA FORMS, WHICH
17 INCLUDES THE RIGHT TO A SPEEDY AND PUBLIC TRIAL BY
18 AN IMPARTIAL JURY IN THE COUNTY WHERE THE CRIME IS
19 ALLEGED TO HAVE BEEN COMMITTED; THE RIGHT TO REMAIN
20 SILENT BEFORE AND DURING TRIAL, AND THE RIGHT TO
21 REFUSE TO TESTIFY AGAINST YOURSELF IF YOU CHOSE, AND
22 THE RIGHT TO TESTIFY AND HEAR AND QUESTION WITNESSES
23 WHO WOULD TESTIFY AGAINST YOU. YOU WOULD HAVE THE
24 RIGHT TO HAVE WITNESSES TESTIFY FOR YOU AT TRIAL WHO
25 COULD BE MADE TO APPEAR AT NO EXPENSE TO YOU; THE

1 RIGHT TO BE PRESUMED INNOCENT UNTIL EACH OF THE
2 CHARGES IS PROVEN BEYOND A REASONABLE DOUBT; AND
3 ALSO A RIGHT TO APPEAL A DETERMINATION OF GUILT
4 AFTER APPEAL. DO YOU UNDERSTAND THOSE RIGHTS?

5 A. YES.

6 Q. DO YOU UNDERSTAND BY PLEADING GUILTY, YOU GIVE UP
7 EACH OF THOSE RIGHTS?

8 A. YES.

9 Q. NOW ON THE FELONY PLEA FORM, UNDER PARAGRAPH SIX, IT
10 LISTS THE STANDARD SENTENCING RANGES FOR EACH OF THE
11 COUNTS. IN THIS CASE, BOTH COUNTS I AND II, WHICH
12 ARE THE RAPE OF A CHILD IN THE FIRST DEGREE, THOSE
13 COUNTS HAVE A STANDARD RANGE OF 162 TO 216 MONTHS.
14 BUT THAT'S SUBJECT TO INDETERMINATE SENTENCING,
15 WHICH WE'LL GET TO IN A MOMENT, AND A STATUTORY
16 MAXIMUM OF LIFE IN PRISON AND A \$50,000 FINE. DO
17 YOU UNDERSTAND THAT?

18 A. YES.

19 Q. COUNT V HAS A STANDARD RANGE OF 77 TO 102 MONTHS
20 WITH A STATUTORY MAXIMUM OF 10 YEARS AND \$25,000
21 FINE. AND COMMUNICATING WITH A MINOR FOR IMMORAL
22 PURPOSES CHARGES AND THE MISDEMEANOR FORM EACH CARRY
23 A RANGE OF UP TO ONE YEAR IN JAIL AND A \$5,000 FINE.
24 DO YOU UNDERSTAND THAT?

25 A. YES.

1 Q. NOW, DO YOU UNDERSTAND THAT IN ADDITION TO ANY
2 PRISON TIME THAT YOU'LL HAVE TO SERVE IN CONNECTION
3 WITH THIS CASE, YOU'LL HAVE TO PAY A MANDATORY \$500
4 VICTIM PENALTY ASSESSMENT AND ANY APPLICABLE
5 RESTITUTION IN AN AMOUNT THAT HAS YET TO BE
6 DETERMINED; DO YOU UNDERSTAND THAT?

7 A. YES.

8 Q. OKAY. YOU MAY ALSO BE REQUIRED TO PAY COURT COSTS
9 OR FEES, IF APPLICABLE; DO YOU UNDERSTAND THAT?

10 A. YES.

11 Q. WITH RESPECT TO COUNTS I AND II, RAPE OF A CHILD IN
12 THE FIRST DEGREE CHARGES, THEY FALL UNDER WHAT IS
13 CALLED INDETERMINANT SENTENCING. AND WHAT THAT
14 MEANS IS THAT RANGE I COVERED WITH YOU EARLIER, THE
15 162 TO 216 MONTHS, IS A MINIMUM TERM THAT YOU MUST
16 SERVE. AND AT THE END OF THAT MINIMUM TERM, YOU'D
17 BE ELIGIBLE FOR RELEASE. BUT THAT IT WOULD BE UP TO
18 THE INDETERMINANT SENTENCING REVIEW BOARD, THAT IS,
19 THE PRISON BOARD, TO DECIDE WHEN, IF EVER, TO
20 RELEASE YOU, SINCE THE STATUTORY MAXIMUM IS LIFE.
21 DO YOU UNDERSTAND THAT?

22 A. YES.

23 Q. SO YOU UNDERSTAND THERE'S THE PERSISTENT OFFENDER
24 LAW, AND YOU COULD SPEND THE REST OF YOUR LIFE IN
25 PRISON BASED ON THESE CHARGES?

1 A. YES.

2 Q. WITH RESPECT TO COUNT V, THE SEXUAL INTIMIDATION
3 COUNT, THERE'S A PERIOD OF COMMUNITY CUSTODY OF 36
4 TO 48 MONTHS; DO YOU UNDERSTAND THAT?

5 A. RIGHT.

6 Q. BUT EFFECTIVELY THAT WILL HAVE NOT MUCH EFFECT SINCE
7 YOUR COMMUNITY CUSTODY PERIOD ON COUNTS I AND II
8 WILL BE LONGER; DO YOU UNDERSTAND THAT?

9 A. YES.

10 Q. AND YOU UNDERSTAND THAT ON THE MISDEMEANOR CHARGES,
11 YOU CAN GET A MAXIMUM TERM OF PROBATION OF 24 MONTHS
12 ON EACH COUNT; DO YOU UNDERSTAND THAT?

13 A. YES.

14 Q. NOW, ON PAGE SEVEN OF THE FELONY PLEA FORM AND PAGE
15 THREE OF THE MISDEMEANOR FORM, THE STATE'S
16 RECOMMENDATION IN THIS CASE, THE RECOMMENDATION IS
17 AGREED BETWEEN THE PARTIES. THAT MEANS YOU ARE
18 AGREEING TO THE SAME RECOMMENDATION THAT THE STATE
19 IS ASKING FOR, AND THAT IS THAT YOU SERVE AN AGREED
20 HIGH END MINIMUM SENTENCE OF 216 MONTHS TO LIFE ON
21 COUNT I AND THE RAPE OF A CHILD COUNTS TO RUN
22 CONCURRENTLY WITH ONE ANOTHER; THAT YOU SERVE 102
23 MONTH'S CONFINEMENT ON COUNT V TO RUN CONCURRENTLY
24 TO THE OTHER COUNTS; THAT YOU BE ON COMMUNITY
25 CUSTODY FOR A PERIOD OF LIFE WHEN YOU'RE RELEASED

1 ON COUNTS I AND II, AND 36 TO 48 MONTHS OF COMMUNITY
2 CUSTODY ON COUNT V; THAT YOU OBTAIN A SEXUAL
3 DEVIANCY EVALUATION AND FOLLOW ALL RECOMMENDED
4 TREATMENT; THE EVALUATOR, THE TREATMENT PROVIDER AND
5 THE COMMUNITY CORRECTIONS OFFICER UNDERSTANDS YOU'RE
6 ENROLLED IN TREATMENT; THAT YOU NOT CHANGE PROVIDERS
7 WITHOUT PRIOR APPROVAL OF THE COURT OR CCO APPROVAL;
8 THAT YOU SUBMIT TO POLYGRAPH EXAMS AT YOUR PROBATION
9 OFFICER'S REQUEST TO MONITOR COMPLIANCE WITH
10 COMMUNITY CUSTODY; AND NOT POSSESS OR VIEW ANY CHILD
11 PORNOGRAPHY MATERIALS OVER THE INTERNET; DO YOU
12 UNDERSTAND THAT?

13 A. YES.

14 THE COURT: I HAVEN'T LOOKED AT THE LAW LATELY. THE
15 RAPE OF A CHILD IN THE THIRD DEGREE MUST RUN
16 CONCURRENTLY?

17 MR. MOHANDESON: THEY CAN RUN CONCURRENTLY.

18 BY MR. MOHANDESON:

19 Q. YOU ALSO UNDERSTAND THAT THE STATE IS GOING TO
20 RECOMMEND THAT YOU HAVE NO CONTACT WITH ANY OF THE
21 MCKAY GIRLS AS WELL AS DEVONNA MCKAY AND NICK
22 NAVOTA?

23 A. YES.

24 Q. THAT WILL BE A CONDITION OF YOUR SENTENCE, AND AS
25 WELL AS A NO-CONTACT ORDER WITH EACH OF THE THREE

1 GIRLS; DO YOU UNDERSTAND THAT?

2 A. YES.

3 Q. DO YOU ALSO UNDERSTAND THAT THE STATE IS
4 RECOMMENDING THAT YOU NOT HAVE ANY NONSUPERVISED
5 CONTACT WITH CHILDREN UNDER THE AGE OF 18 WITHOUT
6 BEING IN THE PRESENCE OF A KNOWLEDGEABLE ADULT?

7 A. YES.

8 Q. DO YOU UNDERSTAND THAT YOU'LL HAVE TO SUBMIT A
9 SAMPLE OF YOUR BLOOD FOR DNA TESTING AND REGISTER AS
10 A SEX OFFENDER; YOU LOSE YOUR RIGHT TO POSSESS A
11 FIREARM AND YOUR RIGHT TO VOTE UNLESS THOSE RIGHTS
12 ARE RESTORED BY A COURT; DO YOU UNDERSTAND THAT?

13 A. YES.

14 Q. DO YOU UNDERSTAND THAT EVEN THOUGH THE STATE AND
15 YOURSELF ARE RECOMMENDING THE SAME SENTENCE, IT'S UP
16 TO THE JUDGE, AND THE JUDGE COULD GIVE YOU A
17 SENTENCE LOWER THAN WHAT WE'RE BOTH ASKING FOR; OR
18 IF THE JUDGE FOUND SUBSTANTIAL AND COMPELLING
19 REASONS TO EXCEED THE RANGE, THE JUDGE COULD EXCEED
20 THE RANGE; BUT IF HE IMPOSED ANYTHING ABOVE THE
21 STANDARD RANGE, YOU COULD APPEAL THE SENTENCE, BUT
22 YOU COULD NOT WITHDRAW YOUR FINDING OF GUILT ON THAT
23 BASIS; DO YOU UNDERSTAND THAT?

24 A. YES.

25 Q. NOW, DO YOU UNDERSTAND THAT THE CRIME OF RAPE OF A

1 CHILD IN THE FIRST DEGREE IS CATEGORIZED AS A MOST
2 SERIOUS OFFENSE; IT'S CONSIDERED A STRIKE FOR THREE
3 STRIKES PURPOSES; DO YOU UNDERSTAND THAT?

4 A. YES.

5 Q. OKAY. DO YOU ALSO UNDERSTAND THAT THIS PARTICULAR
6 CRIME, RAPE OF A CHILD IN THE FIRST DEGREE, COUNTS
7 AS A STRIKE OR A SEX STRIKE FOR PURPOSES OF --
8 WELL, LET ME GO BACK TO THE THREE STRIKES FIRST.

9 DO YOU UNDERSTAND AFTER YOU ARE TO BE RELEASED,
10 IF YOU WERE TO HAVE TWO OTHER CONVICTIONS THAT
11 COUNTED AS STRIKES, YOU'D GO TO PRISON FOR THE REST
12 OF YOUR LIFE?

13 A. YES.

14 Q. THESE THREE STRIKES COUNT AS THREE HERE, AND YOU'RE
15 OUT. IN WASHINGTON THERE ARE SEVERAL OFFENSES.
16 RAPE OF A CHILD IN THE FIRST DEGREE IS ONE OF THOSE.
17 AND THAT IF YOU WERE TO BE FINISHING YOUR PRISON
18 TERM, BE RELEASED AND COMMIT ANOTHER ONE OF THESE
19 SECOND STRIKE OFFENSES, THAT YOU, IF CONVICTED OF
20 THAT NEW SEX OFFENSE STRIKE, WILL BE SUBJECT TO LIFE
21 IMPRISONMENT WITHOUT THE POSSIBILITY OF RELEASE?

22 A. YES.

23 Q. DO YOU HAVE ANY QUESTIONS AT ALL ABOUT THIS BEING A
24 STRIKE OFFENSE FOR TWO STRIKES AND THREE STRIKES
25 PURPOSES?

1 A. YES.

2 Q. DO YOU UNDERSTAND THAT THE TIME THAT YOU RECEIVE ON
3 COUNTS I, II AND V WILL RUN CONCURRENTLY UNLESS, OF
4 COURSE, THE JUDGE FINDS SUBSTANTIAL AND COMPELLING
5 REASONS AND IMPOSES AN EXCEPTIONAL SENTENCE TO RUN
6 THEM CONSECUTIVELY? DO YOU UNDERSTAND THAT BECAUSE
7 OF THE SENTENCING RANGE THAT YOU'RE FACING, YOU'RE
8 NOT ELIGIBLE FOR ANY TYPE OF SEX OFFENDER SENTENCING
9 OR SSOSA; DO YOU UNDERSTAND THAT?

10 A. I'M NOT SURE WHAT THAT IS.

11 Q. DO YOU NEED A MOMENT WITH MS. SCANLAN.

12 A. YES, I DO.

13 Q. I'M SORRY?

14 A. YES, I DO.

15 Q. YOU DO?

16 A. YES.

17 (PAUSE)

18 Q. DO YOU UNDERSTAND THAT IF YOU'RE NOT A CITIZEN, THIS
19 COULD HAVE CONSEQUENCES FOR YOUR IMMIGRATION?

20 A. I'M A CITIZEN.

21 Q. OKAY. NOW, THERE IS A STATEMENT WRITTEN ON PAGE 12
22 OF THE FELONY PLEA FORM IN PARAGRAPH 11 WHICH READS
23 AS FOLLOWS: IN KING COUNTY, WASHINGTON --
24 THE COURT: SLOWLY, SO THE COURT REPORTER CAN GET
25 IT.

1 BY MR. MOHANDESON:

2 Q. DURING A PERIOD OF TIME INTERVENING BETWEEN
3 JANUARY 1ST, 2006 AND SEPTEMBER 15TH, 2007, I HAD
4 ANAL INTERCOURSE WITH N.M. I WAS IN MY 30'S AT THE
5 TIME AND N.M. WAS LESS THAN 12 YEARS OLD AND NOT
6 MARRIED TO ME. DURING THAT SAME TIME PERIOD IN KING
7 COUNTY, WASHINGTON, I HAD ANAL INTERCOURSE WITH K.M.
8 WHO WAS LESS THAN 12 YEARS OLD AND NOT MARRIED TO
9 ME. ALSO DURING THAT SAME TIME PERIOD IN KING
10 COUNTY, WASHINGTON, I DID KNOWINGLY VIDEOTAPE AND
11 PHOTOGRAPH MYSELF ENGAGING IN SEXUALLY EXPLICIT
12 CONTACT WITH N.M.

13 IS THAT A TRUE STATEMENT ABOUT WHAT HAPPENED
14 DURING THAT TIME PERIOD?

15 THE COURT: YOU MAY HAVE A MOMENT, IF --

16 MS. SCANLAN: DO YOU UNDERSTAND THAT?

17 THE WITNESS: YES, I UNDERSTAND IT NOW. OKAY.

18 BY MR. MOHANDESON:

19 Q. SO YOU UNDERSTAND THE STATEMENT CONTAINED IN
20 PARAGRAPH 11?

21 A. YES.

22 Q. IS THAT A TRUE STATEMENT ABOUT WHAT HAPPENED DURING
23 THAT TIME?

24 A. YES.

25 Q. NOW, ON THE MISDEMEANOR PLEA FORM IN PARAGRAPH ONE,

1 ON PAGE THREE, THERE'S A HANDWRITTEN STATEMENT WHICH
2 READS: IN KING COUNTY, WASHINGTON, DURING A TIME
3 INTERVENING BETWEEN JANUARY 1ST, 2006 TO
4 SEPTEMBER 15TH, 2007, I DID COMMUNICATE WITH N.M.
5 AND A.M., WHO WERE BOTH UNDER THE AGE OF 12 YEARS
6 OLD, FOR IMMORAL PURPOSES OF A SEXUAL NATURE BY
7 PLAYING STRIP BLACKJACK WITH THEM.

8 IS THAT A TRUE STATEMENT ABOUT WHAT HAPPENED
9 DURING THAT TIME PERIOD?

10 A. YES.

11 Q. NOW, OUTSIDE OF WHAT THE STATE HAS RECOMMENDED, HAS
12 ANYONE MADE ANY THREATS OR PROMISES TO GET YOU TO
13 ENTER THESE GUILTY PLEAS HERE TODAY?

14 A. NO.

15 Q. AND DO YOU FEEL THAT YOU HAVE HAD ENOUGH TIME TO
16 DISCUSS YOUR OPTIONS WITH YOUR ATTORNEYS, TO GO OVER
17 ALL THE EVIDENCE THAT WOULD BE PRESENTED DURING YOUR
18 TRIAL?

19 A. YES.

20 Q. AND DO YOU HAVE ANY QUESTIONS AT THIS TIME THAT YOU
21 NEED ANSWERED?

22 A. NO.

23 Q. THEN TO COUNT I --

24 THE COURT: WHY DON'T I SAY THAT AFTER WE GO THROUGH
25 THE FORM.

1 MR. MOHANDESON: ALL RIGHT. YOUR HONOR, I BELIEVE
2 MR. SWENSON IS MAKING A KNOWING, INTELLIGENT AND
3 VOLUNTARY DECISION HERE WITH THE ASSISTANCE OF COUNSEL.
4 I WOULD ASK THE COURT TO FIND THE SAME IS ACCEPTABLE TO
5 THE COURT.

6 THE COURT: IT IS. MS. SCANLAN, IS THERE ANYTHING
7 YOU WANT TO ADD?

8 MS. SCANLAN: I WOULD LIKE THE COURT TO KNOW OUR
9 OFFICE, MR. BROWNE, MYSELF, HAVE SPENT A LOT OF TIME
10 GOING OVER EVERYTHING WITH HIM. WE BELIEVE HE FULLY
11 UNDERSTANDS THE CONSEQUENCES OF THE PLEA HE'S ENTERING
12 TODAY, AND WE BELIEVE HIS PLEAS TO BE KNOWING,
13 INTELLIGENT AND VOLUNTARY.

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EXAMINATION

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BY THE COURT:

Q. MR. SWENSON, I'M NOT GOING TO GO THROUGH THE WHOLE FORM WITH YOU, BUT JUST ASK YOU A COUPLE OF QUESTIONS. AND AS PAINFULLY OBVIOUS AS THEY MAY BE, I NEED TO ASK THEM.

HAVE YOU READ BOTH OF THESE STATEMENTS, THE MISDEMEANOR AND THE FELONY ONE THAT YOU HAVE BEFORE YOU?

A. ASSUMING THEY ARE THE SAME ONES AS WERE BEFORE ME, YES, I HAVE. I CAN'T SEE THEM FROM HERE.

Q. DID YOU UNDERSTAND THEM WHEN YOU READ THEM?

A. YES.

Q. DID YOU UNDERSTAND AND HAVE A CHANCE TO TALK WITH MR. BROWNE AND MS. SCANLAN ABOUT THIS?

A. YES.

Q. HAVE YOU EVER BEEN TO A TRIAL BEFORE OR BEEN THROUGH A TRIAL?

A. NOT LIKE THIS.

Q. JUST ON TELEVISION?

A. VERY SMALL MISDEMEANOR THING WAY BACK WHEN I WAS A KID.

Q. HAVE YOU DISCUSSED YOUR TRIAL RIGHTS AND FEEL THAT YOU UNDERSTAND THOSE RIGHTS THAT YOU ARE GIVING UP HERE TODAY?

1 A. YES.

2 Q. DO YOU UNDERSTAND BY PLEADING GUILTY TODAY TO THESE
3 CRIMES, THAT YOU'LL BE GIVING UP ALL YOUR TRIAL
4 RIGHTS, AND THERE WON'T BE ANY TRIAL RIGHTS AT ALL?

5 A. YES.

6 Q. OBVIOUSLY, YOU ARE FACING A SUBSTANTIAL AMOUNT OF
7 TIME IN PRISON. HAVE YOU REVIEWED THOSE WITH YOUR
8 ATTORNEY, AND THE PROSECUTOR'S RECOMMENDATION?

9 A. YES.

10 Q. AND YOU UNDERSTAND THAT THESE CERTAIN CRIMES ARE
11 BOTH A STRIKE AND TWO STRIKES AND A THREE-STRIKE?

12 A. YES.

13 Q. AND YOU UNDERSTAND THAT WHAT YOU'RE PLEADING GUILTY
14 TO, ESSENTIALLY, YOU COULD BE ON PROBATION FOR THE
15 REST OF YOUR ENTIRE LIFE, ESPECIALLY THE RAPE OF A
16 CHILD IN THE FIRST DEGREE?

17 A. YES.

18 Q. I SAW THAT YOU, AFTER MR. MOHANDESON READ THIS
19 STATEMENT SPECIFIC ABOUT THE FACT THAT OCCURRED IN
20 THIS CASE, WHICH I'M NOT GOING TO REREAD, BUT THAT
21 YOU HAD A DISCUSSION WITH MS. SCANLAN. AND AFTER
22 THAT I SAW THAT YOU AGREED THIS IS A TRUE STATEMENT
23 THAT IS WRITTEN HERE. IS THAT ACCURATE?

24 A. YES.

25 Q. IS THE STATEMENT ON MISDEMEANOR FORM ALSO A TRUE AND

1 ACCURATE STATEMENT ABOUT WHAT HAPPENED IN THIS CASE?

2 A. YES.

3 Q. AND, FINALLY, MR. SWENSON, IS THIS YOUR SIGNATURE?

4 I'M GOING TO HAND THIS BACK TO YOU AND ASK YOU IF

5 THESE ARE YOUR SIGNATURES ON THE ORIGINAL STATEMENTS

6 OF PLEA FORMS. DID YOU SIGN THOSE?

7 A. YES.

8 Q. DID YOU DO THAT IN THE PRESENCE OF MS. SCANLAN OR

9 MR. BROWNE?

10 A. YES.

11 Q. MS. SCANLAN, THANK YOU. I'M GOING TO CITE THE

12 CHARGES.

13 TO THE CRIME OF RAPE OF A CHILD IN THE FIRST

14 DEGREE CHARGED IN COUNT I, HOW DO YOU PLEAD?

15 A. GUILTY.

16 Q. TO THE CRIME OF THE RAPE OF A CHILD IN THE FIRST

17 DEGREE, HOW DO YOU PLEAD, GUILTY OR NOT GUILTY?

18 A. GUILTY.

19 Q. TO THE CHARGE, COUNT IV, COMMUNICATION WITH A MINOR

20 FOR IMMORAL PURPOSES, GUILTY OR NOT GUILTY?

21 A. GUILTY.

22 Q. AND TO THE CHARGE OF SEXUAL EXPLOITATION OF A MINOR

23 IN THE FIRST DEGREE, GUILTY OR NOT GUILTY?

24 A. GUILTY.

25 Q. TO THE CHARGE OF A CRIME OF IMMORAL PURPOSES OF A

1 MINOR CHILD, GUILTY OR NOT GUILTY?

2 A. GUILTY.

3 THE COURT: I OBSERVED MR. SWENSON, HEARD HIS
4 ANSWERS TO THE QUESTIONS THAT WERE ASKED BY MR.
5 MOHANDESON, TO MYSELF, INCLUDING WHEN HE ASKED FOR
6 CLARIFICATION IN CERTAIN MATTERS. I BELIEVE THE PLEAS OF
7 GUILTY TO BE KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY
8 MADE. I MEAN, HE UNDERSTANDS THE CHARGES AND THE
9 CONSEQUENCES OF HIS PLEA AND THERE'S A FACTUAL BASIS FOR
10 THESE PLEAS TO THESE CHARGES. AND THEREFORE, I WILL
11 ENTER PLEAS OF GUILTY TO THESE CHARGES IN COUNTS I, II,
12 IV, V AND VI.

13 AND I AM SIGNING THE STATEMENT -- THE STATEMENT OF
14 DEFENDANT ON PLEA OF GUILTY FORM. THE FELONY FORM IS NOW
15 SIGNED. I'M SIGNING THE DEFENDANT ON PLEA OF GUILTY FORM
16 TO THE MISDEMEANOR FORM. I HAVE SIGNED BOTH FORMS.

17 MR. MOHANDESON: YOUR HONOR, I GUESS, IF MR. SWENSON
18 IS -- IF IT'S STILL YOUR INTENTION TO PLEAD GUILTY, I
19 NEED YOU TO SIGN THESE FELONY PLEA AGREEMENTS AND THE
20 NONFELONY PLEA AGREEMENTS. THE JUDGE WILL ALSO SIGN THEM
21 AFTERWARDS.

22 THE COURT: SEE THAT MR. SWENSON HAS SIGNED BOTH
23 AGREEMENTS.

24 MR. SWENSON, IN THE STATE OF WASHINGTON, AT THE TIME
25 WHEN YOU PLEAD GUILTY OR ARE FOUND GUILTY BY A TRIAL, YOU

1 MUST BE TAKEN INTO CUSTODY. I DON'T ACTUALLY HAVE
2 DISCRETION IN THIS SITUATION. SO THERE'S AN OFFICER TO
3 TAKE YOU INTO CUSTODY AT THIS TIME.

4 I'M NOT GOING TO TELL YOU THE SENTENCING DATE RIGHT
5 NOW. I WILL NOT BE THE SENTENCING JUDGE BECAUSE OF OTHER
6 THINGS THAT I DO IN THE COURT. SO YOU'LL BE INFORMED BY
7 MS. SCANLAN ABOUT YOUR SENTENCING DATE.

8 GOOD LUCK TO YOU.

9 MS. SCANLAN: THANK YOU, YOUR HONOR.

10 THE COURT: THAT CONCLUDES THIS MATTER.

11 THE CLERK: FILLING OUT THE ORDER OF REMAND.

12 MR. MOHANDESON: THANKS FOR TAKING THIS AFTERNOON,
13 JUDGE.

14 THE COURT: SURE.

15 THE CLERK: THE YELLOW IS FOR THE OFFICER.

16 THE COURT: ALL RIGHT. THANK YOU.

17 (WHEREUPON, THE HEARING CONCLUDED AT 3:58 P.M.)
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APPENDIX D

FILED

2008 JUN -6 PM 3:19

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

CERTIFIED COPY TO COUNTY JAIL JUN - 6 2008

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

STEVEN DANIEL SWENSON

Defendant.

No. 07-1-08484-0 SEA

JUDGMENT AND SENTENCE,

NON-FELONY - Count(s) IV & VI ONLY

[] DEFERRING Imposition of

Sentence/Probation

SUSPENDING Sentence

SEE FELONY J&S
(counts I, II, + IV)

The Prosecuting Attorney, the above-named defendant and counsel JOHN HENRY BROWNE ^{and Emma Scanlan} being present in Court, the defendant having been found guilty of the crime(s) charged in the amended information on 04/01/2008 by guilty plea and there being no reason why judgment should not be pronounced;

IT IS ADJUDGED that the defendant is guilty of the crime(s) of: COUNTS IV AND VI COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES RCW 9.68A.090

IT IS ORDERED pursuant to RCW 9.95.200 and 9.95.210 that:

[] the imposition of sentence against the defendant is hereby DEFERRED for a period of _____ months from this date upon the following terms and conditions:

OR

the defendant is sentenced to imprisonment in the King County Jail, Department of Adult Detention, for 12 months on each count, said term(s) to run concurrently [] consecutively with each other, and to run concurrently [] consecutively with count(s) I, II, + IV [X] Cause No(s). Same (07-1-08484-0 SEA) and the sentence (less any days of confinement imposed below) is hereby SUSPENDED upon the following terms and conditions:

(1) The defendant shall serve a term of confinement of 6 days [] in the King County Jail, Department of Adult Detention, [] in King County Work/Education Release subject to conditions of conduct ordered this date, [] in King County Electronic Home Detention subject to conditions of conduct ordered this date, with credit for 63 days served [] days as determined by the King County Jail, solely on this cause, to commence no later than immediately. This term shall run [] concurrently [] consecutively with _____ . This term shall run consecutive to any other term not specifically referenced in this order.

(2) The defendant shall be on probation under the supervision of the Washington State Department of Corrections and comply with the standards rules and regulations of supervision. Probation shall commence immediately but is tolled during any period of confinement. The defendant shall report for supervision within 72 hours of this date or release date if in custody. The length of probation shall be 24 months.

(3) Defendant shall pay to the clerk of this Court:

- (a) Restitution is not ordered;
 Order of Restitution is attached;
 Restitution to be determined at a restitution hearing on (Date) _____ at _____ m.;
 Date to be set;
 The defendant waives presence at future restitution hearing(s);

(b) \$ 0 Court costs;

(c) \$ 500 Victim assessment, \$500 for gross misdemeanors and \$250 for misdemeanors; — concurrent with VPA on felony counts I, II, and V

(d) \$ 0 Recoupment for attorney's fees to King County Public Defense Programs;

(e) \$100 DNA collection fee;

(f) \$ 0 Fine; \$ _____ of this fine is suspended upon the terms and conditions herein;

(g) TOTAL financial obligation: \$500 + any future restitution — concurrent with felony counts;

The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month; On a schedule established by the Department of Corrections if it has active supervision of the defendant, or by the county clerk.

(4) The defendant shall complete _____ community service hours at a rate of not less than _____ hours per month to be completed by (Date) _____. If the defendant is not supervised by the Dept. of Corrections, community service will be monitored by the Helping Hands Program.

(5) The defendant shall not purchase, possess, or use any alcohol controlled substance (without a lawful prescription). The defendant shall submit to urinalysis and/or breath testing as required by the Department of Corrections and submit to search of person, vehicle or home by a Community Corrections Officer upon reasonable suspicion of violation;

(6) The defendant shall obtain a substance abuse evaluation and follow all treatment recommendations; _____

(7) The defendant shall enter into, make reasonable progress and successfully complete a state certified domestic violence treatment program; _____

(8) The defendant shall have no contact with: A.M., K.M., N.M., Devona McKay,

Nicholas Navota

- (9) The defendant shall have no ~~unsupervised~~ contact with minors. (under age 18), period.
- (10) The defendant shall have a biological sample collected for purposed of DNA identification analysis and the defendant shall fully cooperate in the testing, as ordered in Appendix G (for stalking, harassment, or communicating with a minor for immoral purposes).
- (11) The defendant shall register as a sex offender.
- (12) The defendant shall commit no criminal offenses.
- (13) Additional conditions of probation are: ① Obtain a state certified sexual deviancy evaluation and follow all recs of evaluator, treatment provider, and CCO; ② once enrolled in treatment, do not change providers without prior court or CCO approval; ③ Submit to polygraph exams at CCO request to monitor compliance with conditions of community custody; ④ No possession or viewing of child pornography (including over the internet).
- (14) Additional conditions are attached to and incorporated as Appendix _____.

Date: 05/30/08

Nicole MacInnes
 Judge, King County Superior Court
 Print Name: Nicole MacInnes

Presented by:

Michael Mohanderan 30389
 Deputy Prosecuting Attorney, WSBA #
 Print Name: Michael Mohanderan

Defendant's current address:

DOC

Form Approved for Entry:

Brown 4672
 Attorney for Defendant, WSBA #
 Print Name: Brown

APPENDIX E

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2008 JUN -6 PM 3:19

HIV

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

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JUN - 6 2008

COMMITMENT ISSUED

SENTENCING STATEMENT & INFORMATION ATTACHED

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)
)
) Plaintiff,)
)
 Vs.)
)
 STEVEN DANIEL SWENSON)
)
) Defendant,)

No. 07-1-08484-0 SEA

JUDGMENT AND SENTENCE

FELONY - Counts I, II, + V

(See ^{gross} misd J+S for counts IV and VI)

I. HEARING

I.1 The defendant, the defendant's lawyer, JOHN H. BROWNE, ^{and Emma Scanlan} and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: Devona McKay, Nicholas Navota, and various other members of the victims' family and friends; defendant's father.

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 04/01/2008 by plea of:

Count No.: I Crime: RAPE OF A CHILD IN THE FIRST DEGREE
RCW 9A.44.073 Crime Code: 01064
Date of Crime: 01/01/2006-09/15/2007 Incident No. _____

Count No.: II Crime: RAPE OF A CHILD IN THE FIRST DEGREE
RCW 9A.44.073 Crime Code: 01064
Date of Crime: 01/01/2006-09/15/2007 Incident No. _____

Count No.: V Crime: SEXUAL EXPLOITATION OF A MINOR
RCW 9.68A.040(1)(A)(B),(2) Crime Code: 00974
Date of Crime: 01/01/2006-09/15/2007 Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code: _____
Date of Crime: _____ Incident No. _____

[] Additional current offenses are attached in Appendix A

37

SPECIAL VERDICT or FINDING(S):

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

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

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

Criminal history is attached in Appendix B.

One point added for offense(s) committed while under community placement for count(s) _____

2.4 SENTENCING DATA:

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count I *	6	XII	162 TO 216 to Life		162 TO 216 MONTHS OR LIFE	LIFE AND/OR \$50,000
Count II *	6	XII	162 TO 216 to Life		162 TO 216 MONTHS OR LIFE	LIFE AND/OR \$50,000
Count V	6	IX	77 TO 102		77 TO 102 MONTHS	10 YEARS AND/OR \$20,000
Count						

Additional current offense sentencing data is attached in Appendix C.

** indeterminate sentence*

2.5 EXCEPTIONAL SENTENCE (RCW 9.94A.535):

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

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

The Court DISMISSES Count(s) III

IV. ORDER

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

4.1 RESTITUTION AND VICTIM ASSESSMENT:

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

for any additional restitution →

Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500. - concurrent with VPA on counts IV + VI

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

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

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 1219.60 + additional restitution. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month; On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied. Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

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

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

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

102 months/days on count V; _____ months/days on count _____; _____ months/days on count _____;
_____ months/days on count _____; _____ months/days on count _____; _____ months/days on count _____;
_____ months/days on count _____; _____ months/days on count _____; _____ months/days on count _____.

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

_____ days of total confinement are hereby converted to:

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

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

[] _____

Alternative conversion was not used because: [] Defendant's criminal history, [] Defendant's
failure to appear, Other: not eligible

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

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

[] **APPENDIX _____**: Additional Conditions are attached and incorporated herein.

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

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

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

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

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

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

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

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

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

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

Count I: Minimum Term: 216 months/days; Maximum Term: Life years/life;

Count II: Minimum Term: 216 months/days; Maximum Term: Life years/life;

Count _____: Minimum Term: _____ months/days; Maximum Term: _____ years/life;

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

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

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

4.5 **ADDITIONAL CONDITIONS OF SENTENCE**

The above terms for counts I, II, V and IV + VI (gross misd) are consecutive concurrent.

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

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

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

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

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

The **TOTAL** of all terms imposed in this cause is 216 months. to Life

Credit is given for 63 days served [] days as determined by the King County Jail, solely for confinement under this cause number pursuant to RCW 9.94A.505(6). [] Jail term is satisfied and defendant shall be released under this cause.

4.6 NO CONTACT: For the maximum term of Life years, defendant shall have no contact, direct or indirect, in person, in writing, by telephone, or through third parties with: A.M., K.M., N.M., Devana McKay, Nick Navata

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

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

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

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

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

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

Date: 05/30/08

Nicole MacInnes
JUDGE

Print Name: Nicole MacInnes

Presented by:

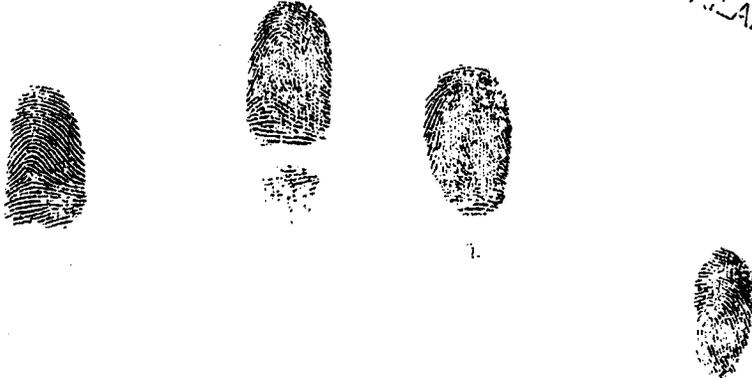
[Signature] 34389

Deputy Prosecuting Attorney, WSBA#
Print Name: Michael Mohanderson

Approved as to form:
[Signature] 4677

Attorney for Defendant, WSBA#
Print Name: BROWN

F I N G E R P R I N T S



BEST AVAILABLE IMAGE POSSIBLE

RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE:
DEFENDANT'S ADDRESS:

Steven D. Swenson
SOC

STEVEN DANIEL SWENSON

DATED: 5-30-08

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK

Nicole MacInnes

BY: *[Signature]*
DEPUTY CLERK

JUDGE, KING COUNTY SUPERIOR COURT
NICOLE MacINNES

CERTIFICATE

OFFENDER IDENTIFICATION

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

S.I.D. NO.
DOB: AUGUST 4, 1972
SEX: M
RACE: W

CLERK

BY: _____
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

STEVEN DANIEL SWENSON

Defendant,

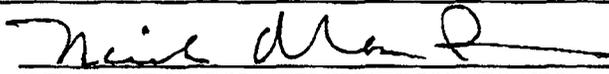
)
)
) No. 07-1-08484-0 SEA
)
) JUDGMENT AND SENTENCE,
) (FELONY) - APPENDIX B,
) CRIMINAL HISTORY
)
)
)

2.2 The defendant has the following criminal history used in calculating the offender score (RCW 9.94A.525):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
UNLAWFUL IMPRISONMENT	02/11/1987	JUVENILE	868022751	KING CO

[] The following prior convictions were counted as one offense in determining the offender score (RCW 9.94A.525(5)):

Date: 05/30/08


JUDGE, KING COUNTY SUPERIOR COURT

NICOLE MacINNES

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

STEVEN D. SWENSON

Defendant,

SWA

No. 07-1-08484-0

APPENDIX E

ORDER SETTING RESTITUTION

The court ordered payment of restitution as a condition of sentencing. The Court has determined that the following person(s) is/are entitled to restitution in the following amounts; IT IS ORDERED that defendant make payments through the registry of the clerk of the court as follows:

CRIME VICTIMS COMPENSATION

P.O. Box 44520

OLYMPIA WA 98504-4520

Amount \$ 719.60

(For VR 71151 & VR 71155)

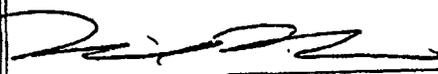
(ADDITIONAL RESTITUTION WILL BE ORDERED AS FURTHER COSTS RELATED TO THIS CRIME ONLY ARE RECEIVED)

1
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23

DONE IN OPEN COURT this 30 day of May, 2008.

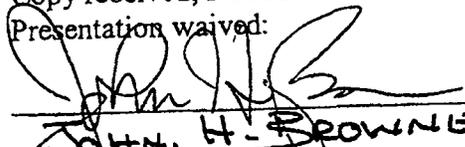

JUDGE NICOLE MACINNES

Presented by:

 30389
Michael McHanderson

Deputy Prosecuting Attorney -

Copy received; Notice
Presentation waived:


JOHN H. BROWNE
Attorney for Defendant 4677

Order Setting Restitution

CCN#

REF#

PP

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 vs.)
)
 STEVEN DANIEL SWENSON)
)
 Defendant,)
)

No. 07-1-08484-0 SEA
APPENDIX G
ORDER FOR BIOLOGICAL TESTING
AND COUNSELING

FAX COPY TO COUNTY JAIL JUN 6 2008

(1) DNA IDENTIFICATION (RCW 43.43.754):

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

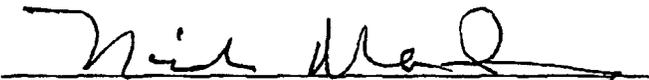
(2) HIV TESTING AND COUNSELING (RCW 70.24.340):

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

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

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

Date: 05/30/08


JUDGE, King County Superior Court

NICOLE MacINNES

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

STEVEN DANIEL SWENSON

Defendant,

No. 07-1-08484-0 SEA

JUDGMENT AND SENTENCE

APPENDIX H

COMMUNITY PLACEMENT OR

COMMUNITY CUSTODY

The Defendant shall comply with the following conditions of community placement or community custody pursuant to RCW 9.94A.700(4), (5):

- 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) Not possess or consume controlled substances except pursuant to lawfully issued prescriptions;
4) Pay supervision fees as determined by the Department of Corrections;
5) Receive prior approval for living arrangements and residence location;
6) Not own, use, or possess a firearm or ammunition. (RCW 9.94A.720(2));
7) Notify community corrections officer of any change in address or employment; and
8) Remain within geographic boundary, as set forth in writing by the Department of Corrections Officer or as set forth with SODA order.

OTHER SPECIAL CONDITIONS:

[] The defendant shall not consume any alcohol.

[X] Defendant shall have no contact with: A.M., K.M., N.M., Devona McKay;

Nick Navota and no unsupervised contact with minors except by a responsible adult with knowledge of the circumstances.

[] Defendant shall remain [] within [] outside of a specified geographical boundary, to wit: []

[X] The defendant shall participate in the following crime-related treatment or counseling services: Obtain a state certified sexual deviancy evaluation and follow all recs of evaluator, treatment provider, and CCO. Once enrolled in treatment, do not change.

[] The defendant shall comply with the following crime-related prohibitions: Providers without prior court or CCO approval.

[X] Submit to polygraph exams at CCO request to monitor compliance with conditions of community custody; No possession or viewing of child pornography.

Other conditions may be imposed by the court or Department during community custody. (including over the internet)

Community Placement or Community Custody shall begin upon completion of the term(s) of confinement imposed herein or when the defendant is transferred to Community Custody in lieu of earned early release. The defendant shall remain under the supervision of the Department of Corrections and follow explicitly the instructions and conditions established by that agency. The Department may require the defendant to perform affirmative acts deemed appropriate to monitor compliance with the conditions [RCW 9.94A.720] and may issue warrants and/or detain defendants who violate a condition [RCW 9.94A.740].

Date: 05/30/08

[Signature]

JUDGE

NICOLE MacINNES

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 vs.)
)
 Steven D. Swenson)
)
 Defendant,)

No. 07-1-08484-0 SEA
APPENDIX J
JUDGMENT AND SENTENCE
SEX/ KIDNAPPING OFFENDER NOTICE OF
REGISTRATION REQUIREMENTS

SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. You are required to register your complete residential address with the sheriff of the county where you reside, because you have been convicted of one of the following sex or kidnapping offenses: *Rape 1, 2, or 3; Rape of a Child 1, 2, or 3; Child Molestation 1, 2 or 3; Sexual Misconduct With A Minor 1 or 2; Indecent Liberties; Incest 1 or 2; Voyeurism; Kidnapping 1 or 2 (if victim is a minor and offender is not the minor's parent); Unlawful Imprisonment (if victim is a minor and offender is not the minor's parent); Sexual Exploitation of a Minor; Custodial Sexual Misconduct 1; Criminal Trespass against Children; Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct; Sending, Bringing Into State Depictions of a Minor Engaged in Sexually Explicit Conduct; Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct; Communication with a Minor for Immoral Purposes; Patronizing a Juvenile Prostitute; Failure to Register as a Sex Offender; any gross misdemeanor that is under RCW 9A.28, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or RCW 9A.44.130 or a kidnapping offense under 9A.44.130; or any felony with a finding of sexual motivation (RCW 9.94A.835 or RCW 13.40.135).*

If you are out of custody, you must register immediately upon being sentenced.

If you are in custody, you must register within 24 hours of your release.

If you change your residence within a county, you must send signed written notice of your change of residence to the county 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 the county of your new residence at least 14 days before moving and register with the county sheriff of your new residence within 24 hours of moving. In addition, you must give signed written notice of your change of address to the sheriff of the county where you last registered within 10 days of moving.

If you plan to attend a public or private school or institution of higher education in Washington, you are required to notify the county sheriff for the county of your residence within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you are currently attending a public or private school or institution of higher education in Washington, you must notify the county sheriff, for the county where the school is located, immediately.

If you lack a fixed residence, you are required to register as homeless. You must also report in person to the sheriff of the county where you registered on a weekly basis. If you are under DOC supervision and lack a fixed residence, you must register in the county where you are being supervised. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county within 24 hours.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 3 business days after returning to this state or within 24 hours if you are under the jurisdiction of the state department of corrections, the indeterminate sentence review board or the department of social and health services.

If you move to a new state, you must register with the new state within 10 days after establishing residence. You must also send written notice, within 10 days of moving to the new state, to the county sheriff with whom you last registered in Washington State.

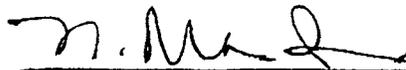
If you are not a resident of Washington, but attend school, are employed, or carry on a vocation in the State of Washington, you must register with the county sheriff for the county where your school, place of employment, or vocation is located.

If you are ranked as a Level II or Level III offender (even if you have a fixed residence), you must report, in person, every ninety 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.

The King County Sheriff's Office sex offender registration desk is located on the first floor of the King County Courthouse- 516 3rd Avenue, Seattle, WA. Failure to comply with registration requirements is a criminal offense.

Copy Received:


Defendant Date 5/30/08


JUDGE

APPENDIX J Rev. 8/06
Distribution:
Original/White - Clerk
Yellow - Defendant
Pink - King County Jail
Gold/rod - Prosecutor

APPENDIX F



SUPERIOR COURT OF WASHINGTON
COUNTY OF KING
JUVENILE COURT

CERTIFIED COPY

KING COUNTY WASHINGTON

FEB 11 1987

SUPERIOR COURT CLERK
BY CYNTHIA MALEY
DEPUTY

State of Washington v.

Steven Swenson

NO. *86-8-02275-1*

ORDER OF DISPOSITION (INFORMATION)

I. BASIS

1.1 A dispositional hearing was held in this case on: February 11, 1987

1.2 Persons appearing at the hearing were:

- Juvenile
- Juvenile's lawyer Nalbein
- (Deputy) Prosecuting Attorney Willie
- Probation Counselor Wickman
- Other father

II. FINDINGS

Based on the testimony heard and the case record to date: the Court finds:

plea - Alford

2.1 The above named juvenile was found guilty by _____ of the offense(s) of:

GI - Unlawful Imprisonment () the Court
Ch II - III - Simple Assault (as amended)

2.2 RESTITUTION

- That damage was done to the victim in the amount of _____.
- The amount of loss cannot be determined at this time.
- That the juvenile has the present ability to pay restitution in the amount of _____.
- That the juvenile does not have the present ability to pay restitution, however that the juvenile will develop the ability to pay restitution.
- That the juvenile does not have the present ability to pay restitution and cannot reasonably acquire the means to pay.

2.3 CATEGORY OF OFFENDER

The juvenile is:

- A minor or first offender
- A middle offender
- A serious offender

2.4 MANIFEST INJUSTICE

- A disposition within the standard range for this offense would effectuate a manifest injustice. Findings of fact and conclusions of law to be presented by _____, 19____.

2. The Court finds that the standard range of sentence for Count I is 3-6 months of community supervision with 16-32 hours of community service; maximum \$25.00 fine; 2-4 days of confinement; or commitment for _____ weeks. The standard range(s) on count(s) _____ are found to be as stated on the record or in the statement of juvenile offender on plea of guilty form.

III. ORDER

CONSECUTIVE TO: _____

3.1 COMMUNITY SUPERVISION COUNT I 3 months COUNT II 3 months COUNT III 3 months REMARKS
 TOTAL MONTHS 9

COMMUNITY SERVICE 16 hours 4 hours 4 hours Rate is 10
 For _____ hours of counseling, credit is given for _____ hours of community service. hours per month
 first due 3-11-87

CONFINEMENT Days _____ Days _____ Days _____ To commence on _____
 Consecutive
 To be served on weekends
 To be served at the Division of Juvenile Rehabilitation
 Credit given for time served _____ days. passes authorized

Counseling/Drug-Alcohol Information/Evaluation as directed by Probation Counselor

Regular School Attendance/Work Training Program/Employment as directed by Probation Counselor

The juvenile shall undergo a psychological evaluation by Maxgano

The Victim Penalty Assessment is ordered waived in the amount of \$ _____.

Restitution shall be paid prior to other financial obligations.

RESTITUTION is ordered to be disbursed as follows: TOTAL \$ _____

COUNT	AMOUNT	VICTIM:
_____	_____	_____
_____	_____	_____
_____	_____	_____

Co-Respondents
 COUNT _____ # _____
 COUNT _____ # _____
 COUNT _____ # _____

ATTORNEY FEES - Private Atty

- Respondent shall pay attorney's fee. \$ _____
- Respondent's responsibility for attorney's fee is waived.
- This portion of the disposition is to be continued until parent has been screened financially.

TOTAL FINANCIAL OBLIGATION excluding clerk's fees is
 to be paid at the rate of _____ per month, first payment due _____.

ALL COUNTS WITHIN THIS NUMBER SHALL RUN CONSECUTIVELY.

3.2 CONDITIONS OF PROBATION: That while on community supervision the juvenile offender shall be under the charge of a probation counselor and comply with the following conditions: (1) must have parent/guardian's permission regarding whereabouts, hours, and activities (2) must report any change in residence, school, or work status to probation counselor. (Obtain permission from probation counselor before changing residence) (3) must have probation counselor's permission for out of state travel and (4) must keep all appointments with probation counselor. Must further comply with any conditions set forth in writing, signed by juvenile offender, lawyer and filed herein, during the term of community supervision.

3.3 JURISDICTION

() Jurisdiction is extended to _____ for purposes of restitution/community supervision.
() Jurisdiction is transferred to _____ County for purposes of supervision.

3.4 () The following counts are hereby dismissed _____.

3.5 This order shall remain in full force and effect until further order of the Court or until the same is revoked, modified or changed, or terminated by an order of the Court or by law.

3.6 That while detained authorization is granted to provide necessary medical and dental examination and treatment as professionally prescribed.

3.7 NOTICE OF FEES

All payments ordered above are payable through the registry of the Court. A cost of \$5.00 shall be collected in addition to each fee, penalty, fine or cost collected by juvenile courts. (There is no cost on payments under \$25.00.)

3.8 Other: _____

FEB 12 1987

JACK A. RICHEY
COURT COMMISSIONER

Judge/Court Commissioner

Dated: Feb 11, 1987

FINGERPRINT(S)

CERTIFICATE

I, _____
clerk of this Court, certify that the above is a true copy of the Order of
Disposition in this action on record in my office.

Dated: _____

Dated: _____

Fingerprints of: _____

Attested by: _____

M. Janice Michels

M. Janice Michels

Clerk

By _____

Deputy Clerk

By _____

Deputy Clerk

ORDER OF DISPOSITION (INFORMATION)

(JuCR 7.12; RCW 13.40.120, 160, 180, 190)

Page 3 of 3

JU 07,0710-4/86 WPF

ORIGINAL LEGAL FILE

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY
JUVENILE DEPARTMENT

**CERTIFIED
COPY**

STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 v.)
)
 STEVEN DANIEL SWENSON)
 B.D. 8/4/72)
)
 Respondent.)

NO. 86-8-02275-1

SECOND AMENDED INFORMATION

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the state of Washington, do accuse Steven Daniel Swenson, of the crime of UNLAWFUL IMPRISONMENT, committed as follows:

That the respondent Steven Daniel Swenson, in King County, Washington, on or about 3 May 1986, did knowingly restrain Anthony Vega, Nicole Johns and Melissa Miller, human beings;

Contrary to RCW 9A.40.040, and against the peace and dignity of the state of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse Steven Daniel Swenson, of the crime of SIMPLE ASSAULT, a crime of the same or similar character as Count I, committed as follows:

That the respondent Steven Daniel Swenson, in King County, Washington, on or about 3 May 1986, did assault Anthony Vega, a human being;

Contrary to RCW 9A.36.040, and against the peace and dignity of the state of Washington.

20

COUNT III

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse Steven Daniel Swenson, of the crime of SIMPLE ASSAULT, a crime of the same or similar character as Counts I and II, committed as follows:

That the respondent Steven Daniel Swenson, in King County, Washington, on or about 3 May 1986, did assault Nicole Johns, a human being;

Contrary to RCW 9A.36.040, and against the peace and dignity of the state of Washington.

NORM MALENG
Prosecuting Attorney



By
NICOLE MACINNES
Senior Deputy Prosecuting Attorney

For
JONATHAN LOVE
Deputy Prosecuting Attorney

(KAREN A. WILLIE) (P)

STATE OF WASHINGTON
COUNTY OF KING

FILED FOR RECORD IN THE
CLERK OF SUPERIOR COURT
KING COUNTY, WASHINGTON
MAY 15 1986
BY: [Signature]

**CERTIFIED
COPY**

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY
JUVENILE DEPARTMENT

STATE OF WASHINGTON,)
)
 Plaintiff,) NO. 86-8-02275-1
)
 v.) FIRST AMENDED INFORMATION
)
 STEVEN DANIEL SWENSON)
 B.D. 8/4/72)
)
 Respondent.)
 _____)

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the state of Washington, do accuse Steven Daniel Swenson, of the crime of UNLAWFUL IMPRISONMENT, committed as follows:

That the respondent Steven Daniel Swenson, in King County, Washington, on or about 3 May 1986, did knowingly restrain Anthony Vega, Nicole Johns and Melissa Miller, human beings;

Contrary to RCW 9A.40.040, and against the peace and dignity of the state of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse Steven Daniel Swenson, of the crime of ASSAULT IN THE SECOND DEGREE, a crime of the same or similar character and based on a series of acts connected together with Count I, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the respondent Steven Daniel Swenson, in King County, Washington, on or about 3 May 1986, did knowingly inflict grievous bodily harm upon Anthony Vega and Nicole Johns, human beings;

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Contrary to RCW 9A.36.020(1)(b), and against the peace and dignity of the state of Washington.

NORM MALENG
Prosecuting Attorney

Norm MacInnes

By
NICOLE MACINNES
Senior Deputy Prosecuting Attorney

For
DAVID S. VOGEL
Deputy Prosecuting Attorney

(PATRICIA SHELEDY) (P)

PROSECUTOR GENERAL
STATE OF WASHINGTON

THE STATE OF WASHINGTON, COUNTY OF KING, ss. I, David S. Vogel, Deputy Prosecuting Attorney, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the files of the Prosecuting Attorney for the County of King, Washington.

1986 JUN -5 AM 10
SUPERIOR COURT

**CERTIFIED
COPY**

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY
JUVENILE DEPARTMENT

STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 v.)
)
 STEVEN DANIEL SWENSON,)
 B.D. 08-04-72)
)
 Respondent.)
 _____)

NO. **86-8-02275-1**
INFORMATION

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the state of Washington, do accuse Steven Daniel Swenson, of the crime of UNLAWFUL IMPRISONMENT, committed as follows:

That the respondent Steven Daniel Swenson, in King County, Washington, on or about 3 May 1986, did knowingly restrain Anthony Vega, Nicole Johns and Melissa Miller, human beings;

Contrary to RCW 9A.40.040, and against the peace and dignity of the state of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse Steven Daniel Swenson, of the crime of SIMPLE ASSAULT, a crime of the same or similar character and based on a series of acts connected together with Count I, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the respondent Steven Daniel Swenson, in King County, Washington, on or about 3 May 1986, did assault Anthony Vega and Nicole Johns, human beings;

1

Contrary to RCW 9A.36.040, and against the peace and
dignity of the state of Washington.

NORM MALENG
Prosecuting Attorney

David S. Vogel

By
DAVID S. VOGEL
Deputy Prosecuting Attorney

(PATRICIA E. SHELEDY) (P)

~~CONFIDENTIAL~~

BARBARA WIMBLY, Clerk of the Superior Court
County of King, Washington
has received a copy of the above captioned
document and has advised that it is a
true and correct copy of the original
document filed in the above captioned
case.