

DANIEL T. SATTERBERG
PROSECUTING ATTORNEY

70435-4



King County

70435-4

Office of the Prosecuting Attorney
CRIMINAL DIVISION - Appellate Unit
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9650

9 January 2014

Hon. Mary Neel, Commissioner
Court of Appeals, Division I
One Union Square, 600 University Street
Seattle, WA 98101

2014 JAN 10 PM 3:01
COURT OF APPEALS DIV I
STATE OF WASHINGTON

Re: State v. Gregory J. Cater, No. 70435-4-I

Dear Commissioner Neel:

On July 31, 2013, the State received the defendant's motion to enlarge the time to file an appeal of his 1979 conviction. The State filed its opposition to the motion on August 9, 2013. This Court referred the motion to a panel of judges, and directed further briefing. On January 8, 2014, the State received a brief from counsel in support of the motion to enlarge time. The State by this letter wishes to inform the Court that the State has nothing to add to the opposition it filed on August 9, 2013 ("State's Opposition to Motion to Enlarge Time to File Notice of Appeal"), and intends to rely on that pleading as to this issue only.

Please let me know if I may be of further assistance to the Court in this matter.

Sincerely,


Deborah A. Dwyer #18887
Senior Deputy Prosecuting Attorney

Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to **Maureen M. Cyr**, the attorney for the appellant, at **Washington Appellate Project**, 1511 Third Avenue, Suite 701, Seattle, WA 98101, containing a copy of the **Letter to Commissioner Mary Neel dated 9 January 2014**, in **STATE V. GREGORY J. CATER**, Cause No. **70435-4-I**, in the Court of Appeals for the State of Washington, Division I.

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



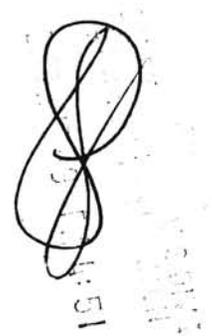
Name
Done in Seattle, Washington

01-10-14

Date

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

STATE OF WASHINGTON,)
)
Respondent,) No. 70435-4-I
)
vs.)
)
GREGORY J. CATER,) STATE'S OPPOSITION TO
) MOTION TO ENLARGE TIME
) TO FILE NOTICE OF APPEAL
Appellant.)
)
)
)
_____)



1. IDENTITY OF RESPONDING PARTY

Respondent, The STATE OF WASHINGTON, seeks the relief designated in part 2.

2. STATEMENT OF RELIEF SOUGHT

The State asks this Court to deny the motion to enlarge time to file the notice of appeal.

3. FACTS RELEVANT TO MOTION

On April 9, 1979, Gregory Cater pled guilty to Arson in the First Degree "as charged in the information." Appendix A-1. The

State alleged in the information that Cater, on or about March 1, 1979, "did knowingly and maliciously cause a fire and explosion which damaged a dwelling located at 4018 Empire Way S., Seattle, King County, in which there was at that time a human being who was not a participant in the crime and which fire and explosion was manifestly dangerous to human life." Appendix B-1.

The Affidavit for Determination of Probable Cause contained the account of a police officer who responded to a report from Clara Lewis that Gregory Cater had stolen her car. Appendix B-2. When the officer arrived, both Cater and Lewis were at the apartment. Id. Lewis went outside briefly with the responding officer to get her car. Id. When she returned to her apartment, she found two separate fires burning, and Cater gone. Id. Lewis's apartment was one of ten units in a two-story building; other units were occupied at the time of the fires. Id. Lewis later admitted to police that he had set the fires. Id.

The trial court on May 25, 1979, imposed a deferred sentence, on condition that Cater serve a term of confinement of 90

days.¹ Appendix C. The jail time was suspended on certain conditions (employment or training, alcohol/mental health counseling, recoupment of attorney fees). Id. Cater did not appeal.

A little over nine years later, Cater again ran afoul of the law. Again, Cater was charged with Arson in the First Degree. This time, however, he set his girlfriend, Margaret Susan Morris, on fire in the apartment that they shared. Appendix D. Morris ultimately died from the burns, and Cater was charged by amended information with Murder in the First Degree as well. Id.

A jury convicted Cater on both counts. Appendix E. The trial court imposed an exceptional sentence of 401 months. Appendix F. Cater appealed, and this Court affirmed his convictions and sentence. Appendix G.

Cater is currently charged with two counts of Assault in the Second Degree – Domestic Violence for assaulting his ex-girlfriend, Ginger Washington, by strangulation and with a knife. Appendix H. The State has also alleged several aggravating factors. Id. The State believes that, if convicted of the current charges, Cater will be

¹ The statutory maximum for Arson in the First Degree, a class A felony, was (and remains under the SRA) life imprisonment. Appendix A-1, C; RCW 9A.48.020(2), 9A.20.021(1)(a).

he serve no jail time on a class A felony – it is absurd to think that Cater would have appealed within 30 days under any circumstances.

In the face of these facts, Cater has failed to proffer even the most minimal evidence that he wished to appeal his 1979 conviction. There is no declaration from Cater stating that he was unaware of his right to appeal, and that he would have appealed had he been explicitly advised of his limited right to do so. *Cf. State v. Sweet*, 90 Wn.2d 282, 284, 581 P.2d 579 (1978) (defendant testified that he had told his trial attorney that he would like to appeal, and trusted that his attorney would do so). Nor is there a declaration from Cater's trial counsel stating that counsel was somehow at fault in Cater's failure to file a timely notice of appeal. *Cf. State v. Kells*, 134 Wn.2d 309, 312, 949 P.2d 818 (1998) (defendant's attorney stated that he had been unaware of his juvenile client's right to appeal the declination order following a guilty plea).

When a defendant receives a very favorable plea deal and fails to timely appeal the conviction, and waits more than 30 years to assert his right to appeal – and then only when he is facing his

third "strike" – the courts should carefully assess all of the facts in determining whether the defendant validly waived his right to appeal. Under the facts of this case, the only rational conclusion is that Cater waived the right to appeal his 1979 conviction.

5. CONCLUSION

For all of the foregoing reasons, the Motion to Enlarge Time to File Notice of Appeal should be denied

Respectfully submitted this 9th day of August, 2013.

DANIEL T. SATTERBERG
Prosecuting Attorney



DEBORAH A. DWYER, WSBA #18887
Senior Deputy Prosecuting Attorney
Attorneys for Respondent

King County Prosecuting Attorney's Office
Appellate Unit
W554 King County Courthouse
Seattle, WA 98104
Telephone: 206-296-9650

FILED

STATE OF WASHINGTON,

Plaintiff,

vs.

No. 84464

STATEMENT OF DEPENDANT
ON PLEA OF GUILTY

GREGORY JAMES CATER

Defendant.

(Felony)

1. My true name is Gregory James Cater.
2. My age is 20.
3. My lawyer is Bruce Bentley.

4. The court has told me that I am charged with the crime of Arson in the First Degree, the maximum sentence for which is life years prison and \$10,000 fine.

5. The court has told me that ON A PLEA OF NOT GUILTY:

(a) I have the right to have counsel (a lawyer) and that if I cannot afford to pay for counsel, one will be furnished at no cost to me;

(b) I have the right to a trial by jury;

(c) I have the right to hear and question witnesses who testify against me;

(d) I have the right to testify or not testify and even if I decide not to testify I have the right to have witnesses testify for me. These witnesses can be made to appear in court at the trial at no expense to me;

(e) The charge must be proved beyond a reasonable doubt;

(f) I have the right to appeal from any finding of guilty and the sentence on that finding of guilty.

The court has also told me that BY ENTERING A PLEA OF GUILTY, I GIVE UP ALL OF THE ABOVE RIGHTS EXCEPT (a), and that I cannot later change my plea back to not guilty to regain those rights on the basis that I do not like the sentence that I receive. I understand that by entering a plea of guilty, I will be sentenced as guilty.

6. I plead Guilty to the crime of Arson in the First Degree, as charged in the information, a copy of which I have received.

7. I MAKE THIS PLEA FREELY AND VOLUNTARILY. No one has threatened any kind of harm to me or to any other person to cause me to make this

CMR-03

plea of guilty. Except as set forth in this statement, no one has made promises of any kind to cause me to make this plea of guilty.

8. I have been told that the Prosecuting Attorney will take the following action and make the following recommendation to the court:

Deferred sentence with open recommendation regarding
conditions, depending on report from Department of
Social and Health Services

9. I have been told and fully understand that the court does not have to follow the Prosecuting Attorney's recommended sentence and that the court is completely free to give me any sentence it sees fit, up to the maximum provided by law, no matter what the Prosecuting Attorney recommends.

10. The court has told me that if I am sentenced to prison the judge must sentence me to the maximum term required by law, which in this case is life. The term of sentence is set by the Board of Prison Terms and Paroles which does not have to follow any recommendation by the judge or Prosecuting Attorney as to a minimum sentence. ~~I have been advised that the crime with which I am charged carries a mandatory minimum of _____ years. I have been advised that the law requires that a prison term be imposed and does not permit any form of probation for the crime with which I am charged. (If not applicable, either or both of the last two sentences shall be stricken and initialed by the defendant and the judge.)~~

11. I understand that if I am on probation or parole, a plea of guilty to the present charge will be sufficient grounds for a judge or the parole board to revoke my probation and parole.

12. In my own words, this is what I did that resulted in my being charged with the crime in the information: On March 1, 1979, in Seattle King County I set fire to some clothes and a phone book at my girlfriend's apartment because I was upset at her for reporting that I had taken her car to the police.

13. I have read or have had read to me everything on this document.

form and have received a copy of this statement form. I have no further questions to ask of the court.

Gregory Weston
Defendant

This Statement of Defendant on Plea of Guilty was signed by the defendant in open court in the presence of his attorney _____

Bruce Bentley
Prosecuting Attorney [Signature]
and the undersigned Judge.

DATED this 9th day of June, 1979.

[Signature]
Judge

75 MAR 7 PM 12:32

SUPERIOR COURT

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

STATE OF WASHINGTON,

Plaintiff,

v.

GREGORY J. CATER,

Defendant.

NO.

30464

INFORMATION

WARRANT ISSUED
CHARGE COUNTY \$32.00

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the state of Washington, by this Information do accuse Gregory J. Cater of the crime of arson in the first degree, committed as follows:

That the defendant Gregory J. Cater, in King County, Washington, on or about March 1, 1979, did knowingly and maliciously cause a fire and explosion which damaged a dwelling located at 4018 Empire Way S., Seattle, King County, in which there was at that time a human being who was not a participant in the crime and which fire and explosion was manifestly dangerous to human life;

Contrary to RCW 9A.48.020(1)(a)(b) and (c), and against the peace and dignity of the state of Washington.

NORM MALENG
Prosecuting Attorney

By *Michael T. Di Julio*
MICHAEL T. DI JULIO
Assistant Chief Criminal Deputy
Prosecuting Attorney

Information

NORM MALENG
Prosecuting Attorney
W584 King County Courthouse
Seattle, Washington 98104
583-2200

2 AFFIDAVIT FOR DETERMINATION OF PROBABLE CAUSE

3 STATE OF WASHINGTON)
4 : ss.
5 COUNTY OF KING)

6 STEVEN S. MILLER, being first duly sworn on oath, deposes
7 and says:

8 That he is a Deputy Prosecuting Attorney for King County
9 and is familiar with the investigation conducted in this case;

10 That this motion for the determination of the existence
11 of probable cause is based on the following:

12 That according to SPD report No. 79-74930 by Detectives
13 Fowler and McDonald, witnesses will testify that on March 1, 1979
14 SPD Officer Jensen was called to an auto theft report at 4018
15 Empire Way S., Apartment #1, Seattle, King County; the officer met
16 Gregory J. Cater, and Clara Z. Lewis at the apartment; the
17 apartment was being rented by Lewis who was accusing Cater of
18 stealing her car; Lewis and the officer left the apartment to get
19 the car and returned 5 to 7 minutes later to find two burning
20 fires and a third which had self-extinguished in the apartment and
21 Cater was gone; Cater has admitted to investigators after advice
22 of his Miranda rights that he set the fires; Lewis' apartment is
23 one of 10 units of a two-story apartment building; other units
24 were occupied at the time.

25 
26 STEVEN S. MILLER

27 SUBSCRIBED and SWORN to before me
28 this 6 day of March, 1979:

29 
30 NOTARY PUBLIC in and for the state
31 of Washington, residing at Seattle.

32 **NORM MALENG**

33 Prosecuting Attorney
W654 King County Courthouse
Seattle, Washington 98104
344-2650

In the Superior Court of the State of Washington

For the County of King

THE STATE OF WASHINGTON,

Plaintiff,

No. 8 9 4 6 4

Order Deferring Imposition

GREGORY JAMES CATER

Defendant.

of Sentence
(PROBATION)

MAY 25 1979
CERTIFIED COPY TO COUNTY JAIL

The Prosecuting Attorney, the defendant GREGORY JAMES CATER and

counsel Bruce K. Bentley came into Court, the defendant having been charged by information with the crime(s) of ARSON IN THE FIRST DEGREE

To this April information the defendant entered a plea of "Guilty" on the 9th day of 1979.

The Court having determined that no legal cause exists to show why judgment should not be pronounced, it is therefore ORDERED, ADJUDGED and DECREED that the said Defendant is guilty of the crime(s) of ARSON IN THE FIRST DEGREE, Class "A" Felony, RCW 9A.48.020(1)(a) (b) and (c)

The Defendant having made application to the Court for probation and the Court having found Defendant eligible under the law to be granted probation, and the Court being fully advised in the premises, it is therefore,
DOCK ORDERED that the imposition of sentence against the Defendant herein be, and the same is hereby deferred pursuant to RCW 9.95.200 for a period of four (4) years from date upon the following terms and conditions, to-wit:
1) That the Defendant shall be under the charge of a Probation and Parole Officer employed by the Department of Social and Health Services, Adult Corrections Division and follow implicitly the instructions of said Department, and the rules and regulations promulgated by said Department for the conduct of the Defendant during the term of his probation hereunder.
2) The Defendant shall not commit any law violations.
3) The Defendant shall pay all costs, within 90 days from date of this order.
4) The Defendant shall serve a term of 90 days in King County Jail, (with credit to be given for time already served, to commence on work release if eligible; jail time suspended on following conditions:

- 5) Maintain full employment or training
- 6) Continue alcohol and mental health counseling until probation terminates counseling in writing.
- 7) Recompment of attorneys fees, of \$75, on schedule set out by probation officer.

DONE IN OPEN COURT this 25 day of May 1979

Presented by: Rebecca J. Koe Deputy Prosecuting Attorney

Francis E. Holman Judge

WA STATE I.D. REPORT FORWARDED MAY 29 1979 ON 1 FBI

REEL 933 IR 450

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

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STATE OF WASHINGTON,)	
)	NO. 88-1-04154-3
Plaintiff,)	
)	INFORMATION
v.)	
)	
GREGORY JAMES CATER,)	
)	
Defendant.)	

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the state of Washington, do accuse Gregory James Cater of the crime of attempted murder in the first degree, committed as follows:

That the defendant Gregory James Cater, in King County, Washington, on or about August 6, 1988 with premeditated intent to cause the death of another person did attempt to cause the death of Margaret Susan Morris, a human being;

Contrary to RCW 9A.28.020 and 9A.32.030(1)(a), and against the peace and dignity of the state of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse Gregory James Cater of the crime of arson in the first degree, a crime 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 defendant Gregory James Cater, in King County, Washington, on or about August 6, 1988 did knowingly and maliciously cause a fire and explosion which damaged a dwelling located at 5621 Fautleroy Way S.W., in said county and state;

Contrary to RCW 9A.48.020(1)(b), and against the peace and dignity of the state of Washington.

NORM MALENG
Prosecuting Attorney



[Signature]
By
REBA WEISS

Deputy Prosecuting Attorney

NORM MALENG
Prosecuting Attorney
W554 King County Courthouse
Seattle, Washington 98104
583-2200

Information

New Telephone No. 296-9000

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APPENDIX D

D-1

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3 CAUSE NO. 88-1-04154-3

4 CERTIFICATION FOR DETERMINATION OF PROBABLE CAUSE

5 That Reba Weiss is a Deputy Prosecuting Attorney for King
6 County and is familiar with the police report and investigation
7 conducted in Seattle Police Department case No. 88-407595;

8 That this case contains the following upon which this
9 motion for the determination of probable cause is made;

10 The defendant, Gregory James Cater, rented and lived in a
11 basement apartment located at 5621 Fauntleroy Way S.W. in Seattle,
12 King County, Washington. About three months ago, his girlfriend,
13 Margaret Susan Morris, and her 13 year old son, Randy Ulrich,
14 moved into Cater's apartment. The building owners, Jessie Mae and
15 Eugene Rhodes, live in an upstairs apartment in the building and
16 noted that the defendant and Morris had frequent arguments.

17 On Saturday, August 6, 1988, at about 12:30 p.m., Seattle
18 fire personnel were dispatched to a fire at the above address.
19 When they arrived at the scene, they were notified by several
20 civilians that there were two injured people at the scene. David
21 Allen and Karen Dong, firefighter paramedics, made contact with
22 Morris. Morris was found lying nude and severely burned in the
23 back yard of the residence. She was awake and alert and asking
24 for something for the pain. The patient was placed on a stretcher
25 and moved to an aid car where she was placed on IV. The medics
26 asked Morris what had happened. Initially, Morris was reluctant
to talk about the incident. When asked again, however, Morris
stated that her boyfriend threw gasoline on her and lit it. Both
Allen and Dong heard Morris' statement.

27 Meanwhile at the scene of the fire, the defendant, who
28 was also burned, told several people including firefighters, that
29 he pulled Morris out of the fire and stated that "there was gas."
30 He told one person that he had walked into their bedroom carrying
31 a gasoline container while smoking a cigarette and that somehow a
32 fire had started. In fact, the defendant had not gone into the
33 burning house to rescue Morris. A neighbor, Tom Leahy, after
34 seeing the house engulfed in flames, entered the house and found
35 Morris in the basement, herself engulfed in flames. It was Leahy,
36 and not Cater, who pulled Morris out of the house.

37 Morris' son, Randy Ulrich, after seeing his dying mother,
38 confronted the defendant and asked him what had happened. The
39 defendant told Ulrich "I dumped gas out and lit it." Ulrich
40 believed that in fact the defendant had deliberately set his
41 mother on fire. About one month before the incident, Ulrich
42 witnessed one of the frequent arguments between his mother and
43 Cater. Ulrich recalls the defendant threatening that he would

44 Certification for Determination
45 of Probable Cause - 1

46 MAM #1

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NORM MALENG
Prosecuting Attorney
W554 King County Courthouse
Seattle, Washington 98104
583-2200

New Telephone No. 296-9000

1 kill everyone in the apartment. Ulrich also remembers when the
 2 defendant threatened to burn the house down using gasoline. The
 3 defendant made this threat twice, the last time only a week before
 the actual fire. Ulrich told officers that Cater and his mother
 had argued again the morning of the fire.

4 Morris was rushed to Harborview Medical Center where she
 5 was admitted to the Burn Unit. She had deep second and third
 degree burns covering 80% of her body. She is not expected to
 live.

6 On August 8, 1988, Seattle Police Department Detective
 7 Hank Gruber and Sergeant Joe Sanford contacted Morris at
 Harborview Medical Center. Morris' nurse, Jan Journey, told the
 8 officers that Morris was awake and coherent at that time.
 Although Morris was unable to speak due to her injuries and the
 9 medical treatment she was receiving, Morris could hear and
 understand well. The officers asked Morris several questions and
 she was able to respond by nodding her head to indicate either
 10 "yes" or "no." The detectives asked her the following questions:

Was Gregory Cater the person you were living with? Yes.

11 Was the fire an accident? No.

Did Gregory light the fire? Yes.

12 Did Gregory put gasoline on the bedroom floor? Yes.

Did Gregory put gasoline on you? Yes.

13 Was Gregory by the bedroom door when he lit the fire? Yes.

Did Gregory bring the red gas can into the bedroom? Yes.

14 Did Gregory hit you before he set the fire? No.

15 Prior to asking the above questions, Officers Gruber and
 Sanford asked Morris if she knew that she was gravely ill and
 likely to die. Morris nodded "yes" to both of those questions.

16 Seattle Fire Department investigators have determined
 17 that the fire was an incendiary fire. Their investigation shows
 that the defendant used a five gallon gas can that was approxi-
 18 mately half full which he poured around the living area and onto
 Morris herself. The defendant then ignited a hand-held flame and
 set it to the liquid acelerant. The Washington State Patrol Crime
 19 Laboratory had been asked to examine the victim's and the defen-
 20 dant's clothing for flammables and to compare the results with a
 liquid sample taken from a gas can which was found in the bedroom
 21 of Cater's apartment. The laboratory results have not yet been
 completed, although Lt. Swards did smell gasoline on Morris'
 22 clothing at the scene.

23 The defendant was also admitted to Harborview Medical
 Center with second and third degree burns to about 40% of his
 24 body. He is expected to live. Cater remains at Harborview
 Medical Center under guard at this time.

25 Certification for Determination
 26 of Probable Cause - 2

MAM #1

New Telephone No. 296-9000

NORM MALENG
 Prosecuting Attorney
 W554 King County Courthouse
 Seattle, Washington 98104
 583-2200

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Cater has a prior conviction for Arson 1° in 1979 which also involved setting a fire in a domestic dispute. He is obviously a very serious danger to the community and is a risk to flee. Bail of \$100,000 is warranted in this case. The defendant should also be ordered to have no contact with victims and witnesses in this case.

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 9 day of August, 1988, at Seattle, Washington.


REBA WEISS

Certification for Determination of Probable Cause - 3

MAM #1

New Telephone No. 296-9000

NORM MALENG
Prosecuting Attorney
W554 King County Courthouse
Seattle, Washington 98104
583-2200

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NO. 88-1-04154-3

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
Plaintiff,	)	NO. 88-1-04154-3
)	
v.	)	SECOND AMENDED INFORMATION
)	
GREGORY JAMES CATER,)	
)	
Defendant.)	

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the state of Washington, do accuse Gregory James Cater of the crime of arson in the first degree, committed as follows:

That the defendant Gregory James Cater, in King County, Washington, on or about August 6, 1988 did knowingly and maliciously cause a fire and explosion which damaged a dwelling located at 5621 Fauntleroy Way S.W., in said county and state;

Contrary to RCW 9A.48.020(1)(b), and against the peace and dignity of the state of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse Gregory James Cater of the crime of murder in the first degree, a crime 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:

Handwritten initials: JM, MKS

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That the defendant Gregory James Cater, in King County, Washington, on or about August 6, 1988 with premeditated intent to cause the death of another person did cause the death of Margaret Susan Morris, a human being who died on or about October 16, 1988; under circumstances manifesting an extreme indifference to human life, did engage in conduct which created a grave risk of death, thereby causing the death of Margaret Susan Morris, a human being, who died on or about October 16, 1988; while committing and attempting to commit the crime of arson in the first degree, and in the course of and in furtherance of said crime and in immediate flight therefrom, did cause the death on or about October 16, 1988 of Margaret Susan Morris, a human being who was not a participant in the crime;

Contrary to RCW 9A.32.030(1)(a), (b) and (c), and against the peace and dignity of the state of Washington.

Contrary to RCW and against the peace and dignity of the state of Washington.

NORM MALENG
Prosecuting Attorney



By
JEANNE E. TWETEN
Deputy Prosecuting Attorney

FILED
KING COUNTY, WASHINGTON
APR 25 1989
SUPERIOR COURT CLERK
BY ANNE C. SMART
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
Plaintiff,	)	NO. 88-1-04154-3
)	
v.	)	VERDICT FORM A
)	
GREGORY JAMES CATER,)	
)	
Defendant.)	

We, the jury, find the defendant Gregory James Cater
GUILTY of the crime of arson in the first degree
as charged in Count I.

Anthony W. Young
FOREMAN
04-25-89

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FILED
KING COUNTY, WASHINGTON
APR 25 1989
SUPERIOR COURT CLERK
BY ANNE C. SMART
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
Plaintiff,	)	NO. 88-1-04154-3
)	
v.	)	VERDICT FORM B
)	
GREGORY JAMES CATER,)	
)	
Defendant.)	

We, the jury, find the defendant Gregory James Cater
GUILTY of the crime of murder in the first
degree as charged in Count II.

Anthony W. Young
FOREMAN
04-25-89

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

NO. 88-1-04154-3

JUDGMENT AND SENTENCE

JUN 9 PM 2:28

GREGORY JAMES CATER,

Defendant.

I. HEARING

1.1 Pursuant to RCW 9.94A.110, sentencing hearing in this case was held on 6-2-89

1.2 Present were:

Defendant: GREGORY JAMES CATER Defendant's Lawyer: PETER E. FRIEDMAN

Deputy Prosecuting Attorney: JPF

Other: Karen Singleton, Janice DeHut, Debbie Unsell, Randy Ulrich

1.3 The state has moved for dismissal of Count(s) Eugene, Jessie Rhodes, Soren Sorenson

1.4 Defendant was asked if there was any legal cause why judgement should not be pronounced, and none was shown.

II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report(s) and case record to date, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on (date): 4-25-89 by plea/jury verdict/bench trial of:

Count No.: II Crime: MURDER IN THE FIRST DEGREE

RCW 9A.48.020 Crime Code 00124

Date of Crime August 6, 1988 Incident No.

Count No.: I Crime: ARSON IN THE FIRST DEGREE

RCW 9A.32.030 Crime Code 02006

Date of Crime August 6, 1988 Incident No.

Count No.: Crime:

RCW Crime Code

Date of Crime Incident No.

Additional current offenses are attached in Appendix A.

(a) With a special verdict/finding for being armed with a deadly weapon on Count(s):

(b) Vehicular Homicide Violent Offense (D.W.I. and/or reckless) or Nonviolent (disregard safety of others)

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

(d) Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400(1)(a)): Count I and Count II

(Current offenses not listed here are not encompassed)

POSTED

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CERTIFIED COPY TO COUNTY JAILIN 9-1889

JUN 9 1989

COPY TO SENTENCING GUIDELINES COMMISSION

2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360):

	Crime	Sentencing Date	Adult or Juv. Crime	Date of Crime	Crime Type
(a)	ARSON I	5-25-79	ADULT	89464 (King County)	
(b)					
(c)					
(d)					

- Additional criminal history is attached in Appendix B.
- Prior convictions served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(11)):

2.3 SENTENCING DATA:

Count	OFFENDER SCORE	SERIOUSNESS LEVEL	RANGE	MAXIMUM TERM
Count <u>II</u>	<u>2</u>	XIII	<u>261-347</u>	LIFE
Count <u>I</u>	<u>2</u>	VIII	<u>31-41</u> months	LIFE
Count _____	_____	_____	_____	_____

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

2.4 EXCEPTIONAL SENTENCE:

Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) I and II. Findings of fact and conclusion are attached in Appendix D.

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) _____

IV. ORDER

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

4.1 Defendant shall pay to the Clerk of this Court:

(a) \$ _____ Total amount restitution (with credit for amounts paid by co-defendant) to:

Name	Address	Amount
_____	_____	\$ _____
_____	_____	\$ _____

- Schedule of Restitution is attached as Appendix E.
- Restitution to be determined at future restitution hearing.

- (b) \$ waived, Court costs;
- (c) \$70, Victim assessment; waived
- (d) \$ N/A, Recoupment for attorney's fees to King County Public Defense Programs, 2015 Smith Tower, Seattle, WA 98104.
- (e) \$ _____, Fine;
- (f) \$ _____, King County Interlocal Drug Fund;
- (g) \$ _____, Other costs for: _____;

- (h) TOTAL monetary obligations.
- (i) The above payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk which are attached and incorporated into this order and the following terms: Not less than \$ _____ per month
- On a schedule established by the defendant's Community Corrections officer. _____

and the clerk of the court shall credit monetary payments to the above obligations in the above-listed order.

(j) The defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten years to assure payment of the above monetary obligations.

4.2 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows commencing (date): Immediately

54 months on Count No. I
347 months on Count No. II
_____ months on Count No. _____

The terms in Count(s) No. I & II are ~~concurrent~~ consecutive

The sentence herein shall run concurrently/consecutively with the sentence in cause number(s) _____ but consecutive to any other cause not referred to in this order.

Total number of months of confinement ordered is 401 months.

The defendant shall receive credit for time served of 229 days solely for conviction under this cause number pursuant to RCW 9.94A.120(13). The Earned Early Release time provisions of RCW 9.94A.150 shall be applied by the Department of Corrections to this time served.

The defendant shall report to an assigned community corrections officer upon release from confinement for monitoring of the remaining terms of this sentence.

4.3 NO-CONTACT: For the maximum term of life years, defendant shall have no contact with Randy Ulrich, Karen Singleton, Debbie Unsell, Janice De Hut

The following Appendices are attached to this Judgement and Sentence and are incorporated by reference:

- Appendix A, Additional Current Offenses (2.1)
- Appendix B, Additional Criminal History (2.2)
- Appendix C, Additional Current Offense(s) Sentencing Data (2.3)
- Appendix D, Findings of Fact and Conclusions of Law for an Exceptional Sentence (2.4)

- Appendix E, Schedule of Restitution (4.1(c))
- Appendix G, HIV Testing and Counseling (4.4) for drug offense, sex offense, prostitution related offense.
- Appendix H, Community Placement (4.5) for sex offense, serious violent offense, second degree assault, deadly weapon finding, Chapter 69.50 or 69.52 RCW offense.

Date: 6-2-89

[Signature]
Judge, King County Superior Court

Presented By: [Signature]
Deputy Prosecuting Attorney

Approved as to form: [Signature]
Attorney for Defendant

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
Plaintiff,)	NO. 88-1-04154-3
)	
v.	)	JUDGMENT AND SENTENCE
	)	APPENDIX D
GREGORY JAMES CATER,	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW FOR
Defendant.	)	EXCEPTIONAL SENTENCE
)	

An exceptional sentence above the standard range should be imposed based upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The defendant's conduct during the commission of these offenses manifested deliberate cruelty to the victim, as provided in RCW 9.94A.390(2)(a). The defendant not only poured gasoline throughout the house and lit it, thereby preventing the escape of Susan Morris, but he also poured gasoline directly on her body as she lay on the bed, and lit her on fire. The fire on her body could not be extinguished, thus causing Morris severe pain, suffering and disfigurement before her death two months later.

JUDGMENT & SENTENCE APPENDIX D, FINDINGS & CONCLUSIONS RE EXCEPTIONAL SENTENCE - 1

89-5-187/dma#18-dk

NORM MALENG
Prosecuting Attorney
W554 King County Courthouse
Seattle, Washington 98104
296-9000

1 2. The defendant poses a substantial danger to the
2 public. The defendant has a prior Arson in the First Degree
3 conviction based on similar facts -- he lit a residence on fire
4 when he was angry at a prior girlfriend in 1989. Prior to
5 committing the arson and murder in this case, the defendant also
6 had threatened one month before that he would burn the house down
7 with everyone in it. He also shows a lack of acknowledgement and
8 remorse for these crimes. All these facts establish the
9 defendant's potential future dangerousness to the public, which
10 justifies a sentence above the standard range.

11 3. The defendant committed these crimes "in the
12 presence" of the victim's son, Randy Ulrich. The thirteen-
13 year-old boy found her nude body covered with severe burns within
14 minutes of the crime. Not only did the defendant's actions
15 deprive the boy of his mother, but it caused him extreme emotional
16 distress as well.

17
18 CONCLUSION OF LAW

19 The above findings of fact establish substantial and
20 compelling reasons that justify an exceptional sentence above
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JUDGMENT & SENTENCE APPENDIX D, FINDINGS &
CONCLUSIONS RE EXCEPTIONAL SENTENCE - 2

89-5-187/dma#18-dk

NORM MALENG
Prosecuting Attorney
W554 King County Courthouse
Seattle, Washington 98104
296-9000

1 the standard range pursuant to RCW 9.94A.120(2), and
2 RCW 9.94A.390(2).

3 DONE IN OPEN COURT this 2nd day of June, 1989.

4 
5 _____
6 THE HONORABLE JAMES DORE, JUDGE

7 Presented by:

8 
9 _____
10 JEANNE E. TWETEN
11 Attorney for Plaintiff

12 Approved as to form:

13 
14 _____
15 PETER FRIEDMAN
16 Attorney for Defendant

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JUDGMENT & SENTENCE APPENDIX D, FINDINGS &
CONCLUSIONS RE EXCEPTIONAL SENTENCE - 3

89-5-187/dma#18-dk

NORM MALENG
Prosecuting Attorney
W554 King County Courthouse
Seattle, Washington 98104
296-9000

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

Gregory Cates
Defendant.

NO. *88-10415343*

APPENDIX H
COMMUNITY PLACEMENT

The Court having found the defendant guilty of offense(s) qualifying for community placement, it is further ordered as set forth below.

4.5 **COMMUNITY PLACEMENT:** Defendant additionally is sentenced to a one-year term of community placement on count(s) *I and II* beginning either upon completion of the term of confinement or at such time as the defendant is transferred to community custody in lieu of early release.

(a) Defendant shall comply with the following conditions during the term of community placement:

- (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 consume controlled substances except pursuant to lawfully issued prescriptions;
- (4) While in community custody not unlawfully possess controlled substances; and
- (5) Pay community placement fees as determined by the Department of Corrections.

The following conditions listed under 4.5 (a) are hereby waived by the court: _____

(b) Defendant shall comply with the following other conditions during the term of community placement:

As stated in the presentence report pages 7 and 8, attached hereto and incorporated by reference.

Date: *6-2-89*

[Signature]

Judge, King County Superior Court

CATER, Gregory J.
 Presentence - Page Seven

could be a serious threat in the community to reoffend and therefore, because of these factors, I recommend the Court impose an Exceptional Sentence and sentence him to prison for 748 months. Because he may still be a threat to the community and have needs for supervision and assistance, I also recommend the Court order Mr. Cater be placed on four years of community placement after he is released from prison.

Should the Court impose any financial obligations, Gregory James Cater will remain under the jurisdiction of the Court for up to ten years from the date of sentence. Thus, upon release from prison, Gregory James Cater is required to report to the Department of Corrections, Division of Community Corrections for financial monitoring.

Since this case involves a serious offense, Murder in the First Degree, which occurred after July 1, 1988, RCW 9.94A.030 requires community placement. I therefore recommend Gregory James Cater also be sentenced to a four year term of community placement, following release from total or partial confinement under the following "Standard Conditions":

1. Report to and be available for contact with the assigned Community Corrections Officer;
2. Work in a Department of Corrections approved education, employment and/or community service program;
3. Do not consume controlled substances except pursuant to lawfully issued prescriptions and submit to testing to provide proof of compliance;
4. While in community custody, do not unlawfully possess controlled substances and submit to searches and/or tests to provide proof of compliance;
5. Pay community fee, as determined by the Department of Corrections.

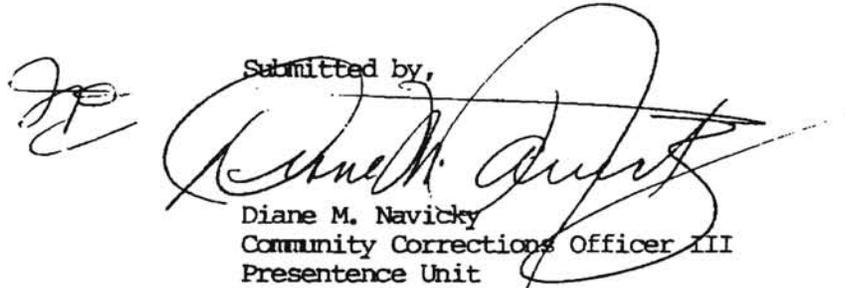
I further recommend the following "Special Conditions":

1. Have no contact with family members of the victims;
2. Participate in a substance abuse and alcohol treatment program at the direction of the Community Corrections Officer (this is a crime related treatment);
3. Submit to a psychological evaluation and follow the recommendations of that evaluation (this is a crime related treatment recommendation);

CATER, Gregory J.
Presentence - Page Eight

- 4. Complete an anger management course (this is a crime related treatment recommendation);
- 5. Not have in his possession or be in a place where he has access to inflammable liquids (this is a crime related prohibition).
- 6. He not be allowed to be in a live-in-relationship without written permission from his Community Corrections Officer.

Submitted by,



Diane M. Navicky
Community Corrections Officer III
Presentence Unit
1601 Second Avenue, 10th Floor
Seattle, Washington 98101
(206) 464-7966

DMN:eab
5-18-89

Orig: Court
ccs: P.A.
D.C. - P. Friedman
File

FINGERPRINTS



Defendant's Signature: X Gregory J. Cater

Right Hand
Fingerprints of:

Gregory Cater

Dated: 6-2-89

Janice M. [Signature]
Judge, King County Superior Court

Attested by:

M. Janice Michels, Superior Court Clerk

By: D. Cole Mauer
Deputy Clerk

CERTIFICATE

I, _____,
Clerk of this Court, certify that the above is a true copy
of the Judgment and Sentence in this action on record in
my office.

Dated: _____

Clerk

By: _____
Deputy Clerk

OFFENDER IDENTIFICATION

S.I.D. No. 11460845

Date of Birth 1-29-59

Sex M

Race B

JUL 23 1991

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,)	
	)	MANDATE
Respondent,)	
v.	)	No. 24307-1-I
)	
GREGORY JAMES CATER,	)	King County
)	
Appellant.	)	No. 88-1-04154-3

COMMITMENT ISSUED JUL 22 1991

THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington in and for King County.

This is to certify that the opinion of the Court of Appeals of the State of Washington, Division I, filed on February 11, 1991, became the decision terminating review of this court in the above entitled case on July 17, 1991. Petition for review denied in Supreme Court on July 3, 1991. Order denying motion for reconsideration entered in the Court of Appeals, Division I on March 12, 1991. This cause is mandated to the Superior Court from which the appeal was taken for further proceedings in accordance with the attached true copy of the opinion.

- c: Paris Kallas
- Gregory James Cater
- Jeanne Tweten
- The Honorable James T. Dore
- Ray Krontz, Reporter of Decisions
- Indeterminate Sentencing Review Board
- Chase Riveland

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IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Seattle, this 17th day of July, 1991.

Anne Noris

ANNE NORIS
Clerk/Staff Attorney of the Court of Appeals, State of Washington, Division I.

10/8

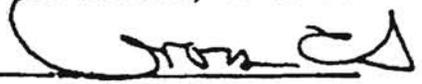
APPENDIX G

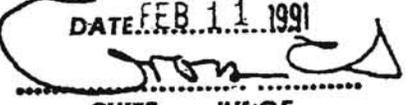


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A majority of the panel having determined that this opinion will be printed in the Washington Appellate Reports but will be filed for public record pursuant to RCW 2.03.040, IT IS SO ORDERED.


CHIEF JUDGE

FILE
IN CLERK'S OFFICE
COURT OF APPEALS
STATE OF WASHINGTON DIVISION I
DATE FEB 11 1991

CHIEF JUDGE

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)
)
 Respondent,)
)
 v.)
)
 GREGORY JAMES CATER,)
)
 Appellant.)

NO. 24307-1-I
DIVISION ONE
FILED: FEB 11 1991

BAKER, J. -- Gregory James Cater appeals his conviction and exceptional sentence for first degree arson and first degree murder. He raises evidentiary and sentencing issues. We affirm.

Cater argued with his girlfriend, Sue Morris, then poured gasoline on her and on their bedroom floor and lit it. Morris received very deep, third degree burns over 70 percent of her body. She survived over 2 months, but died as a result of her burns. Cater also received burns on 30 percent of his body, predominantly upper torso, chest and arms. His burns were not so deep as Morris' and were able to heal without surgical intervention.

A neighbor, Tom Leahy, testified that at the scene of the fire he asked Cater if anyone else was in the house. Cater told him,

FILED

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KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE NUMBER: 13-1-01408-1 KNT

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)	
)	
)	Plaintiff,
)	
v.	)	No. 13-1-01408-1 KNT
)	
GREGORY JAMES CATER,	)	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 GREGORY JAMES CATER of the crime of **Assault in the Second Degree - Domestic Violence**, committed as follows:

That the defendant GREGORY JAMES CATER in King County, Washington, on or about February 10, 2013, did assault Ginger Washington by strangulation;

Contrary to RCW 9A.36.021(1)(g), and against the peace and dignity of the State of Washington.

And I, Daniel T. Satterberg, Prosecuting Attorney for King County in the name and by the authority of the State of Washington further do accuse the defendant GREGORY JAMES CATER at said time of committing the above crime against a family or household member; a crime of domestic violence as defined under RCW 10.99.020.

And I, Daniel T. Satterberg, Prosecuting Attorney for King County in the name and by the authority of the State of Washington further do allege the crime involves the following aggravating factor and accuse the defendant GREGORY JAMES CATER of committing said offense involving domestic violence, as defined in RCW 10.99.020, and the offense was part of an ongoing pattern of psychological, physical or sexual abuse of the same victim or multiple victims manifested by multiple incidents over a prolonged period of time, under the authority of RCW 9.94A.535(3)(h)(i).

INFORMATION - 1

Daniel T. Satterberg, Prosecuting Attorney
Norm Maleng Regional Justice Center
401 Fourth Avenue North
Kent, Washington 98032-4429
Phone 206-205-7401 Fax 206-205-7475

APPENDIX H

A-1

COUNT II

1
2
3 And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse
4 GREGORY JAMES CATER of the crime of **Assault in the Second Degree - Domestic**
5 **Violence**, a crime of the same or similar character and based on the same conduct as another
6 crime charged herein, which crimes were part of a common scheme or plan and which crimes
7 were so closely connected in respect to time, place and occasion that it would be difficult to
8 separate proof of one charge from proof of the other, committed as follows:

9
10 That the defendant GREGORY JAMES CATER in King County, Washington, on or
11 about February 10, 2013, did intentionally assault Ginger Washington with a deadly weapon, to-
12 wit: a knife;

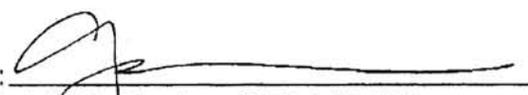
13
14 Contrary to RCW 9A.36.021(1)(c), and against the peace and dignity of the State of
15 Washington.

16
17 And I, Daniel T. Satterberg, Prosecuting Attorney for King County in the name and by
18 the authority of the State of Washington further do accuse the defendant GREGORY JAMES
19 CATER at said time of committing the above crime against a family or household member; a
20 crime of domestic violence as defined under RCW 10.99.020.

21
22 And I, Daniel T. Satterberg, Prosecuting Attorney for King County in the name and by
23 the authority of the State of Washington further do accuse the defendant GREGORY JAMES
24 CATER at said time of being armed with a deadly weapon, to-wit: a knife, under the authority
of RCW 9.94A.825 and 9.94A.533(4).

And I, Daniel T. Satterberg, Prosecuting Attorney for King County in the name and by
the authority of the State of Washington further do allege the crime involves the following
aggravating factor and accuse the defendant GREGORY JAMES CATER of committing said
offense involving domestic violence, as defined in RCW 10.99.020, and the offense was part of
an ongoing pattern of psychological, physical or sexual abuse of the same victim or multiple
victims manifested by multiple incidents over a prolonged period of time, under the authority of
RCW 9.94A.535(3)(h)(i).

DANIEL T. SATTERBERG
Prosecuting Attorney

By: 
Gabrielle R. Charlton, WSBA #34582
Deputy Prosecuting Attorney

1
2 CAUSE NO. 13-1-01408-1 KNT

3 PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR
4 CONDITIONS OF RELEASE

5 The State incorporates by reference the Certification for Determination of Probable
6 Cause in Renton Police Department case #13-1527 prepared by Detective Chris Edwards.

7 REQUEST FOR BAIL

8 Probable cause was found at first appearance and no bail was allowed. This case appears
9 to be the defendant's third strike.

10 Defendant was convicted in 1989, of Arson 1° and Murder 1° in a case in which the facts
11 involve him setting his then girlfriend on fire in front of her 13 year old child, killing her.
12 Defendant served 20 years in prison for his offense and was released in 2010, and completed
13 DOC supervision in December, 2011.

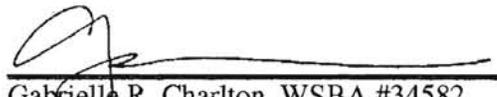
14 The defendant also has a prior conviction for Arson 1° from 1979, which is referenced in
15 the 1988, certification as having stemmed from a domestic dispute. Neither of these convictions
16 appears on the defendants DCH.

17 The defendant also has a conviction for Assault 4° – Domestic Violence from July 18th,
18 2012, from an incident involving the present victim. The current incident involves the defendant
19 not only strangling the victim to the point that she had difficulty breathing but also holding a
20 large butcher knife to her throat and making repeated threats to kill. There is a history of
21 domestic violence between defendant and victim. The victim has reported several previous
22 incidents to Renton PD and had attempted to obtain a protection order.

23 The defendant is clearly a significant danger to the victim as well as the community at
24 large as he shows a strong likelihood of committing a violent offense. As such, the State
requests bail in the amount of one million dollars.

The State also requests a no contact order with the victim.

Signed this 14th day of February, 2013.

22
23
24 
Gabrielle R. Charlton, WSBA #34582

Prosecuting Attorney Case
Summary and Request for Bail
and/or Conditions of Release - 3

Daniel T. Satterberg, Prosecuting Attorney
Norm Maleng Regional Justice Center
401 Fourth Avenue North
Kent, Washington 98032-4429
Phone 206-205-7401 Fax 206-205-7475

CAUSE NO: _____
CERTIFICATION FOR THE DETERMINATION OF PROBABLE CAUSE

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4 That **C. Edwards** is a **Detective** with the Renton Police Department and has
5 reviewed the investigation conducted in Renton Police Department Case Number **Case #13-**
6 **1527**;

7
8 There is probable cause to believe that **Gregory James Cater 1/29/1959** committed
9 the crime(s) of **Assault in the 2nd Degree / DV RCW 9A.36.021**. This belief is predicated
10 on the following facts and circumstances:

11 On 2/10/13 at about 2327hrs, Officer Nielsen of the Renton Police Department was
12 sent to 308 Pelly Ave N #2 in the City of Renton, King County, Washington State reference
13 a suspicious circumstance report.

14 Upon arrival he made contact with Victim Ginger Washington who he noticed had
15 small abrasions on her neck and face. According to Officer Nielsen, Victim Washington
16 was very animated, her speech was fast and repetitive and her hands were shaking
17 uncontrollable.

18 She told him in a written and verbal statement that Gregory James Cater, who she
19 used to date for about 3-4 months and has known for about a year, came over to her house
20 tonight at about 4-5pm. After a couple of hours, Cater, who has been seeing a caseworker at
21 Sound Mental Health, "snapped" and went "north". According to Washington, he grabbed
22 her neck, threw her to the ground and socked her a couple of times in the head and face with
23 a closed fist. She pretended to be out and he told her, "No bitch! I don't believe it!" and
24 punched her a few more times. He then grabbed her neck and choked her at least 3-4 times
25 over the course of the evening to the point that she couldn't breathe (Officer Nielsen stated
26 in his report that he observed red marks on Victim Washington's neck that was consistent
27 with this claim). According to Victim Washington, Cater also grabbed a kitchen knife out of
28 the drawer and held it up to her head. As the knife was there, she begged him and told him
29 not to do that. He then placed the knife to her throat and held it on her for over an hour,
30 during which time he kept threatening to kill her. Washington stated that she was so scared
31 and thought she would be in the paper tomorrow because he was going to kill her. Cater
32 eventually got off of her and went outside to smoke a cigarette and she was able to call 911.

33 On 2/11/13 at about 1420hrs, Victim Washington showed up at the police
34 department for a follow up interview and follow up photos of her injuries. She also brought
35 a knife with her that she stated had been used by Cater to threaten her life. The knife had a
36 black handle and a blade that was roughly 12 inches in length. The tip of the knife had been
37 broken off.

38 She showed me her injuries which consisted of bruising and lacerations around her
39 right eye, a scratch about 2-3 inches long on the upper portion of her upper right arm, a
40 scratch about 2-3 inches long on the upper portion of her right chest and an abrasion about 1
41 inches long in the small area on the back of her neck. She also complained of bumps and
42 swelling on her head, which I didn't see.

43 I asked her to clarify the assault incident and she told me in an audio statement that
44 while he choked her, he straddled over her while she was on the ground and grabbed her by
45 the neck with both hands from the front. While he had a hold of her neck, he applied
46 pressure to her esophagus with his thumbs (She couldn't remember whether it was one or
47 two) which prevented her from breathing and caused her to worry about her life. According

1 to Washington the strangling lasted for a couple of minutes and Cater would keep his
2 thumbs on her neck, which caused her to feel faint / dizzy. She tried to fend him off and he
3 stated, "You're dying tonight".

4 During the interview she also claimed that there was pain in the middle of her neck
5 and that the current status of her voice, which sounded hoarse, was not normal.

6 Washington further stated that Cater told her that he would "blow up the house" and
7 told her not to call the police. He also stated that he was going to kill the landlords and cut
8 wires so no one would find out. Washington asked Cater why he was doing this and he
9 didn't say anything. He then got up from straddling her, went to the kitchen and grabbed a
10 large butcher knife and came back to her, straddling her again. While he was straddling her
11 he held the knife tip to her throat with one hand and used the other to hold her down. This
12 went on for almost an hour, during which time he would take the knife off of her throat and
13 talk to himself stating things like "God forgive me but I am going to have to do this tonight
14 I'll see you in hell Ginger" and slap her and put the knife back towards her neck.

15 After about an hour, she told him that she wasn't feeling well and let her up. He
16 further told her that if anyone knocks on the door she is dead. He walked outside one of the
17 doors to smoke a cigarette and she was able to call 911 by picking up one of the phones that
18 he had placed on the couch to keep track of all the phones. She then put the phone back and
19 walked to the bathroom where she closed the door. He then tried to get inside at her by
20 kicking at the door and he started talking like she was speaking on the phone to 911 and he
21 left the house.

22 In summary, Washington stated that she was scared she would get stabbed in a cold
23 blooded murder during the incident and that there was no reasoning with him.

24
25 Under penalty of perjury under the laws of the State of Washington, I certify that the
26 foregoing is true and correct. Signed and dated by me on **February 12, 2013**, at Renton,
27 Washington.

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29 C. Edwards  #9070
30 Signature/ID
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MAY 09 2013

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

Office of the Public Defender

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

STATE OF WASHINGTON,
Plaintiff,

NO. 13-1-01408-1 KNT

v.

DECLARATION OF COUNSEL IN
SUPPORT OF REQUEST FOR
REIMBURSEMENT OF
FUNDING AT PUBLIC EXPENSE

GREGORY JAMES CATER,
Defendant.

I, LETA J. SCHATTAUER, am of the age of majority and am competent to make the following statements. I am appointed counsel for the Defendant in the above-captioned matter. Mr. Cater's arraignment occurred 3/5/13. He was originally charged with two (2) Counts of Assault in the Second Degree - Domestic Violence. The State advised it would be seeking an exceptional sentence on each count based on the aggravating factor pursuant to RCW 9.94A.535(3)(h)(i). There was a possibility that, alternatively, the State would treat this as Mr. Cater's 3rd strike. Subsequently, communications with the State to not treat this as a 3rd strike have failed. The State advised the Defense on 4/11/13 that it is prosecuting this case as a 3rd strike case. A copy of the Information and Certification for Determination of Probable Cause has been provided OPD.

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MOTION TO SEAL and DECLARATION OF COUNSEL ...
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1 The next court date is 6/6/13 for Case Scheduling.

2 As part of my investigation and preparation of this case I has been necessary to obtain Mr.
3 Cater's records related to his history and treatment. With each request I ask the provider to inform
4 me of the expense involved BEFORE sending me the requested information, so that I can obtain
5 funding and/or reimbursement approval from OPD in advance. I requested copies of Mr. Cater's
6 Department of Corrections' records. However, I did not receive advance notification of the expense
7 involved. IOD, Incorporated, the service responding to records requests for the DOC, sent the
8 records requested, along with a statement for \$194.59. A copy of the prepay notice in the amount
9 of \$194.59 is attached. I will provide the required payment to IOD, but I am requesting approval
10 from OPD to be reimbursed in the amount of \$194.59.

11 Based on the foregoing, I am requesting approval for reimbursement, as follows:

12 **TOTAL: \$ 194.59**

13 The records requested are necessary to assist me in preparing Mr. Cater's case and defense.
14 Counsel is not aware of any personal resources Mr. Cater has which would preclude him from being
15 provided the expert services requested at public expense.

16 Under penalty of perjury of the laws of the State of Washington, I swear the foregoing
17 statements are true and correct to the best of my ability, understanding, knowledge, and belief.

18 DATED May 9, 2013, at Seattle, Washington.

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22 LETA J. SCHATTAUER (WSBA No. 19499)
23 Appointed Counsel for Gregory J. Cater

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Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to **Maureen M. Cyr**, the attorney for the appellant, at **Washington Appellate Project**, 1511 Third Avenue, Suite 701, Seattle, WA 98101, containing a copy of the **State's Opposition to Motion to Enlarge Time to File Notice of Appeal**, in **STATE V. GREGORY J. CATER**, Cause No. **70435-4-I**, in the Court of Appeals for the State of Washington, Division I.

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

Name
Done in Seattle, Washington

Date

08/09/13

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