

71126-1

REC'D

JUL 23 2014

King County Prosecutor
Appellate Unit

71126-1

NO. 71126-1-I

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

STATE OF WASHINGTON,

Respondent,

v.

PEDRO NAVARRO,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

The Honorable Julie Spector, Judge
The Honorable Ronald Kessler, Judge
The Honorable Theresa B. Doyle, Judge

FILED
JUL 23 2014
KING COUNTY
COURT CLERK

BRIEF OF APPELLANT

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A. ASSIGNMENTS OF ERROR

1. The trial court erred by affirmatively misadvising Appellant about the consequences of exercising his right to self-representation.

2. The trial court erred in setting expiration dates of October 10, 2025, for three sexual assault protection orders. Supp. CP __ (sub no. 162, Sexual Assault Protection Order, filed 10/11/13); Supp. CP __ (sub no. 163, Sexual Assault Protection Order, filed 10/11/13); Supp. CP __ (sub no. 164, Sexual Assault Protection Order, filed 10/11/13).¹

3. The trial court erred by imposing a ten-year no-contact order in the judgment and sentence that applies to the complaining witnesses for offenses for which the statutory maximum sentence is five years.

Issues Related to Assignments of Error

1. Did the trial court's Faretta² colloquy fail to satisfy constitutional requirements where the court informed appellant that if he exercised his right to proceed pro se he would be prohibited from having counsel reappointed in the event he changed his mind later, when whether to reappoint counsel in such a situation is clearly within a court's discretion?

¹ Copies of the orders are attached as appendices A, B & C, respectively.

² Faretta v. California, 422 U.S. 806, 819, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975)

2. The statute authorizing a sexual assault protection order (SAPO) permits the order to remain in effect for two years following the expiration of the sentence. Where the court imposed SAPOs with expiration dates clearly in excess of that period, should this Court vacate those orders and remand for entry of orders that complies with the statute?

3. Is the term of a no contact order imposed as part of a sentence limited to the statutory maximum sentence for the applicable offense?

B. STATEMENT OF THE CASE

In March 2012, the King County prosecutor charged appellant Pedro Navarro with eight felonies; six counts of communicating with a minor for immoral purposes (communicating) and two counts of first degree extortion with sexual motivation (extortion). CP 1-13. The State subsequently added an additional five counts of communicating. CP 40-45. The State alleged Navarro posed as a teenage girl and befriended several 12-14 year-old boys through cell phone text messages, and subsequently offered and requested sexual favors, and in at least of couple of instances threatened boys with harm if they refused. Supp CP __ (sub no. 122C, State's Trial Memorandum, filed 7/17/13).

On January 23, 2013, approximately seven months before the actual trial,³ a hearing was held before the Honorable Julie Spector on Navarro's request to proceed pro se. 1RP 4-12. Navarro explained that while in jail he had been reading about the law and had concluded he was in the best position to represent himself at trial. 1RP 4. In response to questioning by Judge Spector, Navarro admitted he had never "formally" studied law, had never represented himself in the past, and did not really know what jury instructions were. 1RP 4-5. Navarro did, however, state he was aware there is a misdemeanor version of the communicating charges, that he was not entitled to stand-by counsel, and that neither the judge nor his current counsel could help him at trial if he represented himself. 1RP 6-7. Navarro also claimed he could figure out the applicable procedural rules. 1RP 8. Thereafter, the follow colloquy occurred:

THE COURT: So, you're going to learn all the Rules of Criminal Procedure between now and February 5th? . . . It takes years of experience [to learn criminal procedure], and the woman standing just to your right has that experience. Why would you want to do this on your own?

MR. NAVARRO: I don't know.

THE COURT: You don't know? But, I have to know before I let you make this huge decision to represent yourself. And you don't get to change your mind; once it's done, it's over. She steps away; she's off the case, and you're completely on your own. Do you know how to cross-

³ At the time of the hearing, trial was scheduled to begin on February 5, 2013. 1RP 8.

examine a witness?

MR. NAVARRO: You're saying that if I go pro se, I'm completely on my own?

THE COURT: You're completely on your own. You have no right to standby counsel.

MR. NAVARRO: And I can't recall my pro se status.^[4]

THE COURT: No. This is not-this is not a game. It's done. I let her go here today; you're done. You don't get to say, hey, Judge Spector, you know, we had that very interesting discussion last week or tomorrow, it's over. It's a huge deal. . . .

1RP 8-9. In response to Judge Spector's admonishments, Navarro withdrew his request. 1RP 10-11.

Following a jury trial held July 17, 2013 through August 8, 2013 before the Honorable Theresa B. Doyle, Navarro was acquitted on three counts of communicating, but convicted as charged on the remaining counts. CP 55-67; 1RP-6RP.⁵

On October 11, 2013, Navarro was sentenced to the statutory maximum sentence of 60 months for each of the communicating convictions, and 114 months incarceration and six months of community

⁴ Although punctuated by the transcriptionist as a statement, it appears from the context that it should be instead punctuated as a question.

⁵ There are twelve volumes of verbatim report of proceedings referenced as follows: 1RP - January 23, 2013, June 11, 2013, July 17, 2013 & October 11, 2013; 2RP - five-volume consecutively paginated set for the dates of July 18, 22-25, 29-31, 2013; 3RP - July 30, 2013 (a.m.); 4RP - August 5, 2013; 5RP - August 6, 2013; and 6RP - August 8, 2013.

custody for each for the extortion convictions, all concurrent, with credit for time served as determined by the King County Jail.⁶ CP 127-38; 1RP 191-93. The judgment and sentence includes a provision prohibiting Navarro from having contact with any of the complaining witnesses, including those named in the charges for which Navarro was acquitted,⁷ for a period of ten years. CP 131. The court also entered three SAPOs with expiration dates of October 10, 2025. Appendices A, B & C. Navarro appeals. CP 142.

C. ARGUMENTS

1. THE COURT'S FARETTA COLLOQUY WAS FATALLY FLAWED, REQUIRING REVERSAL OF THE CONVICTIONS AND REMAND FOR A NEW TRIAL.

The state and federal constitutions guarantee an accused the right to counsel at all critical stages of a criminal proceeding. These provisions also guarantee the right to self-representation. U.S. Const. amend. 6, 14; Const. art. 1, § 22; Faretta v. California, 422 U.S. 806, 807, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975); State v. Coley, ___ Wn.2d ___, 326 P.3d 702, 710-11 (Slip Op filed June 12, 2014); State v. Madsen, 168 Wn.2d

⁶ Navarro was arrested on March 7, 2012. 1RP 49-51. He was sentenced on October 11, 2013. 1RP 167-198. Based on the record, it appears Navarro has remained incarcerated since March 7, 2012, and therefore by the time of sentencing should have received credit for almost two years of time served.

⁷ Navarro agreed to inclusion in the no contact order the names of the complaining witnesses in the charges for which he was acquitted. 1RP 179.

496, 503, 229 P.3d 714 (2010); State v. Silva, 108 Wn. App. 536, 539, 31 P.3d 729 (2001). The state constitutional right to self-representation "is absolute" and its violation is reversible error. In re Detention of J.S., 138 Wn. App. 882, 890-891, 159 P.3d 435 (2007).

Before a trial court may accept a waiver of counsel, the court must ensure the accused knows the risks inherent in self-representation. Bellevue v. Acrey, 103 Wn.2d 203, 211, 691 P.2d 957 (1984). This is usually accomplished through a colloquy. Silva, at 540 (citing Acrey, at 211).

When Navarro sought to exercise his right to self-representation, Judge Spector engaged him in a colloquy in which she informed him that if granted pro se status, he could not change his mind later and have counsel reappointed. 1RP 8-9. This was incorrect information. Although Navarro would have had no right to reappointment of counsel if he later changed his mind, the court hearing such a request would have had the discretion to reappoint counsel. State v. DeWeese, 117 Wn.2d 369, 376-77, 816 P.2d 1 (1991); State v. Mehrabian, 175 Wn. App. 678, 690-91, 308 P.3d 660, review denied 178 Wn.2d 1022, 312 P.3d 650 (2013). As such, Judge Spector affirmatively misrepresented to Navarro the consequences of proceeding pro se.

Navarro's decision not to pursue his initial request cannot

reasonably be considered a knowing, voluntary and intelligent waiver of his constitutional right to self-representation in light of the affirmative misinformation he received from Judge Spector.

A similar situation occurred in Silva, albeit in the opposite circumstance. Silva had just completed a trial and "had displayed exceptional skill" as a litigator. Silva, 108 Wn. App. at 540. He had represented himself in trials twice before. He knew the standard range sentence for the offenses. Nonetheless, this Court held Silva's waiver of his right to counsel invalid, because the trial court failed to inform Silva of the five-year maximum penalty attached to the class C felonies at issue there. Silva, at 541-42.

Just as the affirmative misinformation in Silva invalidated Silva's waiver of his right to counsel, the affirmative misinformation Navarro received from Judge Spector invalidated his waiver of his right to self-representation.

In response the State may claim Navarro was unwilling to proceed pro se because Judge Spector ultimately convinced him that doing so would be stupid. From this, the State may speculate Navarro's decision was not impacted by the misinformation he received, and that he would have made the same choice either way.

But Washington courts have rightly condemned similar speculative

arguments by the State in the past. An accused's risk management decisions are not subject to after-the-fact scrutiny as to whether the misinformation was material to the decision. See State v. Mendoza, 157 Wn.2d 582, 590, 141 P.3d 49 (2006) (rejecting State's argument in context of colloquy to waive trial rights); In re Restraint of Isadore, 151 Wn.2d 294, 301-02, 88 P.3d 390 (2004) (same). As the Mendoza and Isadore courts recognized, when erroneously informed about the consequences of waiving or exercising a constitutional right, a defendant such as Navarro could rationally decide to risk a trial represented by counsel in whom he no longer had confidence.

The Earetta colloquy with Navarro was inadequate because it included affirmative misinformation about the consequences. This Court should therefore vacate Navarro's convictions and remand for a new trial.

2. THE SEXUAL ASSAULT PROTECTION ORDERS ARE ERRONEOUS.

The trial court erred in setting expiration dates of October 10, 2025, for the three SAPOs. This Court should vacate the orders and remand for determination of a lawful expiration date.

A trial court's authority to impose conditions of sentence is limited to the authority provided by statute. In re Postsentence Review of Leach, 161 Wn.2d 180, 184, 163 P.3d 782 (2007); State v. Smith, 144 Wn.2d 665, 673-75, 30 P.3d 1245, 39 P.3d 294 (2001). Because this is a question of law, the reviewing court owes no deference to the trial court's decision. State v. Armendariz, 160 Wn.2d 106, 110, 156 P.3d 201 (2007). The statute authorizing a SAPO provides:

A final sexual assault protection order entered in conjunction with a criminal prosecution shall remain in effect for a period of two years following the expiration of any sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole.

RCW 7.90.150(6)(c) (enacted by Laws 2006, ch. 138, § 16).⁸

In determining the expiration date of a SAPO, the court must consider not only the duration of the sentence imposed for the relevant offense, but also credit for time served on that offense. See RCW 9.94A.505(6) ("The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.");

⁸ The Sentencing Reform Act independently authorizes no-contact orders, but those are limited in duration to the statutory maximum. Armendariz, 160 Wn.2d at 111-20 (citing RCW 9.94A.505(8)).

In re Restraint of Schillereff, 159 Wn.2d 649, 650, 152 P.3d 345 (2007).⁹

When applied here, these rules show that for several reasons the trial court erred in setting expiration dates of October 10, 2025, for all three SAPOs because that term is more than two years from the "expiration of any sentence of imprisonment and subsequent period of . . . conditional release" Navarro faces. RCW 7.90.150(6)(c). First, the statutory maximum sentence Navarro faced for the communication convictions was five years,¹⁰ and therefore the longest lawful term for a SAPO associated with those offenses is seven years.

Second, Navarro should be entitled to almost two years of credit for time served prior to sentencing. CP 131; see note 6, *supra*. At most, then, the statutory maximum for a SAPO associated with his communicating convictions should be approximately five years from the date of sentencing. Similarly, the statutory maximum term for a SAPO associated with his extortion convictions (Class B felonies subject to a ten-year maximum

⁹ Settled equal protection law also requires credit for time served. U.S. Const. amend. 14; Const. art. 1, § 12; State v. Swiger, 159 Wn.2d 224, 227-29, 149 P.3d 372 (2006); State v. Anderson, 132 Wn.2d 203, 212-13, 937 P.2d 581 (1997).

¹⁰ As charged against Navarro, communicating is a Class C felony. CP 40-45; RCW 9.68A.090(2). The statutory maximum sentence for a Class C felony is five years. RCW 9A.20.021(1)(c). Navarro's first degree extortion convictions are Class B felonies subject to a ten-year statutory maximum sentence. RCW 9A.56.120(2); RCW 9A.20.021(1)(b).

sentence, *see* note 10, *supra*), should be approximately ten years from the date of sentencing. The court's authority to impose a SAPO therefore required an expiration date about two years shorter for those associated with the extortion convictions, and about seven years shorter for the communication convictions.

A similar problem occurs when a judgment and sentence imposes a period of incarceration and a separate period of community placement that, when added together, exceed the statutory maximum. This Court has required remand for resentencing to clarify that the combined period of incarceration and community custody cannot exceed the maximum authorized by statute. *State v. Zavala-Reynoso*, 127 Wn. App. 119, 124, 110 P.3d 927 (2005); *State v. Sloan*, 121 Wn. App. 220, 223-24, 87 P.3d 1214 (2004). The same remedy is appropriate here.

3. THE NO CONTACT PROVISION IN NAVARRO'S JUDGMENT AND SENTENCE EXCEEDS THE MAXIMUM LAWFUL TERM FOR NINE OF THE ELEVEN COMPLAINING WITNESSES.

As previously noted, a sentencing court's authority is limited to that provided by statute. *Leach*, 161 Wn.2d at 184; *Smith*, 144 Wn.2d at 673-75.

By statute, the sentence for a Class C felony may not exceed five years. RCW 9A.20.021(1)(c). Navarro's communicating convictions are Class C felonies. CP 40-45; RCW 9.68A.090(2).

The only complaining witnesses associated with Navarro's two extortion convictions are J.B. and K.T./P. See CP 116-17 (Instructions 27 & 28, respectively, the to-convict instruction for the extortion charges). Because the maximum sentence term for Navarro's extortion conviction is ten years, the trial court did not err by prohibiting Navarro from having any contact with J.B. and K.T./P.

The court did err, however, by prohibiting Navarro from having contact for ten years with those boys against whom Navarro only committed a Class C felony. For those offenses, the term of the no contact order may not exceed the five-year statutory maximum.

The State may argue in response that the trial courts have authority to impose crime-related prohibitions as part of a judgment and sentence, and the ten-year no-contact order imposed prohibits Navarro from having contact

with any minors, including the complaining witnesses in the communicating charges. See RCW 9.94A.505(8) (“As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.”). Such a claim should be rejected.

By virtue of Navarro's extortion convictions, the trial court had authority to prohibit him from having contact with J.B. and K.T./P. for ten years. And because the extortions were committed against minors and with sexual motivation, the trial court had authority to prohibit Navarro from having contact with any minors for a period of ten years as a crime-related prohibition under RCW 9.94A.505(8).

The birthdates of the complaining witnesses range from as early as August 31, 1997 (T.H.),¹¹ to as late as August 29, 1999 (“A.B.”). 2RP 81, 187, 242, 264, 297, 319, 346, 384, 489, 548; 3RP 21. As such, by August 29, 2017, none of them will still be minors. Yet as set forth in the judgment and sentence, Navarro is precluded from having contact with them until 2023. Although this may be lawful with respect to J.B. and K.T./P. because they were victims of a Class B felony, the same is not true for rest of the complaining witnesses, against whom Navarro only committed Class C felonies. The prohibition in the judgment and sentence on Navarro having

¹¹ The judgment and sentence erroneously lists “T.H.’s” date of birth as “(4/10/99).” CP 131 (§4.6).

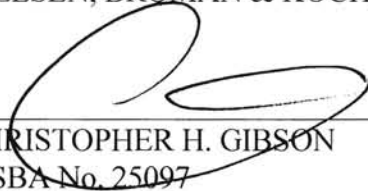
contact with them should be limited to five years in order to comply with RCW 9A.20.021(1)(c). This Court should remand for this correction.

D. CONCLUSION

This Court should vacate Navarro's convictions and remand for a new trial because he did not make a knowing, voluntary and intelligent waiver of his right to self-representation. In the event this Court upholds the convictions, it should still vacate the SAPOs and remand for imposition of an order or orders that do not remain in effect more than two years following the expiration of Navarro's sentence of imprisonment and conditional release. Finally, absent reversal of the convictions, remand is necessary to correct the terms of the no contact order provision in the judgment and sentence.

DATED this 21st day of July, 2014.

Respectfully Submitted,
NIELSEN, BROMAN & KOCH, PLLC



CHRISTOPHER H. GIBSON
WSBA No. 25097
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Attorneys for Appellant

Appendix A

FILED
KING COUNTY

OCT 11 2013

ISSUED

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SUPERIOR COURT CLERK
ANDRE JONES
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 12-1-01483-0SEA

vs.

Sexual Assault Protection Order #1
(Criminal) (JIS order code: SXP)

Pedro Pablo Navarro

Defendant,

[] Pretrial [X] Post conviction
*Clerk's Action Required

4/11/91

1. The court finds that the defendant has been charged with, arrested for, or convicted of a sex offense as defined in RCW 9.94A.030, a violation of RCW 9A.44.096, a violation of RCW 9.68A.090, or a gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030.

2. This Sexual Assault Protection Order is entered pursuant to Laws of 2006, ch. 138 §16. This order protects: XAVIER CARDENAS (8/15/98), SEPULIN SCHWARTZ (10/30/97)
(Write protected person's name and DOB. RCW 7.69A.030, 10.52.100, 10.97.130.)

It Is Ordered:

This Sexual Assault Protection Order Expires on 10/11/2025 Keegan Turabochia (10/20/97)
(A final sexual assault protection order entered in conjunction with a criminal prosecution shall remain in effect for a period of two years following the expiration of any sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole.)

Defendant is Prohibited from:

- A. Having any contact with the protected person(s) directly, indirectly or through third parties regardless of whether those third parties know of the order (to include harassing, stalking or threatening).
- B. Knowingly coming within or knowingly remaining within 500 ft (distance) of the protected person's) residence school place of employment other: PERSON

- C. [] (Pretrial: crimes defined as "serious" offenses / see p. 2 for crimes not defined as "serious offenses") Obtaining, owning, possessing or controlling a firearm.
- [] (Conviction) Obtaining, owning, possessing or controlling a firearm.

Warnings to the Defendant: Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order.

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Cause No.: 12-1-01483-0SEA

#1

It Is Further Ordered: (For pretrial orders involving crimes not defined as serious offenses in RCW 9.41.010 only)

- Defendant is Prohibited from obtaining or possessing a firearm, other dangerous weapon or concealed pistol license.
- The defendant shall immediately surrender all firearms and other dangerous weapons within the defendant's possession or control and any concealed pistol license to: _____ [referring law enforcement agency].

(The pretrial orders for crimes not defined as serious offenses in RCW 9.41.010 are based upon the court's finding that possession of a firearm or other dangerous weapon by the defendant presents a serious and imminent threat to public health or safety, or to the health or safety of any individual. RCW 9.41.800(4).)

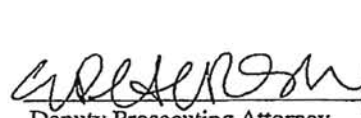
(Check this box only if any of the following relationships apply.)

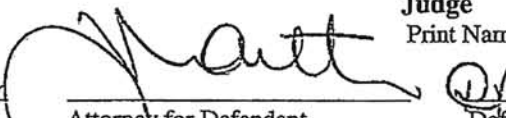
- This order is issued in accordance with Full Faith and Credit provisions of VAWA: 18 U.S.C. § 2265. The court determines that the defendant's relationship to a person protected by this order is: current or former spouse parent of a common child current or former cohabitant as intimate partner current or former dating partner. Therefore, 18 U.S.C. §§ 2261 (federal violation penalties) may apply to this order.

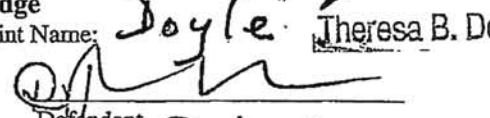
It is further ordered that the clerk of the court shall forward a copy of this order on or before the next judicial day to the originating police agency King County Sheriff's Office Seattle Police Department Other _____ which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

Done in Open Court in the presence of the defendant this 11 day of October, 2013.


 Judge
 Print Name: Doyle Theresa B. Doyle


 Deputy Prosecuting Attorney
 WSBA No. 36604
 Print Name: EMILY PETERSON


 Attorney for Defendant
 WSBA No. 36311
 Print Name: J. L. Lissman


 Defendant
 Print Name: Pedro Navarro

(A Law Enforcement Information Sheet (LEIS) or copy of Superform must be attached for law enforcement entry)

- Copy distribution:
- Original/White: Clerk
 - Yellow: Victim
 - Pink: Prosecutor
 - Goldenrod: Defendant

Appendix B

FILED

ISSUED

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OCT 11 2010

COURT CLERK ANDREA JONES

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

Pedro Pablo Navarro

Defendant,

4/16/91

No. 12-1-01483-0 SEA

#3

Sexual Assault Protection Order (Criminal) (JIS order code: SXP)

[] Pretrial [X] Post conviction

*Clerk's Action Required

1. The court finds that the defendant has been charged with, arrested for, or convicted of a sex offense as defined in RCW 9.94A.030, a violation of RCW 9A.44.096, a violation of RCW 9.68A.090, or a gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030.

2. This Sexual Assault Protection Order is entered pursuant to Laws of 2006, ch. 138 §16. This order protects: AVERY DANIS (3/29/99) EDGAR PAVON (8/5/98) ALIX (Write protected person's name and DOB. RCW 7.69A.030, 10.52.100, 10.97.130.)

SECRET 8/29/99

It Is Ordered:

This Sexual Assault Protection Order Expires on 10/11/2025

(A final sexual assault protection order entered in conjunction with a criminal prosecution shall remain in effect for a period of two years following the expiration of any sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole.)

Defendant is Prohibited from:

- A. Having any contact with the protected person(s) directly, indirectly or through third parties regardless of whether those third parties know of the order (to include harassing, stalking or threatening).
B. Knowingly coming within or knowingly remaining within 500 ft (distance) of the protected person's residence, school, place of employment, other: PERSON
C. [] (Pretrial: crimes defined as "serious" offenses / see p. 2 for crimes not defined as "serious offenses") Obtaining, owning, possessing or controlling a firearm.
[X] (Conviction) Obtaining, owning, possessing or controlling a firearm.

Warnings to the Defendant: Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order.

163

Cause No.: 12-1-01483-03EA

It Is Further Ordered: (For pretrial orders involving crimes not defined as serious offenses in **RCW 9.41.010** only) **#3**

- Defendant is **Prohibited** from obtaining or possessing a firearm, other dangerous weapon or concealed pistol license.
- The defendant shall immediately surrender all firearms and other dangerous weapons within the defendant's possession or control and any concealed pistol license to: _____
[referring law enforcement agency].

(The pretrial orders for crimes not defined as serious offenses in RCW 9.41.010 are based upon the court's finding that possession of a firearm or other dangerous weapon by the defendant presents a serious and imminent threat to public health or safety, or to the health or safety of any individual. RCW 9.41.800(4).)

(Check this box only if any of the following relationships apply.)

- This order is issued in accordance with Full Faith and Credit provisions of VAWA: 18 U.S.C. § 2265. The court determines that the defendant's relationship to a person protected by this order is: current or former spouse parent of a common child current or former cohabitant as intimate partner current or former dating partner. Therefore, 18 U.S.C. §§ 2261 (federal violation penalties) may apply to this order.

It is further ordered that the clerk of the court shall forward a copy of this order on or before the next judicial day to the originating police agency King County Sheriff's Office Seattle Police Department Other _____ which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

Done in Open Court in the presence of the defendant this 11 day of October, 2013

Theresa B. Doyle
Judge
Print Name: Theresa B. Doyle

Emily Petersen
Deputy Prosecuting Attorney
WSBA No. 31664
Print Name: EMILY PETERSEN

Paul Ferguson
Attorney for Defendant
WSBA No. 5211
Print Name: Paul Ferguson

Pedro Navarro
Defendant
Print Name: Pedro Navarro

(A Law Enforcement Information Sheet (LEIS) or copy of Superform must be attached for law enforcement entry)

Copy distribution:

- Original/White: Clerk
- Yellow: Victim
- Pink: Prosecutor
- Goldenrod: Defendant

FILED
KING COUNTY COURT

OCT 11 2013

SUPERIOR COURT CLERK
ANDRE JONES
DEPUTY

ISSUED
Fros Atty didn't
provide LEIS

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 12-1-01483-0 SEA

vs.

Pedro Pablo Navarro

Defendant,

Sexual Assault Protection Order #2

(Criminal) (JIS order code: SXP)

[] Pretrial [X] Post conviction

*Clerk's Action Required

1. The court finds that the defendant has been charged with, arrested for, or convicted of a sex offense as defined in RCW 9.94A.030, a violation of RCW 9A.44.096, a violation of RCW 9.68A.090, or a gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030.

2. This Sexual Assault Protection Order is entered pursuant to Laws of 2006, ch. 138 §16. This order protects: JACK BAKER (10/8/98), TYLER HOOGENDOORN (4/10/99)
(Write protected person's name and DOB. RCW 7.69A.030, 10.52.100, 10.97.130.)

It Is Ordered:

This Sexual Assault Protection Order Expires on 10/11/2025

(A final sexual assault protection order entered in conjunction with a criminal prosecution shall remain in effect for a period of two years following the expiration of any sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole.)

Defendant is Prohibited from:

- A. Having any contact with the protected person(s) directly, indirectly or through third parties regardless of whether those third parties know of the order (to include harassing, stalking or threatening).
- B. Knowingly coming within or knowingly remaining within 500 ft (distance) of the protected person's residence school place of employment other: PERSON

C. [] (Pretrial: crimes defined as "serious" offenses / see p. 2 for crimes not defined as "serious offenses")
Obtaining, owning, possessing or controlling a firearm.

[] (Conviction) Obtaining, owning, possessing or controlling a firearm.

Warnings to the Defendant: Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order.

16af

Cause No.: 12-1-01483-08EA

It Is Further Ordered: (For pretrial orders involving crimes not defined as serious offenses in RCW 9.41.010 only)

#2

- Defendant is Prohibited from obtaining or possessing a firearm, other dangerous weapon or concealed pistol license.
- The defendant shall immediately surrender all firearms and other dangerous weapons within the defendant's possession or control and any concealed pistol license to: _____ [referring law enforcement agency].

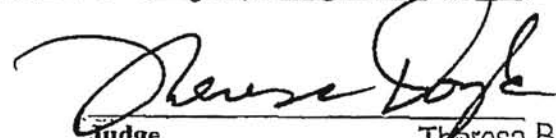
(The pretrial orders for crimes not defined as serious offenses in RCW 9.41.010 are based upon the court's finding that possession of a firearm or other dangerous weapon by the defendant presents a serious and imminent threat to public health or safety, or to the health or safety of any individual. RCW 9.41.800(4).)

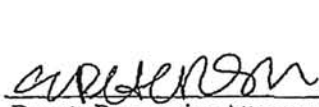
(Check this box only if any of the following relationships apply.)


- This order is issued in accordance with Full Faith and Credit provisions of VAWA: 18 U.S.C. § 2265. The court determines that the defendant's relationship to a person protected by this order is: current or former spouse parent of a common child current or former cohabitant as intimate partner current or former dating partner. Therefore, 18 U.S.C. §§ 2261 (federal violation penalties) may apply to this order.

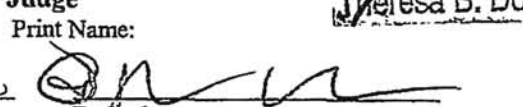
It is further ordered that the clerk of the court shall forward a copy of this order on or before the next judicial day to the originating police agency King County Sheriff's Office Seattle Police Department Other _____ which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

Done in Open Court in the presence of the defendant this 11 day of October, 2013.


 Judge
 Print Name: Theresa B. Doyle


 Deputy Prosecuting Attorney
 WSBA No. 32224
 Print Name: EMILY PETERSON


 Attorney for Defendant
 WSBA No. 3371
 Print Name: J. Higgins


 Defendant
 Print Name: Pedro Navarro

(A Law Enforcement Information Sheet (LEIS) or copy of Superform must be attached for law enforcement entry)

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 - Pink: Prosecutor
 - Goldenrod: Defendant

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

STATE OF WASHINGTON)	
)	
Respondent,)	
)	
v.)	COA NO. 71126-1-I
)	
PEDRO NAVARRO,)	
)	
Appellant.)	

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 23RD DAY OF JULY 2014, I CAUSED A TRUE AND CORRECT COPY OF THE **BRIEF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] PEDRO NAVARRO
DOC NO. 368301
COYOTE RIDGE CORRECTIONS CENTER
P.O. BOX 769
CONNELL, WA 99326

SIGNED IN SEATTLE WASHINGTON, THIS 23RD DAY OF JULY 2014.

X Patrick Mayovsky

2014 JUL 23 PM 14:15
COURT OF APPEALS
DIVISION ONE