

- 1 (1) Report to and be available for contact with the assigned community corrections officer
2 as directed;
- 3 (2) Work at Department of Corrections approved education, employment, and/or
4 community service;
- 5 (3) Not consume controlled substances except pursuant to lawfully issued prescriptions;
- 6 (4) While in community custody not unlawfully possess controlled substances;
- 7 (5) Pay community placement fees as determined by the Department of Corrections;
- 8 (6) Receive prior approval for living arrangements and residence location; and
- 9
10 (7) Defendant shall not own, use, or possess a firearm or ammunition when sentenced to
11 community service, community supervision or both. (RCW 9.94A.120(13))

12 Id. Conditions 1-6 derived directly from RCW 9.94A.120(8)(b).¹ Condition 7, as specified,
13 derived from directly from RCW 9.94A.120(13).

14 The Snohomish County Judgment and Sentence, at ¶ 4.8, specified that community
15 placement was “ordered for a community placement eligible offense” and “for the period of time
16 provided by law.” Personal Restraint Petition Appendix B. The conditions, which were identical
17 to Conditions 1-6 imposed by the King County Judgment and Sentence, were imposed pursuant to
18 Chapter 9.94A RCW, specifically RCW 9.94A.120(8)(b) or its later version RCW
19 9.94A.120(9)(b).²

22 ¹ According to the judgment and sentence, one crime of conviction was committed on
23 February 28, 1993 and the other on July 19, 1993. There were different versions of the Sentence
24 Reform Act (Chapter 9.94A RCW) applicable on these dates, but subsection 120(8)(b) is the same
25 in each. For a compilation of all versions of the SRA over time, see *The Chronological
26 Sentencing Reform Act (SRA)*, by Court of Appeals Commissioner Eric B. Schmidt, at
<https://www.courts.wa.gov/sra/>.

27 ² According to the judgment and sentence, the crimes of conviction were all committed from
28 November 1, 1994 to October 31, 1995, which implicates different versions of the SRA, but without
difference for purposes of this argument.

1 In opposing Mr. Brown's petition, the Department argues that the Snohomish County
2 sentence is consecutive to the King County sentence and that therefore the periods of
3 community custody supervision also run consecutively. Thus, argues the Department, there is
4 nothing illegal about the four-year length of Mr. Brown's supervision.³ The plain language of
5 Chapter 9.94A RCW is to the contrary.
6

7 Under RCW 9.94A.030(7), "[c]ommunity supervision' means a period of time during
8 which a convicted offender is subject to crime-related prohibitions and other sentence
9 conditions imposed by a court pursuant to this chapter [Chapter 9.94A RCW] or [other
10 statutory provisions of no consequences here]"⁴ Mr. Brown is being supervised for a
11 period of time – four years – during which he is subject to conditions imposed under
12 subsection 120(8)(b) or 120(9)(b) of Chapter 9.94A RCW. Thus, the supervisory aspect of his
13 sentence is one of community supervision. However, "[e]xcept for exceptional sentences as
14 authorized under RCW 9.94A.120(2), if two or more sentences that run consecutively include
15 periods of community supervision, the aggregate of the community supervision period shall
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23 ³ In a motion for an extension of time to file a reply brief, Mr. Brown asked for time to
24 obtain a transcript of the sentencing hearing held in the Snohomish County matter on May 7, 1997
25 so that he could determine if a later nunc pro tunc order directing that the sentence be consecutive
26 to the King County sentence properly reflected an act actually taken on May 7th. The transcript,
attached hereto, does indicate that the court ordered sentence to be consecutive to the one in King
County.

27 ⁴ There were slight changes in the overall definition over the relevant time frame, but the
28 quoted language remained constant.

1 not exceed twenty-four months.” RCW 9.94A.400(5).⁵ Mr. Brown’s consecutive sentences
2 were not imposed pursuant to RCW 9.94A.120(2). Consequently, although the sentences run
3 consecutively, his aggregate period of consecutive supervision on the two sentences is limited
4 to twenty-four months.
5

6 DATED: June 30, 2016.
7

8
9 Respectfully submitted,
10

11 By: _____
12 Michael Iaria, WSBA No. 15312
13 Attorney for Petitioner
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26 _____
27 ⁵ This language remained constant throughout the applicable versions. See *The*
28 *Chronological Sentencing Reform Act (SRA)*. The current version of this subsection contains the
same language and is at RCW 9.94A.595(5).

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DECLARATION OF MAILING

I declare under penalty of perjury under the laws of the State of Washington that on June 30, 2016 I mailed a copy of this motion, postage prepaid, to Alex Kostin at his address on file with the Washington State Bar Association: Washington Attorney General's Office, PO Box 40116 Olympia, WA 98504-0116. On this same date I also sent him a copy by email at his email address on file with the Bar Association.

Michael Iaria signed June 30, 2016 at
Bainbridge Island, WA

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

STATE OF WASHINGTON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 96-1-00558-9
)	Sentencing
RONALD BROWN,)	May 5, 1997
)	
Defendant.)	
-----)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE THOMAS J. WYNNE
SNOHOMISH COUNTY SUPERIOR COURT JUDGE

SUSAN A. ZIELIE, RMR, FCRR
Official Court Reporter
thatfantasticfcrr@gmail.com

Proceedings Recorded by Computer-aided Stenography.

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APPEARANCES:

For the State: JOHN CROWLEY, ESQ.

For the Defendant: KAREN HALVERSON, ESQ.

1 EVERETT, WASHINGTON; WEDNESDAY, MAY 7, 1997

2 9:10 A.M.

3 MS. HALVERSON: Morning, Your Honor.

4 THE COURT: Let's have Mr. Brown come up
5 here.

6 MS. HALVERSON: Would it be okay if Ms.
7 Patrice sat -- there's an interpreter who will be
8 interpreting for her, so if she can sit where she can
9 see her clearly.

10 THE COURT: All right.

11 MR. CROWLEY: Okay. Your Honor, we're here
12 on the matter of State of Washington v. Ronald Brown,
13 96-1-00558-9. Mr. Brown is here. He's in custody.
14 He's represented by Karen Halverson. And it's my
15 understanding that there's a realtime translation being
16 made of the court proceedings today.

17 Now, I also see an interpreter here in the
18 court. I'm not sure if that's here for Mr. Brown's
19 benefit, or for his fiancé's.

20 MS. HALVERSON: That interpreter is here for
21 his fiancé.

22 MR. CROWLEY: As you're aware, you were the
23 sitting judge in this case, Mr. Brown was tried and
24 convicted by jury on March 20th of this year of three
25 counts of second degree rape of a child. With those

1 convictions, and with two prior convictions in King
2 County, he has an offender's score of 1. His standard
3 range then on those offenses is 149 to 198 months.

4 The State is making the following sentence
5 recommendation: That Mr. Brown have no contact with
6 either Catherine Vital or her immediate family for life
7 -- excuse me. This would be ten years, I believe. That
8 is Class B, for ten years -- that he pay restitution in
9 an amount to be later determined by the Court -- though,
10 it's my understanding at this point that we've made
11 requests for restitution justification, and we've
12 received nothing from Ms. Vital -- that Mr. Brown have
13 HIV testing and he undergo DNA testing; that he pay
14 court costs and he pay attorney fees and that he pay the
15 victim assessment; this offense having occurred prior to
16 June 6th, 1996, that the victim assessment be \$100.

17 The question then is what is our sentence
18 recommendation. And I think, as I have usually
19 sentenced, I always start in the middle of the standard
20 range, because the SRA doesn't tell us any different,
21 and there's no logical place to start. Starting at the
22 high end, we'd be looking somewhere around 170 months.

23 Some unique features about this case is to
24 run that concurrently or consecutive to the King County
25 sentence. As you're aware, Mr. Brown pleaded guilty by

1 way of an Alfred plea last fall, and to those offenses
2 he received an 89-month sentence.

3 THE COURT: I believe that can only be run
4 consecutive if the Court imposes an exceptional
5 sentence.

6 MR. CROWLEY: That was my initial analysis
7 of it. And I spoke to Ms. Halverson about it yesterday,
8 and my understanding was that she disagreed with that.
9 And I also talked to Mr. Fine in our office, and he also
10 disagreed with it. But it seemed to me that -- I looked
11 at this issue on this case much earlier, and it seemed
12 to me rather clear that consecutive sentence would also
13 be an exceptional sentence.

14 But I guess our point is that, in this case,
15 that is justified and called for. First of all, Mr.
16 Brown's scoring history is a 12. He's multiple points
17 above 9. That's the basis for an exceptional sentence.
18 He had a relationship with Catherine Vital that was --
19 he was a father figure, and she described him as being a
20 father figure. He wasn't really a stepfather, but he
21 moved in with the family. He was the only male in the
22 family.

23 His age is, I believe, 43. Catherine Vital
24 at that time was between 12, 13, 14 years old. That
25 would give reason to believe that he was a father figure

1 within the family. He conveyed a fair amount of, I
2 think, natural power that an adult would have in the
3 family. The problem is, he took advantage of that.

4 I think there's a few times as I've worked
5 in the special assault unit that I have seen such a
6 corresponding and precipitous drop in a person's
7 self-esteem as was demonstrated at trial with Catherine
8 Vital. She did well in grades. She was doing well in
9 school before Ronald Brown moved in. After he moved in,
10 within about a three or four month period, he began
11 doing the same things to her that he did to Jennifer
12 Brown over a period of time, taking advantage of the
13 same sorts of father figure aspects in his relationship
14 with Catherine as he did with Jennifer Brown, and he
15 seemed to learn quite well in how to deal with a child
16 of Jennifer Brown's age, and he immediately took that
17 knowledge and exploited that with Catherine Vital. And
18 after exploiting it, it seemed rather clear that he on a
19 very regular basis molested her, over a long period of
20 time. And to a lesser extent, he had sexual intercourse
21 with her. Less frequently, of course, but also over a
22 long period of time. She was in a position of
23 vulnerability. He exploited that. Another reason
24 justifying an exceptional sentence.

25 We're asking for 198 months in this case;

1 for those 198 months to run consecutive to the offenses
2 in King County. That would give him a total time in
3 prison of about 24 years. After good time, he would
4 serve slightly over 20 years of that. But it seems
5 that, as far as an appropriate sentence goes, that is
6 appropriate.

7 As far as reasonableness goes, under the
8 circumstances here, moving from one child's family to
9 another, exploiting her in the same way that he did
10 Jennifer Brown, it seems that those are all reasons to
11 justify this sentence, and we're asking that the Court
12 impose that.

13 Now, I didn't ask counsel if she would have
14 any objection to Terry Brown addressing the Court, so I
15 think I should do that now. Jennifer Brown does not
16 wish to address the Court.

17 THE COURT: Ms. Halverson?

18 MS. HALVERSON: Well, Your Honor, Terry
19 Brown is not a victim to the crime in this case. She's
20 actually not a victim to the crime in the case in King
21 County involving Jennifer Brown, who is present. So --
22 and I have no idea what she's going to say. I got
23 nothing in writing. So I object to her speaking.

24 If the Court is inclined to allow her to
25 address the Court, I would ask for an opportunity to

1 speak to her briefly before.

2 THE COURT: As she's not a victim in this
3 offense, I'll have to deny that request, counsel.

4 MR. CROWLEY: And Catherine Vital is still
5 back in Ohio.

6 We also notified her mother, Sophia
7 Catherine. Unless she has appeared -- she has not
8 appeared here in court today, but she was aware of the
9 sentencing hearing.

10 I also gave Catherine Vital the address
11 where she could write to Your Honor, explained to her
12 her right to do that. Apparently she has not taken us
13 up on that, so the State has nothing further to add.

14 THE COURT: Ms. Halverson, let's first
15 address the issue of consecutive versus concurrent
16 sentence and whether an exceptional sentence would be
17 required for the Court to give a consecutive sentence.

18 MS. HALVERSON: I like that reading of the
19 law, that this is an exceptional sentence. I mean, to
20 be honest with the Court, in my reading of the law is
21 that it's not an exceptional if they are not sentenced
22 on the same day. If Mr. Brown had been sentenced -- if
23 this case were all the same case in King County and were
24 sentenced on the same day in regard to Jennifer Brown
25 and Catherine Vital, it's my position, at that point, if

1 the Court were to run it consecutive, you would need
2 grounds for an exceptional sentence and you would need
3 grounds to list those. But it's now a different county.
4 And as a result of my reading of the law -- and this
5 does not help my position, but that is my reading of the
6 law -- that this is not an exceptional. It seems a bit
7 incongruent and unfair to a defendant, because there is
8 this county line or this different day of sentencing,
9 that the Court can give a much greater sentence without
10 having to list the reasons. So that is my position as
11 to that.

12 If you have any other questions, I can --

13 THE COURT: Let's run through those
14 provisions. I looked at that earlier. It appeared to
15 the Court that an exceptional sentence would be required
16 to provide a consecutive sentence. 9.94A.800 appears to
17 apply. Subsection 1(a) of that provision provides that
18 a person who is sentenced for two or more concurrent
19 sentences -- provides whenever a person is to be
20 sentenced to two or more concurrent sentences, the
21 current sentencing range shall be used for all current
22 and prior convictions as if they were prior convictions
23 for the purpose of the offender's score unless it's the
24 same criminal conduct. Provided that sentence is
25 imposed under this subsection, shall be provided

1 concurrently. Consecutive sentences may only be
2 proposed under the exceptional sentence provisions.

3 Apparently, this only deals with current
4 offenses. Is that the prosecutor's position, and not
5 prior offenses?

6 MR. CROWLEY: Yes. I think Mr. Fine's
7 analysis of it was that these were not current offenses.
8 I mean, there are a total 6 points that are current
9 offenses and then there are a total of 6 points that are
10 not current offenses.

11 THE COURT: The current offenses must be
12 concurrent under 9.94A.400.

13 Ms. Halverson, go ahead.

14 MS. HALVERSON: Thank you, Your Honor. Are
15 you having trouble hearing? I know, because of that
16 blower. I'll try to speak up. If you can't hear, just
17 say.

18 Well, Your Honor, whether or not there's
19 grounds, if you impose it consecutively, it is
20 exceptional or not, I always feel somewhat ineffective
21 in these types of cases because the minute they are
22 charged there is grounds for an exceptional sentence.
23 If the Court is persuaded that this is an exceptional
24 and plans to impose an exceptional sentence, I would ask
25 for time to brief the issue, because yesterday Mr.

1 Crowley told me he would not be asking for an
2 exceptional. And I've told you what my understanding of
3 the law was in that regard.

4 THE COURT: I'm looking only at whether the
5 sentence should be consecutive or concurrent to King
6 County's sentence.

7 MS. HALVERSON: Well, Your Honor, State now
8 is recommending 198 months, consecutive to what he's
9 already serving. They've given you reasons that Mr.
10 Brown should be sentenced to 198 months.

11 The Plea offer, before Mr. Brown decided to
12 go to trial, was plead guilty to one count and we'll
13 agree to run it concurrent and we'll recommend low end.
14 And at that point, the standard range would have been a
15 6. His standard range would have been 98 to 138 months.
16 So the question is what has made it so much worse now
17 that the State should more than double its
18 recommendation and ask that it run consecutive. Well,
19 what was different was Mr. Brown went to trial. And as
20 a result of him going to trial, he is going to suffer,
21 no matter what happens. Even if he were to be sentenced
22 to 149 months and it were to run concurrently, he is
23 going to suffer the consequences for having gone to
24 trial.

25 But that's what he did, he went to trial.

1 And as a result, Catherine was interviewed, and she
2 testified. But we've no new facts. There was nothing
3 new about what she told us in court that was unexpected.
4 There was nothing that we didn't know beforehand. Her
5 story got somewhat more exaggerated, but there was
6 nothing new about Mr. Brown's actions that we learned
7 from having gone to trial.

8 So why is it that now the range should be
9 double and consecutive, giving him essentially -- and
10 it's not a life sentence, but it is a substantial
11 sentence. I would submit that there aren't reasons to
12 do that at this point. If it was good enough for him to
13 plead to one count and get the low end, it was
14 concurrent, certainly there should -- there's got to be
15 some proportionality point in the proceedings.

16 Also, I would add that when that plea offer
17 was made to Mr. Brown, Jennifer Brown was not listed as
18 a witness, and I had to evaluate that plea offer, advise
19 Mr. Brown. Certainly, I was aware that Jennifer Brown
20 could be called as a witness, but she was not listed,
21 and I carefully looked at those witness lists. I waited
22 and heard nothing until a week before trial. And that's
23 when I told Mr. Brown that they're going to have
24 Jennifer testify, and at that point we still didn't know
25 whether it would be admitted because we had argued that

1 at the day of trial. The Court decided that it should
2 be admitted. The case law is not good on that issue for
3 the defendant, and Ms. Brown was allowed to testify.
4 She was a very credible witness; and my opinion is,
5 essentially, we lost the case at that point.

6 With these types of cases, the minute
7 somebody's charged and the minute the jury walks into
8 the room, the burden is shifted. It is beyond a
9 reasonable doubt. They were instructed as to that. But
10 the burden, I feel, shifts to me to prove why someone
11 might be lying about something like this. And once
12 Jennifer was permitted to testify, I had to fight not
13 only what Catherine was saying but I had a new witness
14 that wasn't even charged, and it was insurmountable at
15 that point.

16 Mr. Brown did not have to decide to plead
17 guilty and accept the amount of time even being
18 requested. Even 98 months concurrent, that is a long
19 sentence. And he had about an hour to decide to do that
20 because we -- her testimony had been admitted. We had
21 just interviewed her the day before. You remember this.
22 So I would ask the Court to consider that when imposing
23 a sentence in this case.

24 I would ask that the Court impose -- we
25 agree that the standard range is 149 to 198 months. I

1 would ask the Court to run that sentence concurrently,
2 and to sentence Mr. Brown within the standard range.
3 Certainly, I would like it if you gave him 149 months.
4 That is a substantial sentence. It is more than what he
5 would have -- it is more than what he would have gotten
6 had he exercised his right to take the plea offer. But
7 he didn't do that, and he's suffering the consequences
8 as a result of it. He will only get a sixth off for
9 good time.

10 The sentence, no matter what is, is a -- in
11 these types of cases, they are difficult cases for
12 everybody. They are -- you have egregious facts. You
13 have subject matter that people don't want to talk about
14 and deal with. And the legislature has taken into
15 account, and there's a substantial range for this
16 charge. There is no need for an exceptional sentence in
17 this case.

18 Also, when you're looking at this case and
19 you compare it to others, what sort of facts do you have
20 here that are much more egregious than in other cases
21 that you've seen? And you've seen many. I would submit
22 that there aren't facts here that are more egregious.
23 This case, as these types of cases goes, is -- and in my
24 experience -- is common. It's always a tragedy, but
25 this is the typical scenario.

1 The prosecutor has pointed out that now he
2 has an offender's score of 12, which is grounds in and
3 of itself for an exceptional. Part of the reason he has
4 a 12 is because the State decided to add two more
5 charges. They could have made his score 50 if they
6 wanted, based on what Ms. Vital was testifying to. The
7 jury either believes it happened or they believe it
8 didn't happen. If they believe it happened, they're
9 going to convict on all counts. If they don't believe
10 it happened, they're going to acquit on all counts.
11 It's not a one or two and not all of them. At least, in
12 my experience, that tends to be what happened.

13 Mr. Brown was kind of a father figure but
14 not really. Certainly, not like he was in regard to
15 Jennifer Brown. He was her stepfather for a long time.
16 He was, as she testified, the only father she knew. In
17 this situation, he was not. Catherine, he was around
18 her for a period of time, but not an extended period of
19 time. And based on Catherine's own testimony, there
20 were not a lot of -- she testified that this happened
21 all the time, but there were not a lot of opportunities
22 for this to happen. Ms. Patrice is around. And she's
23 appearing in court today, although she has nothing to
24 say. Heidi Roth, her sister, was there. So it wasn't a
25 situation where Mr. Brown had exclusive access to this

1 child, where she was alone with him constantly. That
2 was simply not the case, by her own testimony.

3 The prosecutor indicated that there was a
4 substantial drop in Ms. Vital's self-esteem as a result
5 of this. That's difficult to gage because there was so
6 much going on in Ms. Vital's life when this happened.
7 And she admitted, her stepfather and her mother were
8 going through an acrimonious divorce. There was a
9 dispute, and it was so acrimonious that a case worker
10 got involved. She was moved from a school she really
11 liked and friends she really liked to Bothell. She had
12 indicated in her interview that she had experimented
13 with drugs before she met Mr. Brown. She was starting to
14 have problems as a teenager before she met Mr. Brown.
15 So I don't think the evidence is clear in this case that
16 you can attribute all of Catherine's problems to Mr.
17 Brown's actions, according to her testimony.

18 In regards to restitution, Your Honor, we
19 have no -- I mean, the Court has to assess that. Mr.
20 Brown will pay that if it is ordered.

21 Mr. Brown did want me to ask the Court to
22 consider, in turn for giving Mr. Brown a concurrent
23 sentence, he would choose not to appal this case, and
24 that offers finality to Ms. Vital.

25 He did plead guilty in King County. There

1 is an appeal pending there. But I can tell you -- we
2 haven't talked about this -- but in the past,
3 previously, Mr. Brown is considering dropping that
4 appeal as well.

5 He has also signed up for sexual deviancy
6 counseling at Twin Rivers. There is really no incentive
7 for him to do that because he is not going to get a lot
8 less time, but he wants to do that. And he has talked
9 to the Department of Corrections about doing that, and
10 he did that before he came back to go to trial in this
11 case.

12 Even if the Court runs this sentence
13 concurrently, it's not going to be a completely
14 concurrent sentence because he is only entitled to
15 credit for time served on this case, and he has served
16 over a year on the King County case, I believe. Almost
17 a year, at least, because he has been in custody on the
18 King County matter since October of 1995. Right? Yes.
19 So if the Court were to run it concurrently today, he
20 would get credit for the time he's been back here, which
21 is since February. But he went back to DOC. He was
22 PR'd back there, and was here for about two weeks before
23 that in December. So it would not be a completely
24 concurrent sentence. It would have been somewhat
25 consecutive.

1 With all of those reasons, I would ask the
2 Court to impose a standard-range sentence and run it
3 concurrently with what he's serving in King County.
4 That's all I have.

5 THE COURT: Does Mr. Brown have anything
6 else to tell the Court?

7 THE DEFENDANT: No, Your Honor. I have
8 nothing further.

9 MR. CROWLEY: Judge, can we respond to one
10 point that Ms. Halverson made?

11 I think probably in these plea negotiations,
12 reasonableness is always the key when we're making
13 offers and counteroffers. The defendant, of course,
14 always runs the risk that the State's case changes for
15 the better for the State -- that is, in the course of
16 negotiations -- and that's precisely what happened here.
17 We were actually asked at one point not to contact
18 Jennifer Brown by Mo Van, the victim advocate at King
19 County. And she asked us not to contact Ms. Brown
20 because of her assessment that the situation with
21 Jennifer Brown was delicate and that it would be rather
22 traumatic to have her testify here, and we attempted to
23 work our negotiations without the benefit of the threat
24 of Ms. Brown testifying at trial. A week or so before,
25 it was my assessment of my case that the jury wasn't

1 going to like some aspects of my victim's character,
2 particularly the part about shooting heroin. Not going
3 to like that, and so I contacted Ms. Brown. Conveyed
4 that to Ms. Halverson, that she was a willing witness.
5 And that we were discussing these concurrent sentences
6 really from day one, but always the threat of what I
7 perceived to be an exceptional sentence. And that an
8 exceptional sentence be actually a consecutive sentence,
9 because it was my reading of the law that consecutive
10 sentence was an exceptional sentence, and that was
11 always the outside threat.

12 Our case did get better. We attempted to
13 resolve it, I think, gradually over a period of time, so
14 that Mr. Brown had a period to assimilate that.

15 But it really boils down to facts of
16 reasonableness. And this is more than reasonable to ask
17 for consecutive sentences here, and that's why I'm doing
18 that.

19 MS. HALVERSON: Government's aware of that
20 information, that it was a delicate situation, and that
21 Ms. Brown might be added as a witness, and they weren't
22 going to do that now. And had I been told earlier on
23 that she was going to be added, and if she were added
24 the State were going to ask for an exceptional sentence
25 and the high end because it was going to be so difficult

1 for her to testify, that's information I would have
2 passed on to Mr. Brown. But I was not aware of that, so
3 I was not able to fully and fairly advise him, and he
4 should not be punished for that. He's going to be
5 punished. He's going to get more time because there
6 were two counts added. But that is a significant factor
7 that would have been a significant in him deciding to
8 plead or not to plead. Thank you.

9 THE COURT: Well, the Court has heard the
10 evidence in the case. It's clear from the testimony
11 that shortly after Mr. Brown left the household with
12 Jennifer, that he began a relationship in the household
13 with Catherine Vital. It appears to the Court that the
14 molestation and sexual abuse that occurred here was
15 planned by Mr. Brown upon entering into that
16 relationship and entering that household, from the
17 evidence before the Court, and Catherine Vital was in a
18 particularly vulnerable situation and Mr. Brown was in a
19 position of trust with respect to her. So I think the
20 prosecutor's recommendation here is appropriate, given
21 the evidence and testimony before the Court at trial.

22 Therefore, the Court will sentence Mr. Brown
23 to 198 months in prison on each of the three counts, to
24 be concurrent with each other but to be consecutive to
25 King County Case No. 95-1-070600.

1 Upon his release from prison, community
2 placement is required. He'll have no contact with
3 Catherine Vital after his release. He'll have no
4 contact with children under the age of 18 years of age.
5 He will not form a relationship with or date women with
6 children under the age of 18 years. He'll submit to
7 polygraph examination to verify he's not having contact
8 with individuals under 18 or the victims in this case.
9 He's to engage in child related counseling or treatment
10 as required by his community corrections officer upon
11 his release. He'll pay the victim penalty of \$100 in
12 this matter. The Court will waive the court costs and
13 attorney fees.

14 There appears to be no request for
15 restitution, so restitution is not ordered.

16 As to time to pay the legal financial
17 obligations, provide for a period of one year after his
18 release.

19 Mr. Brown no longer has a right to possess a
20 firearm or ammunition or a concealed weapons permit as a
21 result of this conviction.

22 Ms. Halverson, is there anything else?

23 MS. HALVERSON: No. Just to clarify for Mr.
24 Brown, you have run the 198 months consecutive to King
25 County?

1 THE COURT: That's correct.

2 MS. HALVERSON: You've given him all credit
3 for time served on this case?

4 THE COURT: He had credit for time served in
5 this case.

6 MS. HALVERSON: But the three counts run
7 concurrent with each other?

8 THE COURT: That's correct.

9 Mr. Brown, you have a right to appeal this
10 conviction. You must exercise your right to appeal by
11 filing a Notice of Appeal with the clerk of the court
12 within 30 days from today. If a Notice of Appeal is not
13 filed within 30 days, your right to appeal is
14 irrevocably waived. In other words, it's gone. If you
15 are without counsel, the Court will supply you with an
16 appeal form on your request and will file the form when
17 you complete it. If you desire to file an appeal, I'm
18 sure Ms. Halverson will file the form for you, and other
19 counsel will be appointed. If you file an appeal, other
20 counsel will be appointed to represent you, and portions
21 necessary for the appeal will be provided at public
22 expense.

23 Mr. Brown, do you understand the procedure
24 necessary for appeal?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Do you have any questions
2 regarding your right to appeal?

3 THE DEFENDANT: No, Your Honor.

4 MS. HALVERSON: Your Honor, I have that
5 appeal paperwork, but I did not bring it. So I will be
6 presenting, ex parte, a motion and declaration allowing
7 Mr. Brown to proceed in forma pauperis.

8 THE COURT: I'll sign the order upon its
9 presentation.

10 MS. HALVERSON: Also, I'll be presenting an
11 order appointing Ms. Sorensen as interpreter today at
12 Ms. Patrice's benefit.

13 Mr. Brown, you have a right to be present
14 when Judge Wynne signs this paperwork. Normally, what
15 we do is we review it, and he signs it in his office,
16 outside of your presence. Do you have any objection to
17 us reviewing it and Judge Wynne signing it in his
18 office, outside of your presence?

19 THE DEFENDANT: No.

20 THE COURT: All right. Mr. Crowley, do you
21 have an Order of Commitment at this time? Temporary
22 order? I'll sign that.

23 (9:36 a.m., proceedings concluded.)

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CERTIFICATE

I, Susan A. Zielie, Official Court Reporter, do hereby certify that the foregoing transcript is correct, prepared and signed this 28th day of June, 2016.

/S/ SUSAN A. ZIELIE, RMR, FCRR

Susan A. Zielie, RMR, FCRR