

NO. **35724-1**

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

In re The Personal Restraint of:

JEFFREY M. TAYLOR

Petitioner.

PERSONAL RESTRAINT PETITION, WITH LEGAL ARGUMENT
AND AUTHORITIES

By:

Michael J. Kelly, WSBA #31816
VAN SICLEN, STOCKS & FIRKINS
Attorney for Appellant
721 45th Street NE
Auburn, WA 98002
(253) 859-8899

FILED
COURT OF APPEALS
DIVISION II
06 DEC 20 PM 2:44
STATE OF WASHINGTON
BY *[Signature]*
DEPUTY

TABLE OF CONTENTS

I.	STATUS OF PETITIONER/PROCEDURAL HISTORY	1
II.	STATEMENT OF THE CASE	2
	A. TRIAL TESTIMONY	2
	B. FACTS AND DOCUMENTS OUTSIDE OF THE RECORD	7
III.	GROUND FOR RELIEF	7
	A. PRP STANDARDS	7
	B. MR. TAYLOR WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL BECAUSE HE WAS PREJUDICED BY HIS ATTORNEY’S DEFICIENT PERFORMANCE.	8
	1. Introduction	8
	2. Legal Standards	9
	3. Counsel’s Representation was Deficient	10
	(a) <i>Factors Contributing to Deficient Performance – General Summary</i>	10
	(b) <i>Failure to Attack and Move for Suppression of Mr. Taylor’s Alleged “Confession”</i>	13
	i. Facts Surrounding the “Confession.”	14
	ii. Defense Counsel’s Failure to Investigate and Employ Expert Witness to Attack the “Confession.”	16
	(c) <i>Failure to Investigate and Call Witnesses to Explain Taylor’s Statements to Law Enforcement that he had seen a Mental Health Professional.</i>	24

(d)	<i>Failure to Adequately Investigate and Challenge K.H. 's Statements to Law Enforcement, the Prosecution, and her .. Mental Health Counselor.</i>	28
(e)	<i>Failure to Argue for Admission of Physical, Documentary Evidence to Support Defense Witness Testimony Regarding Mr. Taylor 's Lack of Opportunity to Commit the Crime.</i>	39
C.	MR. TAYLOR DID NOT RECEIVE EFFECTIVE ASSISTANCE OF COUNSEL ON APPEAL.	42
D.	CUMULATIVE ERROR	43
E.	CONCLUSION	44
IV.	REQUEST FOR RELIEF	46
1.	If a petitioner fails to meet the threshold burden of showing actual prejudice arising from constitutional error, the petition must be dismissed;	46
2.	If a petitioner makes at least a prima facie showing of actual prejudice, but the merits of the contentions cannot be determined solely on the record, the court should remand the petition for a full hearing on the merits or for a reference hearing pursuant to RAP 16.11(a) and RAP 16.12;	46
3.	If the court is convinced a petitioner has proven actual prejudicial error, the court should grant the Personal Restraint Petition without remanding the cause for further hearing.	47
V.	OATH	47

TABLE OF AUTHORITIES

CASES	Pages
<i>Evitts v. Lucey</i> , 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985)	43
<i>Foster v. Lockhart</i> , 9 F.3d 722, 726 (8th Cir. 1993)	9
<i>Harris v. Wood</i> , 64 F.2d 1432, 1438-39 (9 th Cir. 1995)	10, 43
<i>In re Davis</i> , 152 Wn.2d 647, 721, 101 P.3d 1 (2004)	12, 13, 27
<i>In re Frampton</i> , 45 Wash.App. 554, 726 P.2d 486 (1986)	43
<i>In re Hews</i> , 99 Wn.2d 80, 88, 660 P.2d 263 (1983)	47
<i>In re Maxfield</i> , 133 Wn.2d 332, 945 P.2d 196 (1997)	43
<i>Jones v. Wood</i> , 114 F.3d 1002 (9 th Cir. 1997)	9
<i>Kimmelman v. Morrison</i> , 477 U.S. 365, 384, 106 S.Ct. 2574, 91 L.Ed.2d 305 (1986)	13
<i>Lord v. Wood</i> , 184 F.3d 1083, 1093 (9 th Cir.1999)	27
<i>Mak v. Blodgett</i> , 970 F.2d 614, 624-25 (9 th Cir. 1992), <i>cert denied</i> , 507 U.S. 951 (1993)	44
<i>Rios v. Rocha</i> , 299 F.3d 796, 805 (9 th Cir.2002)	27
<i>Sanders v. Ratelle</i> , 21 F.3d 1446, 1456 (9 th Cir. 1994)	9, 13
<i>Smith v. Robbins</i> , 528 U.S. 259, 120 S.Ct. 746, 145 L.Ed.2d 756 (2000)	42
<i>State v. McFarland</i> , 127 Wn.2d 322, 338 & n.5, 899 P.2d 1251 (1995)	8

<i>State v. Taylor</i> , Court of Appeals No. 30952-1-II.....	1
<i>Strickland v. Washington</i> , 466 U.S. 668, 694, 104 S. Ct. 2052, 2068, 80 L. Ed. 2d 674 (1984)	9, 27
<i>Williams v. Taylor</i> , 529 U.S. 362, 120 S. Ct. 1495, 1515, 146 L. Ed. 2d 389 (2000)	10

STATUTES

RCW 10.73.090	8
RCW 9.94A.712	1

RULES

Evidence Rule 803(a)(6).....	40
RAP 16.11(a).....	46
RAP 16.12.....	46
RAP 16.7(a)(2)	8

I. STATUS OF PETITIONER/PROCEDURAL HISTORY

Petitioner, Jeffrey M. Taylor, was charged with four counts of Rape of a Child in the First Degree and one count of Child Molestation in the First Degree in Mason County, No. 03-1-00200-3. App. G (Amended Information). A jury convicted him of three counts of Rape of a Child in the First Degree. On October 2, 2003 the Honorable James B. Sawyer, II sentenced him pursuant to RCW 9.94A.712 to a standard range sentence of 195 months minimum term to a maximum term of life on each count (Counts I, III, and IV of the Amended Information). RP 389-392; App. H (Judgment and Sentence).

Mr. Taylor timely appealed his conviction. On April 12, 2005 the Court of Appeals affirmed the conviction in an unpublished decision. *State v. Taylor*, Court of Appeals No. 30952-1-II. App. I. Mr. Taylor timely filed a Petition for Discretionary Review in the Washington Supreme Court on April 25, 2005. That Court denied review on November 29, 2005 and the Court of Appeals issued its Mandate to the Superior Court on December 20, 2005. App. J. Taylor is currently serving his sentences at the Stafford Creek jail in Aberdeen, Washington.

Mr. Taylor was represented at trial by attorney Ronald Sergi, whose address is 6207 Saint Andrews Dr. SE, Olympia, WA 98513-5129. Mr. Taylor's appeal and Petition for Discretionary review were handled by

attorneys Patricia Pethick, P.O. Box 7269, Tacoma, WA 98406-0269; and Thomas Doyle, P.O. Box 510 Hansville, WA 98340-0510.

II. STATEMENT OF THE CASE

A. TRIAL TESTIMONY

According to the testimony of Jayne Hoyos, her daughter K.H. disclosed to her on Sunday January 26, 2003 that someone had inappropriately touched her. RP 69, 21-22. Ms. Hoyos testified that she and her family spent that Sunday evening with K.H., then went to the Mason County Sheriff's Office the following Monday morning. RP 70, 24-25. After making this initial report, Ms. Hoyos eventually brought K.H. in to meet with Detective Gardner at a future date, RP 72, 3-5, and then brought her in to the Prosecuting Attorney's Office for another meeting, RP 72, 6-8. Finally, Ms. Hoyos testified that after her initial visit to the Sheriff's Office, the follow-up meetings with her daughter and Detective Gardner and the Prosecutor's Office, she also returned to meet with Detective Gardner "a few times." RP 72, 9-13. Ultimately, Ms. Hoyos' testimony established that K.H. was interviewed by Detective Gardner on two occasions, approximately 3 months apart, once on March 12, 2003, and once on either June 3 or June 6, 2003. RP 81, 11-16.

Mason County Sheriff's Office Detective Jack Gardner testified that he interviewed K.H. on two occasions, and on the first occasion, in

March of 2003, she did not make any disclosure of alleged penetration by Mr. Taylor. RP 130, 6-13. Detective Gardner testified that K.H.'s disclosure of penetration occurred during his second interview of her, approximately three months after the first interview and after she had been in counseling. RP 130, 14-16. Detective Gardner further testified that he performed his second interview of K.H. not on his own volition, but upon request of the Prosecutor's Office. RP 130, 17-19. During the second interview with K.H., Detective Gardner "gave her an example of penetration," only after which she "indicated that something other than touching occurred." RP 130, 23 – 131, 3.

Detective Gardner also testified that, in between his first and second interview of K.H., he interviewed the Petitioner, Jeffrey Taylor at the Edgewood Police Department, near Puyallup where Jeffrey was living at the time. RP 121, 17-19. Mr. Taylor brought with him to the interview a three-page handwritten note which he said he'd written and that he'd "like these for the case file." RP 122, 1-3. Mr. Taylor discussed his and his wife Kimberly's work and travel schedule with Detective Gardner at length, explaining that they would not arrive at his mother-in-law Shirley McDougal's home (where he and Kimberly lived, and where K.H. was babysat) until between 7:00 and 7:30 p.m., and on the "rare occasions" when K.H. was still at the home, her mother Jayne would arrive between

10 to 15 minutes later. RP 123, 1-5. During these “rare occasions,” Mr. Taylor told Detective Gardner that K.H. was always in the front living room, either watching movies, coloring, or playing, or at the kitchen table, doing her homework. He did not indicate that he was ever alone with K.H. in that statement. RP 123, 8-15.

After that initial exchange where they discussed Mr. Taylor’s handwritten note and his and Kimberly’s travel and work schedule, Detective Gardner then told Jeffrey of the allegations against him at that time, and proceeded to discuss them with him. Detective Gardner testified that Jeffrey “totally denied it at first,” whereupon Gardner asked him if he was “willing to answer some questions so [they could] get this thing cleared up.” RP 125, 13-22. Gardner testified that Jeffrey later told him that he “really [didn’t] remember ever ding what [was] accused of me,” which Gardner explained at trial as, “so it’s gone from total denial to ‘I don’t remember’ in the course of about 40 minutes.” RP 126, 1-20. Detective Gardner further testified that Jeffrey disclosed to him that he has seen a psychologist in the past for “doing impulsive things,” that his primary concern was with his new family and new baby, and that if he went to jail he would not be able to provide for them. According to Gardner, Jeff stated that he was “willing to take any tests or go to

counseling to see if something did happen,” and that he indicated that he’d assume responsibility for it, “if it did happen.” RP 127, 15 -128-16.

During cross-examination, Detective Gardner admitted that during the interview he relayed a “story” about a “friend” of his who had been committing the crime of shoplifting but didn’t realize it, and how that friend needed to get help for that problem. RP 134, 8-20. Gardner also admitted that this interview was “strictly about the molestation that K.H. alleges occurred in the van,” that it had “nothing to do with” the alleged rapes, and that he never tried to arrange a second interview of Jeffrey after K.H.’s disclosure of alleged penetration in his second interview with her. RP 136, 7 – 137, 7. Finally, Gardner admitted that he made no attempt to follow-up on Jeffrey’s comment about having seen a psychologist in the past, and had no knowledge whether the “impulsive things” which led to those visits were related to anything sexual in nature at all. RP 135, 9 – 136, 4.

Shirley McDougal, who is Jeffrey’s mother-in-law and K.H.’s aunt and babysitter, explained that she took care of K.H. on Mondays through Wednesdays between November of 1999 and April of 2000, and that K.H. was not at her home on Thursdays and Fridays because her father was off of work those days of the week. RP 148, 24 – 149, 4. K.H. was at her home from the time she got off the [school] bus in the afternoon until

between 6:00-6:30 p.m. when her mother arrived to pick her up. RP 149, 17-18. Throughout this entire time period, Kimberly Taylor worked at an office in Renton, Washington and Jeffrey Taylor worked for a company named “Gargoyles” in Kent, WA. RP 150, 22-23. The two of them would leave Shirley’s home between 5:00 and 5:15 a.m. and return between 7:00-7:30 p.m. RP 151, 4-7.

There were only two evenings on which K.H. was at Shirley’s home at the same time as Jeffrey and Kimberly Taylor for any significant amount of times, and those were two occasions on which K.H. and her mother stayed for dinner when Jayne arrived to pick her up. On both occasions K.H. and Jayne left after eating. RP 151, 22-25. Any other overlap between the Taylors and K.H. at the home would occur when they would “cross paths” as Jeffrey and Kimberly were arriving, and Jayne and K.H. were leaving. RP 152, 3-7; 280, 1-10. Additionally, throughout the entire time at issue in this case, Jeffrey and Kimberly stayed with Jeffrey’s parents on Monday and Wednesday nights every week, except in the event of snow. RP 159, 6-19; 257, 1-4. Even on days Jeffrey did not work, he drove Kimberly to her job and spent the day with his parents, rather than remain at the McDougals’ home. RP 191, 19-25. The drive from the South Seattle area where Kimberly and Jeffrey worked to Star Lake to Shirley McDougal’s home took anywhere from 2-3 hours. RP 274, 7-10.

There were only two occasions that Jeffrey was at the McDougal house at the same time as K.H. for any significant amount of time. The first was the night of a children's Christmas party in an unspecified year, RP 281, 15. The second was on New Year's Eve, 1999, RP 282, 3-5.

B. FACTS AND DOCUMENTS OUTSIDE OF THE RECORD

The appendices to this PRP contain many facts and documents that were not established at trial. They are discussed at length within the appropriate section of argument. Among other things, Petitioner has now put forth an expert's analysis and report calling Mr. Taylor's alleged "confession" into serious doubt. That expert, Dr. Richard Leo, or any expert on the subject, was not consulted by Taylor's attorney prior to trial or called to testify on Taylor's behalf at trial. Many of the other exhibits contained in the appendices relate to the ineffectiveness of Taylor's lawyer, Ronald Sergi.

III. GROUNDS FOR RELIEF

A. PRP STANDARDS

Other remedies are inadequate. Mr. Taylor has already pursued a direct appeal. Some of the claims raised here could not have been raised on direct appeal because they involve facts outside the trial record. See,

e.g., State v. McFarland, 127 Wn.2d 322, 338 & n.5, 899 P.2d 1251 (1995).

This petition is filed within the one-year time limit set out in RCW 10.73.090. The judgment did not become final until the mandate issued on December 20, 2005. App. I.

In the interest of clarity and conciseness, petitioner has chosen to consolidate the legal argument and authorities with the petition, rather than to file a separate opening brief. See RAP 16.7(a)(2).

B. MR. TAYLOR WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL BECAUSE HE WAS PREJUDICED BY HIS ATTORNEY'S DEFICIENT PERFORMANCE.

1. Introduction

As discussed below, Mr. Taylor's lawyer, Ronald Sergi, was unprepared for trial in this matter, as he had made little effort to adequately assist Mr. Taylor in all phases of the case. Mr. Sergi's shortcomings include the failure to conduct an adequate pre-trial investigation, the failure to file and argue necessary pre-trial motions including a motion to suppress Mr. Taylor's alleged "confession," the failure to ascertain, locate, and present important witnesses to explain a seemingly inculpatory but innocuous statement contained in the alleged

“confession,” and the failure to argue for the admission of important substantive, documentary evidence which would have significantly bolstered the defense witnesses’ testimony in a central disputed aspect of the case.

2. Legal Standards

The Sixth Amendment to the U.S. Constitution guarantees the right to effective counsel. Strickland v. Washington, 466 U.S. 668, 694, 104 S. Ct. 2052, 2068, 80 L. Ed. 2d 674 (1984). A defendant is entitled to a new trial if he can show (1) that trial counsel’s performance was defective; and (2) a reasonable probability that, but for the deficient performance, the outcome of the proceeding would have been different. A petitioner can meet this standard by showing that counsel failed to conduct adequate pretrial investigation. Jones v. Wood, 114 F.3d 1002 (9th Cir. 1997). “To provide constitutionally adequate assistance, ‘counsel must, at a minimum, *conduct a reasonable investigation* enabling [counsel] to make informed decisions about how best to represent [the] client.’” In re Brett, 142 Wn.2d 868, 873, 16 P.3d 601 (2001), quoting, Sanders v. Ratelle, 21 F.3d 1446, 1456 (9th Cir. 1994) (emphasis and editing in Brett). See also, Foster v. Lockhart, 9 F.3d 722, 726 (8th Cir. 1993). The prejudicial effect of counsel’s errors must be considered cumulatively rather than individually. Williams v. Taylor, 529 U.S. 362, 120 S. Ct. 1495, 1515, 146

L. Ed. 2d 389 (2000); Harris v. Wood, 64 F.2d 1432, 1438-39 (9th Cir. 1995).

3. Counsel's Representation was Deficient

(a) *Factors Contributing to Deficient Performance –
General Summary*

Mr. Sergi was wholly unprepared, indeed made no real effort to adequately prepare for this case. This case involved a number of issues which required vigorous investigation and litigation, including the employment of expert witnesses, a vigorous pre-trial motions practice, and extensive preparation for trial and effective lawyering in trial. Mr. Sergi performed none of these duties, and appeared for trial essentially wholly unprepared.

Petitioner notes Mr. Sergi now, just over three years after the entry of the Judgment and Sentence in this case, has absolutely no file, nor any semblance of documentation normally retained in an attorney's possession for at least five years after the conclusion of a case. *See* Declaration of Michael J. Kelly at Paragraph 6 (App. F). Mr. Sergi also now represents that he "doesn't remember much" about this case or the details, including who performed whatever investigation may have been performed on Mr. Taylor's behalf. In that conversation, Mr. Sergi informed undersigned counsel that he could procure copies of the police reports and other

discovery produced by the State by calling someone named “Darci,” who would produce them. When “Darci” was contacted, undersigned counsel learned that she was an “office manager/paralegal” in the Mason County Prosecuting Attorney’s Office. *See* Declaration of Michael J. Kelly at Paragraph 6 (App. F). Upon undersigned counsel’s further attempts to contact Mr. Sergi, he has ignored and/or failed to return the telephone calls each and every time. *See* Declaration of Michael J. Kelly at Paragraph 7 (App. F).

Further, the investigator ultimately ascertained by a review of the Court’s file to be Mr. John Wilson, has also refused to respond to any attempts at communication by Mr. Taylor’s current investigator. *See* Declaration of Shannon Givens at Paragraph 4 (App. E). As such, it is impossible to fully ascertain what, precisely, Mr. Sergi did on Mr. Taylor’s behalf, and what he did not do. Based upon the contents of the official Court file, however, obtained by Mr. Taylor’s current investigator, Sergi filed no pleadings in this case other than brief, routine forms such as a notice of appearance, and a checklist-style Omnibus form, for instance. App. K. He filed no written motions for discovery, no trial brief, no written motions *in limine*, no proposed jury instructions, and no sentencing memorandum. Again, Petitioner makes this assertion solely on the basis

of the contents of the Court's file in this matter, as Mr. Sergi himself has no file and essentially no recollection of the case.

Mr. Sergi did not note or argue any pre-trial motions, and made only one oral motion *in limine* on the first day of trial, prior to jury selection, at which time he also put up no argument whatsoever to a prosecution oral motion *in limine* to exclude important documentary evidence in his own case, instead immediately stipulating that he would not even be attempting to admit the evidence. Mr. Sergi also failed to object to an improper and prejudicial closing argument by the prosecutor.

The absence of any defense attorney file makes it impossible to review attorney notes regarding his investigation, trial strategy, legal research etc. Petitioner acknowledges that "there is a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance" and that the Court must be deferential to any scrutiny of his performance. This deference can be overcome, and should be here, however, where the defense attorney breached his "duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *In re Davis*, 152 Wn.2d 647, 721, 101 P.3d 1 (2004). Indeed, in *Davis* the Washington Supreme Court held that defense counsel "*must, at a minimum, conduct a reasonable investigation enabling counsel to make informed decisions about how to*

best represent the client, *which includes investigating all reasonable lines of defense...*” *Davis, Id.* at 721 (citing *In re Brett*, 142 Wash.2d at 873, 16 P.3d 601 (2001); *Sanders v. Ratelle*, 21 F.3d 1446, 1456 (9th Cir.1994); *Kimmelman v. Morrison*, 477 U.S. 365, 384, 106 S.Ct. 2574, 91 L.Ed.2d 305 (1986)). Indeed, the *Davis* Court’s quotation from *Morrison* in FN 226 could well be applied directly to Mr. Sergi’s representation of Taylor in the instant case. There, the U.S. Supreme Court described the defense attorney’s work as follows:

Respondent's lawyer neither investigated, nor made a reasonable decision not to investigate, the State's case through discovery. Such a complete lack of pretrial preparation puts at risk both the defendant's right to an “ample opportunity to meet the case of the prosecution” and the reliability of the adversarial testing process.

Morrison, 477 U.S. at 384. Mr. Sergi fully failed to provide Taylor an “ample opportunity to meet the case of the prosecution” at nearly every turn, putting at risk “the reliability of the adversarial testing process.” Specific examples of Mr. Sergi’s inadequate representation of Taylor are set forth in detail, below.

(b) *Failure to Attack and Move for Suppression of Mr. Taylor’s Alleged “Confession”*

At the center of the State’s case was alleged “confession” by Mr. Taylor, which the Prosecutor vigorously argued in summation, and upon

which the jury certainly placed great weight in rendering their verdicts, which ultimately prejudiced defendant. Sergi should and could have investigated and attacked this “confession” from the outset, yet he did nothing in that regard.

i. Facts Surrounding the “Confession.”

On March 21, 2003, Mr. Taylor met with Mason County Sheriff’s Office Detective Gardner and a second, unnamed law enforcement officer at the Edgewood, Washington Police Department to discuss the case. Taylor was there in response to Gardner’s request to interview him.

At the outset of the questioning, Taylor repeatedly told Detective Gardner that the allegations were not true, and that he did nothing that was accused of him. After approximately ½ hour of this, Detective Gardner stopped asking any questions, and instead started telling Taylor a “story” about a “friend” of his in the Tacoma police department. Detective Gardner told Taylor that his “friend” had been stealing a number of items and when asked about it, had vehemently denied it happened. Indeed, Detective Gardner told Taylor that his “friend” had truly “not remembered” committing any such crimes. Detective Gardner explained that his “friend” had then been shown a security video of him stealing the merchandise, and his “friend” was shocked. The “friend” felt very bad, and took responsibility for the crime. This “story” took Detective Gardner

approximately 30 minutes to tell. *See* Declaration of Jeffrey Taylor at Paragraph 5 (App. A).

After telling the “story” of his “friend,” Detective Gardener began “pushing” the idea that Taylor was also guilty of the allegations against him, but – like Gardner’s “friend” – simply didn’t remember for whatever reason. During this part of the interview Gardener was “pushing” questions such as, “do you think you *could* have done this?,” etc. Taylor’s responses were very clearly, “no.” Taylor ultimately told Detective Gardner that “*If* I did this, I would feel bad and would want to take responsibility for it, but that I did not do it.” (Emphasis added). Detective Gardener’s questioning and pushing were by this time making Taylor very confused. He continued to stress the “*if*” part of the statement, “if I would have done it...” Detective Gardner was taking notes this whole time, but would not show them to Taylor. *See* Declaration of Jeffrey Taylor at Paragraph 6 (App. A).

Detective Gardener wrote out Taylor’s “statement” himself, without assistance from Taylor. He did not show Taylor the “statement,” and in the end just read it to him out loud. At that moment, Taylor was incredibly confused and it came off sounding like what he’d said. However, Taylor was already so flustered by Gardner’s tactics that he could no longer tell what was accurate and what was not. *See* Declaration

of Jeffrey Taylor at Paragraph 7 (App. A). Taylor's "statement" consists of a three-page handwritten document, in Gardner's handwriting which is comprised of approximately two paragraphs of "narrative," purporting to be in the first-person, as if written by Taylor, followed by two pages of a "transcript" of questions and answers by Gardner. App. L.

ii. Defense Counsel's Failure to Investigate and Employ Expert Witness to Attack the "Confession."

Faced with this "confession" early on in his involvement in the case, Mr. Sergi was wholly negligent and ineffective in his attempts to combat it. Indeed, a review of the records available to Taylor's counsel and investigators on this Petition – records which do not include any files or documentation by either Sergi or his investigator, John Wilson – shows that Sergi did essentially nothing at all to combat the "confession." Neither Mr. Sergi nor his investigator, Mr. Wilson, apparently, investigated the "facts" and other conditions behind the alleged "confession." Had he done so, he would have easily identified a number of serious problems with the "confession" and the police tactics used to both elicit and ultimately testify that it was a "confession" at trial.

Sergi appears to have made no attempt to locate appropriate experts in the field of false confessions, and the trial Court's file in this case shows no request for funding for, or appointment of, such an expert.

Instead, he was left only with Detective Gardner's testimony at trial and whatever attempt at cross-examination of him he could lodge based only upon Gardner's reports and direct testimony. His cross-examination was wholly ineffective, ultimately achieving nothing more than rehashing Gardner's interrogation of Taylor, allowing Gardner to simply confirm his version of the story, as told on direct, for the jury. No effort was made to call into question his interrogation techniques or his conclusion that he had indeed obtained a true, valid "confession." Sergi's cross-examination of Gardner, as with the remainder of his work at trial, also evidences the complete lack of investigation performed by him and Wilson on this case. Nothing in the line of questioning posed to Gardner goes beyond Gardner's typewritten officer report/summary of the alleged "confession." *See*, RP 134-137. Gardner's report is attached as App. M.

In contrast, undersigned counsel retained Dr. Richard Leo of Richard A. Leo & Associates, Inc. and the University of San Francisco School of Law, a nationally-renowned expert in the field of confessions in criminal cases. Dr. Leo was provided with all relevant materials out of the State's discovery which had to be procured through the Prosecuting Attorney's Office as a result of Mr. Sergi's failure to maintain any file on this case whatsoever. Dr. Leo was provided with Detective Gardner's written report, App. M, the Declaration of Probable Cause App. N, Mr.

Taylor's signed waiver of his *Miranda* rights App. O, the handwritten "confession" statement in Detective Gardner's handwriting App. L, the trial testimony of Detective Gardner RP 118-146, and the Court of Appeals' unpublished opinion denying Mr. Taylor's direct appeal in this matter App. I. Dr. Leo also spoke with Taylor's attorneys about Taylor's personal recollection of Detective Gardner's interrogation of him.

Based upon this collection of information, all of which, and more, was fully available to Mr. Sergi during the pre-trial discovery phase of this case, Dr. Leo evaluated Detective Gardner's interrogation of Taylor and the resulting alleged "confession." Dr. Leo's full Declaration and *curriculum vitae* is attached hereto as App. B. A brief summary of his important conclusions is as follows:

Law enforcement detectives typically receive intensive interrogation training and thereafter hone their interrogation skills through casework and additional training. They are trained only to interrogate suspects whom they regard as guilty, and that the "guilty" suspect will only make admissions if successfully persuaded to. Indeed, the "goal" of interrogation is to "move a suspect from denial to admission," and the officer operates solely on the tenet that "innocent suspects do not make false incriminating statements or confessions." *See* Declaration of Richard Leo at Paragraph 9 (App. B). These tactics, however, have often led to

law enforcement officers eliciting “confessions” from suspects who are actually innocent of the crimes alleged against them. Dr. Leo notes that “[h]undreds of interrogation-induced false confessions have been documented in the scientific research literature. *See* Declaration of Richard Leo at Paragraph 13 (App. B).

Dr. Leo discussed the two different types of false confessions elicited by law enforcement interrogators, (1) “*compliant*” false confessions, and (2) “*persuaded*” false confessions. “Persuaded” false confessions are those which occur when the police interrogation techniques have caused an innocent subject to believe that he might have committed the crime despite having no memory of doing so. *See* Declaration of Richard Leo at Paragraph 14 (App. B). Dr. Leo writes that, in “persuaded” false confessions, after a period of outright denials by the suspect, the interrogator eventually convinces the suspect that “it is possible” the suspect could have committed the alleged crime without remembering it, and gets the suspect to agree with the interrogator’s suggestion. *See* Declaration of Richard Leo at Paragraph 15 (App. B). Once the suspect accepts the “possibility” that he could have committed a crime without remembering it, he tends to “confess” in equivocal, tentative and speculative language such as “I could have done [it],” or “I

probably did [it].” See Declaration of Richard Leo at Paragraph 15 (App. B).

Dr. Leo’s professional opinion, after review of the full complement of documents available to Petitioner at this stage of the proceedings, is that “Mr. Taylor’s statements can neither be classified as admissions nor as confessions. Rather, they are ambiguous. [Leo does] not interpret them as incriminating because an alternative explanation is that Mr. Taylor had simply been pressured and manipulated by Detective Gardner into agreeing that it was *hypothetically* possible that he did something that he simply could not remember.” Dr. Leo concluded that “[t]his is exactly how *persuaded* false confessions come about – first the interrogator causes the suspect to doubt his memory, then the interrogator supplies an explanation for how the suspect could have committed the crime without remembering it, and then the suspect starts to speculate about how he could or would have committed the crime in the absence of any memory of doing so.” See Declaration of Richard Leo at Paragraph 21 (App. B).

Indeed, a close review of Gardner’s own typewritten report shows that he felt that “[i]n the course of the 90-min. interview, Jeff went from denying any involvement with [K.H.] and her allegations, to it could have happened, but I don’t remember. He also said that he wanted to find out if it did happen, and wanted to see about counseling. Jeff also said if it did

happen he wanted to take responsibility for his actions.” App. M. This comports nearly precisely to Dr. Leo’s explanation of a “persuaded” false confession technique.

Dr. Leo concludes that even among these progressive steps, “Mr. Taylor appears to have completed only one of [them] – agreeing that it was hypothetically possible that he committed the crime but declaring that he did not remember doing so.” Dr. Leo’s ultimate professional opinion is that “such a hypothetical statement in the context of an accusatorial interrogation does not amount to an incriminating statement, admission, or confession.” *See* Declaration of Richard Leo at Paragraph 21 (App. B).

Dr. Leo also believes that “Detective Gardner may have used psychologically coercive inducements, in the form of implicit threats and promises, to elicit Mr. Taylor’s compliance,” though “we will never know whether this occurred due to Detective Gardner’s failure to record the interrogation.” *See* Declaration of Richard Leo at Paragraph 22 (App. B). Earlier in his report, Dr. Leo explained that “[t]he only way to objectively resolve a dispute about what occurred during an interrogation is if the interrogation is electronically recorded,” that a number of police agencies now either voluntarily, or are statutorily mandated to record their interrogations, and that “[i]n most wrongful conviction case involving indisputable false admissions and/or confessions, the police did not record

the interrogation.” *See* Declaration of Richard Leo at Paragraph 17 (App. B). Finally, Dr. Leo opines that “[i]ncriminating statements, admissions, and/or confessions are universally treated as damning and compelling evidence of guilt, and if false can, and often do, lead to the wrongful conviction of the innocent.” *See* Declaration of Richard Leo at Paragraph 16 (App. B).

A similar review of the materials in the file could and should have been performed by an expert in this case in preparation for trial, and the expert then called as a witness to present his opinions at trial. As Dr. Leo points out in his Declaration, “[a]t the time of Mr. Taylor’s trial in 2003, there were numerous experts on police interrogations and confessions who were available to consult with and, if necessary, testify on behalf of the defense. *See* Declaration of Richard Leo at Paragraph 23 (App. B). Indeed, had such a necessary effort been undertaken while this case was still in the pre-trial discovery phase, the expert’s review and analysis would have been even more complete than was possible at the PRP stage. For instance now, post-conviction, Detective Gardner has refused to speak about the matter with Taylor’s investigators, stating he has been advised not to by the Prosecuting Attorney’s Office. Prior to trial, Gardner would have either voluntarily spoken with Taylor’s investigator and/or false

confessions expert, or a Court order could have been sought compelling such an interview.

In any case, Sergi made no attempts whatsoever to procure an expert witness such as Dr. Leo or other similarly educated and acknowledged experts. This failure led to the jury receiving essentially an unchallenged, unmitigated report by Detective Gardner of *his* opinion that this was a confession, and that Taylor admitted his guilt. For all of the reasons set forth herein, and in Dr. Leo's report/declaration, (App. B), Dr. Leo or another expert would have explained to the jury precisely how and why this cannot be taken to be admissions or confessions by explaining the training received and techniques employed to elicit such "persuaded false confessions."

Had Mr. Sergi done this, and had he then further performed his duties effectively, he could have bolstered this testimony with a more effective and coherent cross-examination of Detective Gardner regarding the interrogation itself. Mr. Sergi did none of this and was thus ineffective. Taylor was certainly prejudiced by these failures, as explained by Dr. Leo's research showing that "[i]ncriminating statements, admissions and/or confessions are universally treated as damning and compelling evidence of guilt, and if false can, and often do, lead to the wrongful conviction of the innocent." *See* Declaration of Richard Leo at

Paragraph 16, (App. B). Given the, in some instances complete lack of, and in other instances highly questionable “evidence” of Taylor’s guilt, in all aspects of the allegations, but in particular with respect to the allegations of Rape of a Child, *i.e.* of penetration by Taylor, effectively challenging this “confession” would likely have led to a different outcome in the jury’s verdicts. Mr. Sergi’s failure to adequately investigate and challenge the remaining questionable “evidence” is discussed in more detail, below.

(c) *Failure to Investigate and Call Witnesses to Explain Taylor’s Statements to Law Enforcement that he had seen a Mental Health Professional.*

During his interview with Mason County Sheriff’s Office Detective Gardner, which was ultimately misrepresented to the jury as a “confession,” as discussed above, Mr. Taylor informed Detective Gardner that in the past he had once seen a psychologist “for doing impulsive things and being rebellious towards my parents and family.” RP 127, 17-19. A thorough reading of his typewritten report and the handwritten statement he prepared himself for Taylor’s signature indicates that Detective Gardner made no effort to follow-up on this statement with any subsequent questioning as to when this counseling occurred, the identity of the counselor, the impetus for initiating the counseling, or even what

Taylor meant by “doing impulsive things.” *See* App. L and App. M. Jeff’s statement and Gardner’s police report. This likely deliberate failure to follow up on this point was reinforced by both Detective Gardner and the Prosecutor at trial in an effective attempt to imply for the jury that this “counseling” and the “impulsive things” for which it was sought had to do with some behaviors by Mr. Taylor that made him more likely to be sexually deviant and to have committed the crimes with which he was charged at trial.

In his cross-examination of Detective Gardner, Mr. Sergi addressed this issue in the briefest of manners. He confirmed that Gardner “didn’t go into details as to why [Taylor] went to see a psychologist,” and that there were no follow-up questions after Taylor provided that information. RP 135 9-23. There is a strong probability that the jury was left with the clear impression that by disclosing the visits to a psychologist Mr. Taylor was admitting his guilt, admitting that he had sexual deviancy problems to Gardener during the interview, and admitting that he had a guilty conscience.

In fact, Mr. Taylor had seen the counselor, Dr. Andrew Sands of Renton, Washington when he was approximately 19 years old because he had caused some troubled in his family by essentially “running away from home,” leaving unannounced for Idaho and not returning for a few weeks.

See Declaration of Jeffrey Taylor at Paragraphs 8-9 (App. A). This was certainly a not-uncommon act of teenage rebellion and had absolutely nothing remotely to do with any illegal or sexually deviant behavior or personality traits of Mr. Taylor.

The damage done by Detective Gardner and the Prosecutor's complete failure to inquire about these issues, however disconcerting, was ultimately and inexcusably compounded by Mr. Sergi's failure to do so on his client's behalf. Mr. Sergi never inquired as to the identity of the counselor and as to the underlying reasons why Taylor had seen him. Had Sergi performed this basic level of inquiry with his client, Dr. Sands could have been added to his witness list and called to testify as to those sessions and the lack of any discussion or other indicators of deviant sexual behavior therein.

Instead, Sergi did virtually nothing other than perform the perfunctory and ineffective cross-examination of Gardner described, above, and the jury was left to conclude that Taylor had sought help for this type of criminal and deviant behavior in the past. This impression was intentionally reinforced by the prosecutor in her closing argument when she repeated that portion of Detective Gardner's testimony regarding Taylor's alleged "confession," stating that Taylor told Gardner that "[t]here is a possibility [he committed the acts]. I have been to the

psychologist in the past for doing impulsive things and being rebellious towards my parents and family.” RP 336, 22-25.

Mr. Sergi’s failure to even ascertain the nature of history of Taylor’s visits to the psychologist amount to ineffective assistance of counsel for a complete failure to communicate effectively with his client and properly investigate important facts in the case. Under *Strickland*, 466 U.S. at 691, trial counsel need not always investigate lines of defense he has chosen not to employ, for reasons of strategy. However, “a defense attorney has a ‘duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.’ Not conducting a reasonable investigation is especially egregious when a defense attorney fails to consider potentially exculpatory evidence.” *In re Davis*, 152 Wn.2d 647, 721, 101 P.3d 1 (2004) (citing *Strickland, Id.*; *Rios v. Rocha*, 299 F.3d 796, 805 (9th Cir.2002); and *Lord v. Wood*, 184 F.3d 1083, 1093 (9th Cir.1999)).

There can be no “sound tactical reason” for failing to develop this aspect of the defense’s case here. As set forth, above, the alleged “confession” from which this testimony arises should have been vigorously attacked both pre-trial and at trial, if it were still admitted over, *e.g.* relevancy objections. However, for purposes of this portion of Taylor’s petition, the testimony *was* given, and Mr. Sergi again did

nothing to combat it to explain and mitigate the strong inculpatory inference it left for the jury. Mr. Taylor had reasonable, non-incriminating reasons for seeing a psychologist as a teenager, and bringing those reasons to the jury through testimony of the psychologist would have been a simple matter for Mr. Sergi to accomplish. Mr. Taylor was prejudiced by this failure, as the jury was left solely with Detective Gardner's testimony that the acknowledgment of these visits pointed to his guilt, and that testimony was repeated and reinforced by the Prosecutor in her closing argument. There is sufficient likelihood that the jury would have disregarded this as any evidence of guilt had Sergi been effective in his representation.

(d) *Failure to Adequately Investigate and Challenge K.H.'s Statements to Law Enforcement, the Prosecution, and her Mental Health Counselor.*

The investigation of this case by the Mason County Sheriff's Department evidences a great deal of significant discrepancies with regard to the allegations of rape and molestation by K.H., the alleged victim. Taylor's attorney, Mr. Sergi, did not adequately investigate or attempt to address these discrepancies and highlight them for the Court and the jury in any substantive or effective manner whatsoever.

The initial report of these allegations to law enforcement was made to Deputy T. Rankin by Jayne Hoyos, K.H.'s mother, on January 27, 2003.

App. P. Ms. Hoyos spoke with Deputy Rankin and submitted a written statement in which she claimed that Mr. Taylor had “put his hands in her pants [and] also put his fingers inside of her.” Ms. Hoyos claimed in the statement that K.H. told her this had happened “every day.” App. Q.

Deputy Rankin appears not to have interviewed K.H. on that day, January 27, 2003. In fact, no member of the Mason County Sheriff’s Office interviewed K.H. until over 6 weeks later on March 12, 2003. Prior to that interview, Sharon Kadlub, K.H.’s mental health counselor, sent a letter to Detective Gardner of the same agency discussing her two counseling sessions with K.H. Ms. Kadlub’s letter indicates that K.H. “reported that from age eight to nine an ‘uncle’ Jeff touched her inappropriately almost daily while she was at daycare. Jeff would put her on his lap and touch her ‘private parts.’” App. R. Ms. Kadlub’s letter makes no mention of penetration, an important and significant factor, particularly in Mr. Taylor’s convictions and sentence in this case.

Detective Gardner then interviewed K.H. two days after receiving Ms. Kadlub’s letter and placing it in the case file App. M. Detective Gardner explicitly discussed with K.H. the issue of whether she was alleging that Mr. Taylor ever penetrated her when doing what she claimed he had done. His written report/summary of this interview states the following in that regard:

Jeff would tell [K.H.] to sit on his lap and would unbutton her pants and place his hand on her private parts. [K.H.] describes her private parts as being the area between her legs. [K.H.] said Jeff would place his hand underneath her underwear and touch her bare skin with his hand. [K.H.] denies and [sic] penetration and said it was only on the outside. When asked if Jeff touched her anywhere else or ever exposed himself to her, [K.H.] said no.”

App. M. On the same day as his interview with K.H., Gardner placed a written “statement” in the file which appears to be in his handwriting but consists partly of K.H.’s words in the first person, and partly of a kind of “transcript” of some questions and answers, presumably between him and K.H. App. S. This statement conforms precisely to the specific denial of penetration contained in Gardner’s typewritten summary of the interview. It states, in relevant part, as follows:

Q) How many times did Jeff touch you?

A) About 10 or 20 times.

Q) How did Jeff Taylor touch you?

A) he would put his hand on my pvt. parts between my legs. He would put his hand on me, under my underpants and touch my pvt. parts with his bare hand on my skin.

Q) Did Jeff ever touch you anywhere else?

A) No Just between my legs.

Q) Did Jeff ever put his finger/s inside your pvt. parts?

A) No only the outside.

On June 5, 2003, nearly three months after this interview with K.H., Detective Gardner drafted a typewritten “follow-up report” and placed it in the file. In the follow-up report, Gardner states that on that date he spoke with the assigned prosecutor about this case who “indicated that when she interviewed the victim she was told by the victim that there was a slight penetration of the suspect’s finger into the victim’s vagina.” The prosecutor then “requested a follow-up interview with the victim to see if there was a proper explanation of what was meant by penetration and to see if indeed there was penetration that might have been missed in the first interview.” Detective Gardner then called K.H.’s mother and arranged for the second interview the following day. App. T.

During the interview the following day, K.H. finally reported that Mr. Taylor had penetrated her sexually, after much prompting and suggestion by Detective Gardner. Detective Gardner describes the exchange in his typewritten summary as follows:

I spoke with [K.H.] and asked her if she remembers talking about penetration and if she fully understood what was meant by it. As an example I used my mouth/lips to simulate her “private parts.” [K.H.] was able to name her private part as her vagina [sic]. I demonstrated the difference between touching and penetration by placing my finger over the top of my lips to show touching, and then put my finger past the opening of my lips to show what penetration is.

I then asked [K.H.] to demonstrate to me, using her own mouth and finger, what Jeff did to her. She said he didn’t put his finger all the way in but rubbed the top and put it in a little. This was

demonstrated by [K.H.] by putting the tip of her finger just past the outer plain of her lips actually penetrating the lips with the tip of her finger. I asked her how far Jeff put his finger into her and [K.H.] said not very far, just inside the flaps and tickling it with his finger. App. T.

Again on the same day as his “follow-up” interview with K.H., Gardner placed another written “statement” in the file which appears to be in his handwriting but again consists partly of K.H.’s words in the first person, and partly of a kind of “transcript” of some questions and answers, presumably between him and K.H. App. U. This “follow-up” now conforms to the account of digital penetration by Taylor elicited by Gardner in his “follow-up” interview with K.H.. It states, in relevant part, as follows:

Jeff touched me on my private parts. I was not sure what you meant last time, but he put his finger in my vagina while he was touching me. He put his finger inside my flap and would tickle me. He would do this at Aunt Shirley’s house where he lived. He did it alot [sic], in the TV room, in his bedroom when he showed me his baseball cards ...

Q) Can you show me how Jeff touched you by using your own mouth and finger?

A) [K.H.] demonstrated by putting her finger over the top of her lips and rubbing back and forth. She said, but did not demonstrate that Jeff put his finger inside her flaps and tickled her.

Q) I asked [K.H.] if she can remember how far he put his finger into her? [sic]

A) She replied “Just a little bit.”

[K.H.] then showed me with her own finger and placing the tip into her mouth. Just past the lips.

Q) [K.H.] can you tell me what or where your vagina is?

A) Uh huh. It’s my private parts (pointing to her vaginal area).

Q) When you say Jeff put his finger in your “flap” what do you mean?

A) Down here (pointing at her groin area).

Q) So when I showed you how to make your lips or your mouth take the place of your private parts, do you understand what I mean?

A) I think so.

Q) What does it mean?

A) That its my private parts, but not really, just pretend.

Q) And did Jeff put his finger inside your private parts? Not just on top?

A) Yes but sometimes it was just on top.

It should be noted that this second, “follow-up” interview with K.H. on June 6, 2003 occurred over 2 ½ months *after* the first and only interview with Mr. Taylor on March 21, 2003. That interview resulted in what the State argued to his prejudice was an alleged “confession” to what was presented to him as allegations of Child Molestation only.

Again, it is unclear exactly what Mr. Sergi and/or his investigator did to investigate and attack the numerous problems and issues created by this second, “follow-up” interview which resulted in a drastic change in K.H.’s account of her allegations against Mr. Taylor, resulting in significantly increased charges and sentence. As noted, it is unclear for

reasons not of Petitioner's or undersigned counsel's making, as neither Mr. Sergi, nor his investigator, Mr. Wilson, have any files whatsoever in their possession.

Despite the lack of any file, however, what is clear from the trial transcripts and other documents and orders in the Court's file, is that Mr. Sergi made no pre-trial motions regarding any aspect of the problems with K.H.'s wildly-shifting allegations and/or Detective Gardner's suspect police work in eliciting new "facts" relating to an alleged rape which had previously been outright denied. Detective Gardner interviewed K.H. once on March 12, 2003 where she clearly and distinctly denied penetration. Her statement then that, "he would put his hand on my pvt. parts between my legs. He would put his hand on me under my underpants and touch my pvts with his bare hand on my skin," and in response to the question "did Jeff ever put his fingers inside your pvt parts?" she answered, "no only the outside." App. S. This does not evidence any "confusion" on the part of K.H., or that she "didn't know what [Gardner] meant" as suggested in the second interview, which was conducted at the request of the Prosecutor "to see if there was a proper explanation of what was meant by penetration and to see if indeed there was penetration that might have been missed in the first interview." App. T.

These disclosures were made over the course of more than one interview, with the interviews having been interrupted by a significant period of time during which K.H. was speaking to her parents, her counselor, and possibly the prosecutor, likely being influenced in her “memory” of what allegedly happened to her, and how.

In addition to the time lag between interviews and the possibility of a confusion and/or corruption of the witness’ recollection of her allegations, Detective Gardner also used a technique of “demonstrating” what penetration means to the K.H. in order to elicit the allegation that Taylor did, indeed, penetrate her. This was done despite her clear statements on the first occasion in which she explicitly stated that Taylor had touched her “on the outside,” and did not penetrate. Indeed, in his own hand-written “statement” of K.H. after the second interview, Detective Gardner wrote for K.H. that she “didn’t know what [he] meant” the first time when discussing penetration.

This type of interviewing technique, particularly in the case of child witnesses/accusers is often problematic, and at a bare minimum provides fruitful ground for cross-examination to highlight the problems for the jurors and the Court. Mr. Sergi wholly failed to adequately investigate these shifting allegations and disclosures and address them at trial. A prepared, competent, and effective criminal defense attorney

would have investigated this issue and properly prepared argument and effective cross-examination on it for trial. This would have included the employment of an expert witness on child interview techniques and protocol by law enforcement when handling accusations of sexual assault. A qualified and competent expert would have had the ability to review Detective Gardner's reports and K.H.'s statements, as well as any "investigation" which could have been performed by Mr. Sergi and/or his investigator, Mr. Wilson. Any such expert would have then been able to testify at trial to explain the problems and pitfalls of these "disclosures" by K.H., in particular the second, more serious such "disclosure."

Mr. Sergi made no effort to request public funding for an expert witness in police interview and/or child interview techniques and practices to challenge K.H.'s testimony both prior to trial and for the jury at trial, if necessary. The full extent of Mr. Sergi's actions with respect to K.H.'s shifting allegations was to make basic, wholly ineffective inquiries of Detective Gardner and K.H. during his cross-examinations of those witnesses. Sergi's questioning of Gardner with regard to the two separate interviews of K.H. and the tactics used to elicit the allegation of penetration transpired as follows:

Q) And it the first time that you interviewed [K.H.], she didn't disclose anything about any penetration, is that correct?

A) That's true.

Q) And it was just after the three months had gone by and she was in counseling that you re-interviewed her?

A) That's correct.

Q) An was that on your own volition that you re-interviewed her?

A) Actually it was the request of the Prosecutor's Office.

Q) And so when she came back in, you – you talked to her about penetration, correct?

A) Yes.

Q) And you gave her an example of penetration?

A) Yes.

Q) And it was not until that point that she indicated that something other than touching occurred?

A) That's correct.

Q) Do you know what if any influence the counselor or [K.H.'s] parents may have had on her making these second disclosures to you?

A) No.

[Changes the subject].

RP 130, 11 – 131, 11. Mr. Sergi's questioning of K.H. on this issue transpired as follows:

Q) Okay. Do you remember talking to Detective Gardner?

A) Yes.

Q) And you saw him today, right?

A) Yes.

Q) He was here earlier. And do you remember how many times you talked to him?

A) Twice.

Q) And do you remember what months they were?

A) No.

Q) Do you know if there was a little bit of time between the first time you talked to him and the second time or a lot of time?

A) I think a little bit.

Q) And during the time period, the first time and the second time that you talked to him, did you talk to your mom about what happened?

A) yeah.

[Changes the subject]

Sergi's failures with respect to these disclosures and the gravely flawed child interview practices used to obtain them is exacerbated by the fact that the new, improperly obtained disclosures directly resulted in a significant increase in the severity of the charges and the ultimate sentence imposed by adding 4 counts of Rape of a Child to the previously charged one count of Molestation of a Child. In fact, the jury ultimately acquitted Mr. Taylor of the Molestation Charge altogether, finding him guilty on three of the later filed Rape charges which were the product of this questionable police work.

Mr. Sergi's failures in this regard were complete and total: He failed to adequately investigate the circumstances surrounding the multiple "disclosures" and to notify the Court of his need for an expert. In so doing, he failed to adequately supervise and communicate with his investigator, Mr. Wilson, in order that he fully understood and could litigate the issue. Having failed to procure an expert to appropriately

challenge the accuracy of these “disclosures,” Mr. Sergi went to trial with only the records and documentation provided by law enforcement and the prosecution and even then made no legitimate and effective effort to challenge or call Detective Gardner’s and K.H.’s testimony about the “disclosures” into question for the jury to comprehend the existence of substantial doubt as to Taylor’s guilt in this matter. These failures amount to ineffective assistance of counsel by Mr. Sergi, and he suffered resulting prejudice from a jury verdict of guilt on all counts, including the counts of Rape of a Child which were directly related to the testimony about K.H.’s “disclosure” of penetration.

(e) *Failure to Argue for Admission of Physical, Documentary Evidence to Support Defense Witness Testimony Regarding Mr. Taylor’s Lack of Opportunity to Commit the Crime.*

On the first day of trial, August 18, 2003, Mr. Sergi and the Deputy Prosecuting Attorney, Ms. Case, argued a few motions *in limine* to the Court prior to *Voir Dire* and jury selection. Ms. Case began by informing the Court of some documentary evidence she received in discovery from the defense, and moving for its exclusion and any testimony regarding those documents. RP 40, 1-5. The documents consisted of some Chevron gasoline station records/receipts and some time sheets from Jeffrey Taylor’s employment. The employment records

are attached as App. V. The Chevron station records are no longer available for inclusion as appendix to this Petition. These records would have substantiated much of the testimony of defense witnesses such as Kimberly Taylor, Shirley McDougal, and Stanley Taylor regarding Jeffrey and Kimberly's work and travel schedule from Ms. McDougal's home in Star Lake to the Kent/Renton area, allowing the jury to more fully consider that aspect of the defense and grant the testimony more substantial credibility.

In response to DPA Case's oral motion, Mr. Sergi made no effort to argue for admissibility of the documents. Instead, he immediately conceded that he only intended to have Kimberly Taylor "testify about their commuting patterns," and that he "[didn't] plan on having them admitted. [He] just got them from [Kimberly] as a record of when they stopped for gas." When asked directly by the Court whether he was intending to offer the documents, Mr. Sergi responded "No." RP 40, 7-17.

Despite the prosecutor's hearsay objection, these documents would have been admissible as business records under Evidence Rule 803(a)(6) as records of regularly conducted activity. Particularly with respect to Taylor's work records at Gargoyles, Inc., Kimberly Taylor had to request those records herself from the employer, as Mr. Sergi apparently was making no effort to do so. *See* Declaration of Kimberly Taylor at

Paragraphs 4-5 (App. C). She received the records along with a cover letter signed by Ms. Elwira Vicky Wesolowski, "Payroll Specialist." It is thus apparent that Mr. Sergi would have had to go no further than Ms. Wesolowski to locate an appropriate records custodian to authenticate and admit the records. While it may have taken some amount of additional work to ascertain and locate a records custodian for the Chevron station receipts, it doubtless could have been performed, and Mr. Sergi made no effort to do so.

In the absence of these documents, which he made no effort to have admitted, Sergi made only minimum and very ineffective inquiry of his witnesses as to the issue of Jeffrey and Kimberly's work and travel schedule. For instance, he merely asked Kimberly Taylor what time they left from Star Lake in the mornings, what their work hours were, how often they stayed at Jeffrey Taylor's parents home rather than her parents (where K.H. was babysat), and how long the drive usually took. *See, e.g.* RP 278-280. Similar ineffective and seemingly unprepared examinations were performed of Stanley Taylor and Shirley McDougal.

Sergi's failure to know and properly argue and apply the evidence rules in this case amounts to ineffective assistance of counsel. The documents were admissible, and Sergi made no attempt to argue for their admission or use them at trial. Declaration of Kimberly Taylor at

Paragraph 6 (App. C). Mr. Taylor was prejudiced by this failure, as there is a significant probability that the jury would have afforded more weight to the defense witnesses' testimony regarding Jeffrey and Kimberly's work and travel schedule and the corresponding lack of opportunity it created for him to have committed all of the offenses for which he was convicted. It is difficult to imagine how Mr. Sergi can have believed that simple testimony alone would be as effective in explaining and displaying this point to the jury as well or better than if he were able to bolster such testimony with physical documentation maintained by neutral, disinterested parties bearing out precisely the substance of the testimony itself.

C. MR. TAYLOR DID NOT RECEIVE EFFECTIVE ASSISTANCE OF COUNSEL ON APPEAL.

When a state provides an appeal as of right, as Washington does, the defendant is entitled to effective assistance of appellate counsel. *Smith v. Robbins*, 528 U.S. 259, 120 S.Ct. 746, 145 L.Ed.2d 756 (2000). The defendant must show that counsel unreasonably failed to include a meritorious issue in the appeal, and a reasonable probability that the result would have been different had the issue been raised. *Id.*, 528 U.S. at 285. The Washington Supreme Court has expressed the standard similarly: "In order to prevail on an appellate ineffective assistance of counsel claim,

petitioners must show that the legal issue which appellate counsel failed to raise had merit and that they were actually prejudiced by the failure to raise or adequately raise the issue.” *In re Maxfield*, 133 Wn.2d 332, 945 P.2d 196 (1997). *See also Evitts v. Lucey*, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985); *In re Frampton*, 45 Wash.App. 554, 726 P.2d 486 (1986). In such cases, the petitioner must be permitted to re-raise the issue under the standards that would apply to a direct appeal. *In re Frampton*, 45 Wash.App. at 559-60.

Here, appellate counsel failed to raise the specific claims of ineffective assistance of counsel set forth at length in this Petition, above.

Because Taylor was entitled to relief on these claims, it was unreasonable for appellate counsel to omit them, and Taylor was prejudiced by this failure. The Court should therefore find that Taylor received ineffective assistance of appellate counsel, and apply the same standard that would apply on direct appeal.

D. CUMULATIVE ERROR

In deciding whether petitioner is entitled to relief, the Court must look to the cumulative effect of all of the errors. This concept applies to multiple constitutional violations of the same type. *See Harris v. Wood*, 64 F.3d 1432, 1438-38 (9th Cir. 1995) (numerous deficiencies in representation resulted in ineffective assistance of counsel), as well as to

multiple, unrelated violations, *see Mak v. Blodgett*, 970 F.2d 614, 624-25 (9th Cir. 1992), *cert denied*, 507 U.S. 951 (1993) (counsel's failure to present mitigating evidence; court's exclusion of mitigating evidence; and improper jury instruction). Here, even if the Court finds that no one error is sufficient for relief, it should find that the cumulative effect of all the errors requires reversal.

E. CONCLUSION

In the spring and summer of 2003, Jeffrey Taylor faced very serious charges of Rape of a Child and Molestation of a Child, for which he steadfastly maintained his innocence. His attorney, Ron Sergi, was wholly ineffective in his representation of Mr. Taylor, and Taylor was ultimately convicted of three counts of Rape of a Child and sentenced to spend between 195 months and life in prison because of it.

Mr. Sergi did essentially nothing in this case to represent Taylor at trial. The Court files show that he did not file nor argue a single pre-trial motion and proposed no jury instructions. Although Court documents show that an investigator, Mr. John Wilson, was appointed for 13 ½ hours of work on this case, a close reading of the trial transcripts and a comparison of them to the police incident report and witness statements

contained therein show that Sergi's trial preparation and witness examination did not go one step further than the information contained within the police reports. At this time, just over three years later and prior to the expiration of Mr. Taylor's time limits for equitable appeals such as a Personal Restraint Petition or a Petition for Habeas Corpus, neither Sergi nor Wilson have a file on the case, nor a single document evidencing any of their "work" on Taylor's behalf. In fact, Sergi himself stated that he has "very little memory" of the case at all.

In addition to Sergi's failure to prepare for the basic issues and witness testimony in this case, and even more importantly, Sergi wholly failed to even *identify* the need for consultation with, and likely testimony of expert witnesses. He was confronted with two obvious and glaring issues which required such consultation and testimony: (1) a false confession by his client; and (2) multiple, shifting, and inconsistent disclosures and accusations by K.H. regarding his client's alleged conduct. A competent and effective criminal defense attorney would have known that to leave a "confession" essentially unchallenged is almost sure to result in guilty verdicts by a jury who will almost universally regard such unchallenged "confessions" alone as evidence of guilt beyond a reasonable doubt. A competent and effective criminal defense attorney would also have, at a minimum, identified the serious problems posed by

law enforcement's handling of K.H.'s "statements" in which her accusations grew substantially over a period of three months and a second, overly-suggestive interview. Taylor's attorney did nothing in either regard, leaving the two most damaging, but most questionable parts of the State's case wholly unchallenged. Indeed, he even failed to, at a bare minimum, call Ms. Kadlub, K.H.'s counselor, to testify about the lack of any disclosures of rape to her, as evidenced by her letter to Gardner.

Finally, Sergi failed even to attempt to argue for a proper application of basic rules of evidence to have documentary evidence admitted which would have supported and bolstered his witnesses' testimony regarding work and travel times and schedules and the corresponding lack of opportunity for Taylor to have committed these crimes. Mr. Sergi's representation of Taylor was deficient, and Taylor suffered resulting prejudice therefrom.

IV. REQUEST FOR RELIEF

1. If a petitioner fails to meet the threshold burden of showing actual prejudice arising from constitutional error, the petition must be dismissed;
2. If a petitioner makes at least a prima facie showing of actual prejudice, but the merits of the contentions cannot be determined solely on the record, the court should remand the petition for a full hearing on the merits or for a reference hearing pursuant to RAP 16.11(a) and RAP 16.12;

3. If the court is convinced a petitioner has proven actual prejudicial error, the court should grant the Personal Restraint Petition without remanding the cause for further hearing.

In re Hews, 99 Wn.2d 80, 88, 660 P.2d 263 (1983).

In this case, the Court should grant the petition and order a new trial. In the alternative, however, the Court should, at a minimum, remand the petition for further hearings in order to allow, *e.g.* for Petitioner to subpoena Mr. Sergi and Mr. Wilson, along with their respective case files on this matter to either (a) prove the non-existence of those files as represented by them in the course of Petitioner's investigation here; or (b) finally gain access to the files for further review of the competence and effectiveness of his representation, should those files actually exist.

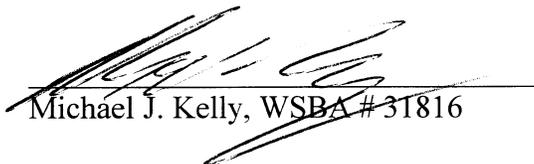
V. OATH

After being first duly sworn on oath, I depose and say: That I am the attorney for petitioner, that I have read the petition, know its contents, and believe the petition is true.

DATED this 19th day of December, 2006.

Respectfully submitted,

VAN SICLEN, STOCKS & FIRKINS


Michael J. Kelly, WSBA # 31816

SUBSCRIBED AND SWORN TO before me, the undersigned
notary public, on this 19th day of December 2006.

Nadezda A. Feller
Notary Public for Washington

My Commission Expires: 10-10-10



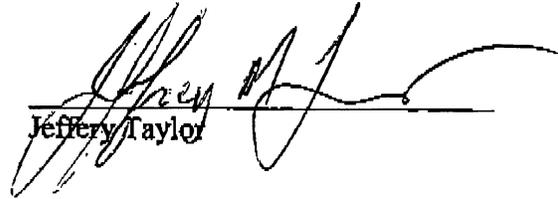
5. At the outset of the questioning, I repeatedly told Detective Gardner that these allegations were not true, and that I did nothing that was accused of me. After approximately ½ hour of this, Detective Gardner stopped asking me any questions, and he instead started telling me a “story” about a “friend” of his in the Tacoma police department. Detective Gardner told me that his “friend” had been stealing a number of items and when asked about it, had vehemently denied it happened and had truly “not remembered” committing any such crimes. Detective Gardner explained to me that his “friend” had then been shown a security video of him stealing the merchandise, and his “friend” was shocked. The “friend” felt very bad, and took responsibility for the crime. This “story” took Detective Gardner approximately 30 minutes to tell.
6. After telling the “story” of his friend, Detective Gardner began “pushing” the idea that I was also guilty of the allegations against me, but – like his “friend” – simply didn’t remember for whatever reason. During this part of the interview Gardner was “pushing” to me questions like “do you think you *could* have done this?,” etc. My responses were very clearly, “no.” I ultimately told Detective Gardner that “*If* I did this, I would feel bad and would want to take responsibility for it, but that I did not do it. Detective Gardner’s questioning and pushing were by this time making me very confused. I continued to stress the “*if*” part of the statement, “if I would have done it...” Detective Gardner was taking notes this whole time that he would not show me.
7. Detective Gardner wrote out my “statement” himself, without my assistance. He did not show the “statement” to me, and in the end just read it to me out loud. At that moment, I was incredibly confused. It sounded like what I’d said, but I was already so flustered by

the “story” he was trying to push, and the questions he was pushing that I just couldn’t tell anymore what was accurate and what was not.

8. In writing my “statement” Detective Gardner misconstrued a comment I had made to him about having been to see a psychologist in the past for doing impulsive things to my family. I made that comment to him at the time when he had so confused me with his “story” about a “friend” who had committed crimes but didn’t remember. When I told him that I had gone to see the psychologist, he did not make any effort to follow up on that statement with me and ask what the underlying events or reasons were that I had seen the psychologist, or even how old I was at the time. I was referring to a psychologist I had seen when I was approximately 19 years old at the time, and the reason was that I had left home to go Montana, and was gone for a few weeks without informing my family. Essentially, I had “run away from home,” causing great concern in my family.
9. The psychologist I saw was Dr. Andrew Sands, who practices in Renton, Washington. At the time of the interrogation by Detective Gardner, I had not seen Dr. Sands recently, and my visits with him had nothing to do with any sexual deviancy problems or anything related to the allegations against me in this case at all.
10. Mr. Sergi also did not effectively communicate or follow up with me on this issue at all. If I would have been appropriately counseled and questioned by my lawyer as to the importance the prosecutor would make of this statement, I could have cleared it up by giving him the name of my psychologist for him to contact to discuss the matter with him directly.
11. Mr. Sergi was also not interested in pursuing documentation any other evidence of Kimberly’s and my work and travel schedule during the time period in which I was

alleged to have committed these crimes. After we received no assistance or effort on Mr. Sergi's part to acquire relevant documentation, my wife took it upon herself to request my time-records from Gargoyles, Inc., where I had worked in Kent, Washington. My wife received those along with a cover letter from a Ms. Elwira Vicky Wesolowski, "Payroll Specialist." Although my wife then provided these to Mr. Sergi, to my knowledge he never contacted Ms. Wesolowski to discuss the records or the possibility of her testifying at trial. Mr. Sergi did not use the records at trial, and Ms. Wesolowski did not appear or testify.

DATED this 18 day of December, 2006


Jeffery Taylor

DECLARATION OF RICHARD A. LEO, PH.D., J.D.

I, Richard A. Leo, hereby declare as follows:

1. I am presently employed as an Associate Professor of Law at the University of San Francisco, School of Law. From 1997-2006, I was employed as an Associate Professor of Criminology and an Associate Professor of Psychology at the University of California, Irvine. From 1994-1997, I was employed as an Assistant Professor of Sociology and an Adjunct Professor of Law at the University of Colorado, Boulder.
2. My educational background is as follows: I received a Ph.D. in Jurisprudence and Social Policy from the University of California, Berkeley in 1994; a J.D. from the University of California, Berkeley in 1994; a M.A. in Sociology from the University of Chicago in 1989; and a B.A. in Sociology from the University of California, Berkeley in 1985.
3. I am an expert in the area of police interrogation practices, the psychology of police interrogation and confessions, coercive interrogation techniques, false confessions, and wrongful convictions.
4. There is a well-established field of research in the academic disciplines of psychology, criminology and sociology on the subject of police interrogation practices, coercive influence techniques and confessions. This research dates back to 1908, has been the subject of extensive publication (hundreds of articles, books and book chapters) in peer reviewed journals, is based on generally

accepted principles, is capable of validity testing, and has been generally accepted as valid in the relevant scientific community.

5. I have conducted and published extensive empirical research on police interrogation and confessions since 1990. I have analyzed more than 1,500 cases interrogations and confessions. I have researched, written and published numerous peer-reviewed articles on interrogation and confession in scientific and legal journals. I have also authored books on these topics. A current copy of my Curriculum Vitae is attached to this Affidavit.
6. Since 1996, I have consulted on approximately seven-hundred and fifty (750) cases involving disputed interrogations and/or disputed confessions. I have testified as an expert witness in state, federal and/or military courts 134 times in 20 different states, including 10 times in the state of Washington.
7. I have been retained by Petitioner Jeffrey Taylor to evaluate his interrogation by the Mason County Sheriff's Department on March 21, 2003. I have reviewed the following documents: Mason County Sheriff's Office Officers Report; Declaration of probable cause; Miranda waiver; Confession statement; Trial testimony of Detective Jack Gardner (Pp. 118-146); and unpublished opinion of State of Washington v. Jeffrey Taylor (No. 30952-1-II). I have also spoken to Tyler Firkins and Michael Kelly about Mr. Taylor's recollection of his interrogation by Detective Gardener on March 21, 2003.
8. How police interrogate criminal suspects and elicit incriminating statements and confessions is a subject beyond common knowledge. Most people do not know that police detectives receive highly specialized training in psychological

interrogation techniques, what those techniques are or how they are designed to work. Most people also do not know why some interrogation methods are regarded as psychologically coercive, and most people do not know how and why some interrogation methods can cause factually innocent individuals to make incriminating statements. In fact, most people wrongly assume that an innocent person cannot be made to agree to or make false incriminating statements in response to psychological police interrogation. Most people also do not know that there are psychologically different kinds of false confession.

9. Police typically receive intensive interrogation training after they are promoted from patrol officer to detective and thereafter hone their interrogation skills through casework and additional training. Police are trained only to interrogate suspects whom they regard as guilty; that the guilty suspect will not make admissions or statements against interest unless the interrogator successfully persuades them; that the goal of interrogation is to move a suspect from denial to admission; and that innocent suspects do not make false incriminating statements or confessions. Suspects who are interrogated are thus typically presumed to be guilty, and any incriminating statements suspects make are thus typically presumed to be true.
10. Police are poorly trained about the phenomenon, causes, and varieties of psychologically induced false statements and confessions.
11. To understand how and why detectives can elicit false incriminating statements from the innocent, one has to understand the psychology of interrogation and confession. Police interrogation is a cumulative, structured and time-sequenced

process in which detectives draw on an arsenal of psychological techniques in order to overcome a suspect's denials and elicit incriminating statements, admissions and/or confessions. Interrogators use techniques that seek, first, to influence, persuade, manipulate and deceive suspects into believing that their situation is hopeless and, second, that second their best interest lies in complying with the interrogators' demands and making or agreeing to an incriminating account, admission and/or confession.

12. These then are typically the two stages of interrogation. In the first stage, interrogators typically accuse a suspect of committing the crime; accuse the suspect of lying if he does not admit to it; discredit or attack the suspect's denials as implausible, illogical or impossible; confront the suspect with real or alleged evidence of his guilt; and pressure the suspect to comply, often by telling him that this is his only opportunity to tell his side of the story. In the second stage of interrogation, detectives typically provide reasons or inducements for why a suspect is better off if he complies with the interrogators demand for admission or confession. Sometimes these inducements take the form of "scenarios" in which the interrogators portray the suspect as better off, or as mitigating his culpability, if he complies and gives a statement and being worse off, and aggravating his culpability, if he does not.
13. Psychological police interrogation can lead to factually innocent individuals to make or agree to completely false incriminating statements, admissions or confessions. Hundreds of interrogation-induced false confession have been documented in the scientific research literature. See Gisli Gudjonsson (2003),

THE PSYCHOLOGY OF INTERROGATION AND CONFESSION (John Wiley & Sons).

14. There are two different types of false confession. *Compliant* false confessions occur when an innocent individual knowingly makes or agrees to false incriminating statements, admissions or confessions in order to put an end to the interrogation. *Persuaded* false confessions occur when the police interrogation techniques have caused an innocent suspect to believe that he might have committed the crime despite having no memory of doing so.
15. A *Persuaded* false confession typically occurs when, after a series of accusations and denials, the interrogator convinces the suspect that it is possible he could have committed the alleged crime without remembering it and the suspect agrees with the interrogator's suggestion. This usually, but not always, happens after the interrogator has confronted the suspect with alleged evidence of his guilt that he claims is irrefutable and has suggested a theory of how the suspect could have had amnesia for the crime. Once suspect accepts the possibility that he could have committed the crime without remembering it, he tends to "confess" in equivocal, tentative and speculative language such as "I could have done [fill in the blank]" or "I probably did [fill in the blank]." This kind of hypothetical language reflects the suspect's own confusion – his belief, based on what the interrogator has told him, that he could have committed the crime without remembering it and yet his absence of any knowledge of having done so. No matter how hard the innocent suspect tries, he does not know any of the details of the crime and thus can only speculate about what he could or would have done (unless of course he has

inferred the correct answers from the interrogators or they have been explicitly suggested to him).

16. Incriminating statements, admissions and/or confessions are universally treated as damning and compelling evidence of guilt, and if false can, and often do, lead to the wrongful conviction of the innocent. See Richard Leo and Richard Ofshe (1998), "The Consequences of False Confessions," 88 *Journal of Criminal Law and Criminology*, 429-496; and Steve Drizin and Richard Leo (2004), "The Problem of False Confessions in the Post-DNA World," 82 *North Carolina Law Review*, 891-1007.
17. The only way to objectively resolve a dispute about what occurred during an interrogation is if the interrogation was electronically recorded. Many police agencies across the United States either voluntarily record their interrogations, or are required to record by law, precisely for this reason. In most wrongful conviction cases involving indisputable false admissions and/or confessions, the police did not record the interrogation.
18. Detective Jack Gardner's interrogation of Jeff Taylor was not recorded. According to Mr. Taylor, Detective Gardner repeatedly accused him of molesting KH, and Mr. Taylor repeatedly denied this accusation and proclaimed his innocence. Detective Gardner did not accept Mr. Taylor's denials, but instead continued to accuse him of the crime. At some point in the interrogation – which lasted approximately two hours according to Mr. Taylor -- Detective Gardner told Mr. Taylor that he had a friend in the Tacoma, Washington Police Department who stole a bunch of items but insisted that he did not remember doing it. At

some point, however, the friend was shown a security video showing that he had stolen the items – he was guilty of the crime even though he had no memory of doing so.

19. According to Mr. Taylor, Detective Gardner thereafter repeatedly suggested that Mr. Taylor, like Detective Gardner's friend, sexually molested KH even though he could not remember doing so. Detective Gardner then repeatedly asked Mr. Taylor whether he thought he *could* have done this and continued to attack Mr. Taylor's responses when Mr. Taylor answered NO. At some point, Mr. Taylor became confused and flustered and agreed that it was hypothetically possible that he committed the crime but clearly and repeatedly told Detective Gardner that he did not remember doing so.
20. In Mr. Taylor's written statement – which was written by Detective Gardner, not Mr. Taylor – it is stated that Mr. Taylor did not remember doing what he was being accused of but acknowledges the hypothetical possibility that something could have happened without his remembering it. In his trial testimony (P. 126), Detective Gardner stated: "I asked him 'is it possible this could have happened?' And at that point he [Jeff Taylor] says, "I guess it could have happened, or I did it, could have happened. But I just don't remember."
21. In my professional opinion Mr. Taylor's statements can neither be classified as admissions nor as confessions. Rather, they are ambiguous. I do not interpret them as incriminating because an alternative explanation is that Mr. Taylor had simply been pressured and manipulated by Detective Gardner into agreeing that it was *hypothetically* possible that he did something that he simply could not

remember. This is the exactly how *persuaded* false confessions come about – first the interrogator causes the suspect to doubt his memory, then the interrogator supplies an explanation for how the suspect could have committed the crime without remembering it, and then the suspect starts to speculate about how he could or would have committed the crime in the absence of any memory of doing so. Here, Mr. Taylor appears to have completed only one of these three steps – agreeing that it was hypothetically possible that he committed the crime but declaring that he did not remember doing so. In my professional opinion, such a hypothetical statement in the context of an accusatorial interrogation does not amount to an incriminating statement, admission or confession.

22. In addition, it is my opinion that Detective Gardner may have used psychologically coercive inducements, in the form of implicit threats and promises, to elicit Mr. Taylor's compliance. While we will never know whether this occurred due to Detective Gardner's failure to record the interrogation, Mr. Taylor's police-written statement indicates that he is willing to get help if it is determined that he touched KH and states that he is willing to go on probation if that is necessary to stay out of jail. Usually in an interrogation such statements occur when the interrogator suggests to the suspect that the only way he can get counseling and avoid jail is by admitting to the offense, but that if he fails to admit to the offense he will forego his opportunity to get counseling and instead go to prison. It bears repeating, however, that Detective Gardner's failure to record the interrogation prevents us from objectively knowing the context in which these statements were made, just as it prevents us from objectively

knowing the context in which Mr. Taylor's hypothetical statements (about the possibility of committing acts for which he declaratively stated that he had no memory) were made.

- 23. At the time of Mr. Taylor's trial in 2003, there were numerous experts on police interrogations and confessions who were available to consult with and, if necessary, testify on behalf of the defense.

Richard A. Leo

Richard A. Leo, Ph.D., J.D.

12/18/06

DATE

December, 2006

Richard A. Leo, Ph.D., J.D.

CURRICULUM VITAE

ADDRESSES

Professional Office

Richard A. Leo & Associates, Inc.
15 Ashbury Terrace
San Francisco, CA 94117

Phone: (415) 661-0162
FAX: (415) 661-0172
Email: rleo@usfca.edu

University Office

University of San Francisco
School of Law
2199 Fulton Avenue
San Francisco, CA 94117

(415) 422-6513
(415) 422-6433
rleo@usfca.edu

ACADEMIC EMPLOYMENT

7/06 - Present	Associate Professor of Law University of San Francisco
7/01 – 6/06	Associate Professor of Criminology, Law and Society and Associate Professor of Psychology and Social Behavior University of California, Irvine
7/97 - 6/01	Assistant Professor of Criminology, Law and Society and Assistant Professor of Psychology and Social Behavior University of California, Irvine
8/94 - 5/97	Assistant Professor of Sociology and Adjunct Professor of Law University of Colorado, Boulder

EDUCATION

8/90 - 8/94	Ph.D. in Jurisprudence and Social Policy University of California, Berkeley
-------------	--

8/92 - 5/94	J.D., Boalt Hall School of Law University of California, Berkeley
9/87 - 6/89	M.A. in Sociology University of Chicago
9/81 - 5/85	A.B. in Sociology, with Honors University of California, Berkeley

ACADEMIC SPECIALIZATION

Criminal Procedure and Criminal Law
Criminology and Criminal Justice
Social Psychology
Law and Social Science
Police Organization and Behavior

RESEARCH SPECIALIZATION

Police Interrogation
False Confessions
Miscarriages of Justice
Psychology and Law
Coercive Persuasion

AWARDS, DISTINCTIONS, AND HONORS (SELECTED)

Soros Senior Justice Fellowship (2004-2005). Open Society Institute. Soros Foundation. New York, N.Y.

The Saleem Shah Career Achievement Award (2000). Given by The American Psychology-Law Society (Division 41 of the American Psychological Association) and the American Academy of Forensic Psychology for early career excellence and contributions to psychology, law and public policy.

The Ruth Shonle Cavan Young Scholar Award (1999). Given by The American Society of Criminology to recognize outstanding scholarly contributions to the discipline of criminology.

Distinguished Assistant Professor Award for Research (2000-2001). University of California, Irvine. Conferred by the Academic Senate of the University of California, Irvine for distinguished research.

Member, Scientific Advisory Board. National Center for Reason and Justice (3/02-Present).

Fellow, Institute of Legal Research, Criminal Justice Program. University of California, Berkeley, Boalt Hall School of Law (8/05-Present).

Affiliate, Center on Police Practices and Community (COPPAC). University of California, Santa Barbara Institute of Social, Behavioral & Economic Research (7/01-Present).

Fellow, *Earl Warren Legal Institute*. University of California, Berkeley, Boalt Hall School of Law. Criminal Justice Program (10/98-8/05).

Visiting Scholar, Boalt Hall School of Law, University of California, Berkeley (8/03-8/05).

Visiting Professor of Sociology, Nankai University, Tianjin, China (10/96).

PUBLICATIONS

BOOKS

POLICE INTERROGATION AND AMERICAN JUSTICE. Under Contract with Harvard University Press. Expected Publication Date: 2007.

WEB OF LIES: MURDER AND INJUSTICE IN VIRGINIA (with Tom Wells). Under Contract with The New Press. Expected Publication Date: 2008.

THE MIRANDA DEBATE: LAW, JUSTICE AND POLICING (with George C. Thomas III, Eds). (Boston: Northeastern University Press, 1998). ISBN #: 1-55553-338-8.

THE AMERICAN CRIMINAL JUSTICE SYSTEM (Ed). (Simon & Schuster, 1997). ISBN #: 0-536-00826-4.

ARTICLES, BOOK CHAPTERS AND OTHER PUBLICATIONS

2007 "Police Interviewing and Interrogation: A Self-report Survey of Police Practices and Beliefs" (with Saul M. Kassin, Christian A. Meissner, Kimberly D. Richman, Lori H. Colwell, Amy Leach, and Dana LaFon). Forthcoming in *Law and Human Behavior*.

2007 "Research and Expert Testimony on Interrogation and Confessions" (with Mark Costanzo). In Mark Costanzo, Dan Krauss and Kathy Pezdek, Eds. (2007). *Expert Psychological Testimony For The Courts*. (New Jersey: Erlbaum). Pp. 69-98.

- 2006 “Bringing Reliability Back In: False Confessions and Legal Safeguards in the Twenty-First Century” (with Steven Drizin, Peter Neufeld, Brad Hall and Amy Vatner). *Wisconsin Law Review*. Volume 2006, No. 2. Pp. 479-539.
- 2006 “Strategies for Preventing False Confessions and Their Consequences” (with Deborah Davis). In Martin Kebbell and Graham Davies, Eds. (2006). *Practical Psychology for Forensic Investigations and Prosecutions*. (New York: John Wiley & Sons). Pp. 121-149.
- 2006 “Psychological Weapons of Influence: Applications in the Interrogation Room” (with Deborah Davis). *Nevada Lawyer*. Pp. 14-19.
- 2005 “Re-Thinking the Study of Miscarriages of Justice: Developing a Criminology of Wrongful Conviction.” *Journal of Contemporary Criminal Justice*. Vol. 21, No. 3. Pp. 201-223.
- 2005 “Interrogating Guilty Suspects: Why Sipowicz Never Has to Admit He is Wrong” (with George C. Thomas III). In Glenn Yeffeth, Eds (2005). *What Would Sipowicz Do?: Race, Rights and Redemption* (Dallas: BenBella Books). Pp. 35-46.
- 2004 “The Problem of False Confessions in the Post-DNA World” (with Steve Drizin). *North Carolina Law Review*. Volume 82. No. 3. Pp. 891-1007.
- 2004 “The Third Degree and the Origins of Psychological Interrogation in America.” In Daniel Lassiter, Ed. (2004). *Interrogations, Confessions and Entrapment*. Perspectives in Law and Psychology Series, Volume 20 (New York: Kluwer Academic/Plenum Publishers). Pp. 37-84.
- 2004 “Beating a Bum Rap.” *Contexts*. Vol. 3. No. 3. Pp. 68-69.
- 2002 "The Effects of *Miranda v. Arizona*: Embedded in Our National Culture?" (with George C. Thomas III). In Michael Tonry, Ed. *Crime and Justice – A Review of Research, Crime and Justice*. Vol. 29. (Chicago: University of Chicago Press). Pp. 203-271.
- 2002 "*Miranda*, Confessions and Justice: Lessons for Japan?" In Malcolm Feeley and Setsuo Miyazawa, Eds. (2002). *The Japanese Adversary System in Context: Controversies and Comparisons* (London: Palgrave). Pp. 200-219.
- 2002 “Interrogation and Confession.” In Richard A. Wright, Ed., *The Encyclopedia of Criminology*. (London: Fitzroy Dearborn Publishers).
- 2002 “Interrogation.” In David Levinson, Ed. *The Encyclopedia of Crime & Punishment* (Great Barrington, MA: Berkshire Reference Works). Pp. 927-931.

- 2001 "Questioning the Relevance of *Miranda* in the Twenty-First Century." *The Michigan Law Review*. Volume 99. No. 5. Pp. 1000-1029. (Cited by the United States Supreme Court in *Missouri v. Seibert*, 124 S. Ct. 2601 (2004)).
- 2001 "The Truth About False Confessions and Advocacy Scholarship" (with Richard Ofshe). *The Criminal Law Bulletin*. Volume 37, No. 4. Pp. 293-370.
- 2001 "False Confessions: Causes, Consequences, and Solutions." In Sandra D. Westervelt and John A. Humphrey, Eds. (2001). *Wrongly Convicted: Perspectives on Failed Justice* (Newark: Rutgers University Press). Pp. 36-54.
- 2001 "Police Interrogation and False Confessions in Rape Cases." In Roy Hazelwood and Ann Burgess, Eds. *Practical Rape Investigation: A Multidisciplinary Approach*. 3rd Edition. (Boca Raton, Florida: CRC Press). Pp. 233-241.
- 2001 "Confessions" in Gillian Lindsey and Jonathan Michie, Eds. *Reader's Guide to the Social Sciences*. Volume 1. (London: Fitzroy Dearborn Publishers). Pp. 266-267.
- 2000 "Autism, Rape and Arson" (with Ann Burgess, David Elkovitch, Jay Jackman). *Sexual Assault Report*. Volume 4, Number 2. November/December 2000. Pp. 17, 28-30.
- 1999 "Adapting to *Miranda*: Modern Interrogators' Strategies For Dealing With The Obstacles Posed By *Miranda*" (with Welsh S. White). *Minnesota Law Review*. Volume. 84. No. 2. Pp. 397-472.
- 1998 "Using the Innocent to Scapegoat *Miranda*: Another Reply to Paul Cassell" (with Richard Ofshe). *The Journal of Criminal Law and Criminology*. Volume 88, No. 2. Pp. 557-577.
- 1998 "The Consequences of False Confessions: Deprivations of Liberty and Miscarriages of Justice in the Age of Psychological Interrogation" (with Richard Ofshe). *The Journal of Criminal Law and Criminology*. Volume 88, No. 2. Pp. 429-496.
- 1998 "*Miranda* and the Problem of False Confessions." In Richard A. Leo and George C. Thomas, III. Eds. *The Miranda Debate: Law, Justice and Policing* (Boston: Northeastern University Press). Pp. 271-282.
- 1998 "Civil Rights and Civil Liberties: Videotaping the Police." *Criminal Justice Ethics*. Volume 17, Number 1. Winter/Spring 1998. Pp. 44-45.
- 1998 "False Confessions and Miscarriages of Justice." *The Defender* (January, 1998). Pp. 3-6.
- 1998 "Witness for False Confession No Expert." *The Forensic Echo: The Monthly Newsmagazine of Psychiatry, Law & Public Policy*. Vol II., No. 3 (February, 1998).

Pp. 14-15.

- 1997 "The Social and Legal Construction of Repressed Memory." *Law & Social Inquiry*, Volume 22, Number 3. Pp. 653-693.
- 1997 "Missing the Forest for the Trees: A Response to Paul Cassell's 'Balanced Approach' to the False Confession Problem" (with Richard Ofshe). *Denver University Law Review*. Volume 74, Number 4. Pp. 1135-1144.
- 1997 "The Decision to Confess Falsely: Rational Choice and Irrational Action" (with Richard Ofshe). *Denver University Law Review*. Volume 74, Number 4. Pp. 979-1122.
- 1997 "The Social Psychology of Police Interrogation: The Theory and Classification of True and False Confessions" (with Richard Ofshe). *Studies in Law, Politics & Society*, Volume 16. Pp. 189-251.
- 1997 "Some Thoughts about Police and Crime." In Lawrence Friedman and George Fisher, Eds. (1997). *The Crime Conundrum: Essays on Criminal Justice* (Boulder: Westview Press). Pp. 121-125.
- 1997 "False Confessions and Miscarriages of Justice Today." In Richard A. Leo, Ed. (1997). *The American Criminal Justice System* (Simon & Schuster). Pp. 169-206.
- 1997 "A Historical Overview of Confession Law." In Richard A. Leo, Ed. (1997). *The American Criminal Justice System* (Simon & Schuster). Pp. 151-160.
- 1997 "The Criminal Justice System: An Overview." In Richard A. Leo, Ed. (1997). *The American Criminal Justice System* (Simon & Schuster). Pp. 1-20.
- 1996 "Police Scholarship for the Future: Resisting the Pull of the Policy Audience." *Law & Society Review*, Volume 30, Number 4. Pp. 865-879.
- 1996 "The Impact of *Miranda* Revisited." *The Journal of Criminal Law and Criminology*. Volume 86, Number 3. Pp. 621-692.
- 1996 "*Miranda's* Revenge: Police Interrogation as a Confidence Game." *Law & Society Review*, Volume 30, Number 2. Pp. 259-288.
- 1996 "The Ethics of Deceptive Research Roles Reconsidered: A Reply to Kai Erikson." *The American Sociologist*. Volume 27, Number 1. Pp. 122-128.
- 1996 "Inside the Interrogation Room." *The Journal of Criminal Law and Criminology*. Volume 86, Number 2. Pp. 266-303.
- 1995 "Trial and Tribulations: Courts, Ethnography, and the Need for an Evidentiary Privilege

- for Academic Researchers." *The American Sociologist*. Volume 26, Number 1. Pp. 113-134.
- 1994 "Police Interrogation and Social Control." *Social and Legal Studies: An International Journal*, Volume 3, No. 1. March, 1994. Pp. 93-120.
- 1993 "The Yale White-Collar Crime Project: A Review and Critique" (with David T. Johnson). *Law and Social Inquiry*, Volume 18, No. 1. Winter, 1993. Pp. 63-99.
- 1992 "From Coercion to Deception: The Changing Nature of Police Interrogation in America." *Crime, Law, and Social Change: An International Journal*. Volume 18, Nos. 1-2. September, 1992. Pp. 35-59.
- 1992 "The Ethics of Deceptive Interrogation" (with Jerome H. Skolnick). *Criminal Justice Ethics*. Volume 11, Number 1. Winter/Spring 1992. Pp. 3-12.

REPRINTED ARTICLES AND BOOK CHAPTERS

- 2006 "Inside the Interrogation Room." In Jeannine Bell, Ed. (2006), *Police and Policing Law*. Ashgate Publishing, Ltd. Pp. 99-136. Also reprinted in Joshua Dressler and George C. Thomas III (1999), *Cases and Materials on Criminal Procedure* (West Publishing). Pp. 566-568, 598, 673-676.
- 2005 "The Ethics of Deceptive Interrogation" (with Jerome H. Skolnick). In Michael C. Braswell, Belinda R. McCarthy and Bernard J. McCarthy (2005) *Justice, Crime and Ethics*. Fifth Edition. Also reprinted in Pp. 69-84; and Jeffrey Reiman (2000), *Criminal Justice Ethics* (New York: Prentice-Hall); *The Leadership Journal* (January-March, 1993). Pp. 23-27; (Cincinnati: Anderson Publishing Co.); *The Boalt Hall Transcript*, Spring, 1993. Pp. 21-23; and revised and expanded as a chapter in John Bizzack (Ed), *Issues In Policing: New Perspectives*. (Lexington: Autumn House Publishing). Pp. 75-95.
- 2004 "The Consequences of False Confessions" (with Richard Ofshe). In Alisa Smith (2004). *Law, Social Science, and the Criminal Courts* (Durham: Carolina Academic Press). Pp. 286-295.
- 2002 "Questioning the Relevance of *Miranda*." In Yale Kamisar, Wayne LaFave, and Jerold Israel. *Modern Criminal Procedure: Cases, Comments, Questions*. Ninth Edition. (St. Paul, MN: West Publishing).
- 2001 "Trial and Tribulations: Courts, Ethnography, and the Need for an Evidentiary Privilege for Academic Researchers." In Robert Emerson, *Contemporary Field Research: Perspectives and Formulations* (Prospect Heights: Waveland Press). 2nd Edition. Pp. 260-279.

- 1998 "The Yale White-Collar Crime Project: A Review and Critique" (with David T. Johnson). In Michael Levi, Ed., *Fraud: Organizational, Motivation, and Control*, Volume II (England: Ashgate Publishing Ltd). Pp. 51-88.
- 1998 "The Impact of *Miranda* Revisited." In Richard A. Leo and George C. Thomas, III., Eds. *The Miranda Debate: Law, Justice and Crime Control* (Boston: Northeastern University Press). Pp. 208-221.
- 1998 "From Coercion to Deception: The Changing Nature of Police Interrogation in America." In Richard A. Leo and George C. Thomas, III., Eds. *The Miranda Debate: Law, Justice and Crime Control* (Boston: Northeastern University Press). Pp. 65-74.

CITATION OF RESEARCH BY APPELLATE COURTS

Murray v. Earle. 405 F. 3d 278 (2005). United States Court of Appeals for the Fifth Circuit.

Singletary v. Fischer. 365 F. Supp.2d 328 (2005). United States District Court for the Eastern District of New York.

United States v. Bresnahan, 2005 CAAF Lexis 1105. United States Court of Appeals for the Armed Forces.

State v. Jerrell C.J. (In re Jerrell C.J.). 699 N.W.2d (2005). Supreme Court of Wisconsin.

Scott v. State, 165 S.W.3d 27 (2005). Court of Appeals of Texas, Third District, Austin.

Missouri v. Seibert, 124 S. Ct. 2601 (2004). United States Supreme Court.

West v. State. 876 So. 2d 614 (2004). Court of Appeal of Florida, Fourth District.

State v. Cook, 179 N.J. 533 (2004). Supreme Court of New Jersey.

Weeks v. State. 140 S.W.3d 39 (2004). Supreme Court of Missouri.

Commonwealth v. DiGiambattista. 442 Mass. 423 (2004). Supreme Judicial Court of Massachusetts.

United States v. Villalba-Alvarado. 345 F.3d 1007 (2003). United States Court of Appeals for the Eighth Circuit.

State v. Mauchley. 67 P.3d 477 (2003). Supreme Court of Utah.

State v. Patton. 362 N.J. Super. 16 (2003). Superior Court of New Jersey, Appellate Division.

United States v. Rodgers. 186 F.Supp.2d 971 (2002). United States District Court for the Eastern District of Wisconsin.

State v. Conger. 652 N.W.2d 704 (2002). Supreme Court of Minnesota.

United States v. Astello. 241 F.3d 965 (2001). United States Court of Appeals for the Eighth Circuit.

Cherrix v. Braxton. 131 F. Supp. 2d 756 (2001). United States District Court for the Eastern District of Virginia.

Regina v. Oickle. 147 C.C.C. (3d) 321. Supreme Court of Canada.

Hearndon v. Graham. 767 So. 2d 1179 (2000). Supreme Court of Florida.

People v. Philips, 180 Misc.2d 934 (1999). Supreme Court of New York, Queens County.

Moriarty v. Garden Sanctuary Church of God, 334 S.C. 150 (1999). Court of Appeals of South Carolina.

State v. Ruttenberger. 984 P.2d 1009 (1999). Supreme Court of Utah.

State v. Meade. 327 Ore. 335 (1998). Supreme Court of Oregon.

MEDIA COVERAGE AND MEDIA APPEARANCES

Los Angeles Times (1996, 1998-2000, 2003-2004, 2006)
Missoula Independent (2006)
Oklahoma City Journal Record (2006)
Atlanta Journal-Constitution (2006)
Wisconsin State Journal (2002, 2005-2006)
Virginian-Pilot (2002, 2006)
Palm Beach Post (2006)
Cox News Service (2006)
Fulton County Daily Report (2006)
Vermont Brattleboro Reformer (2005)
New York Law Journal (2005)
Louisville Courier-Journal (1997, 2005)
Chronicle of Higher Education (2005)
Newsday (1997, 1999, 2005)
San Diego Union-Tribune (1997-1998; 2003-2004)
New York Times (1998, 2000-2004)
Winston Salem Journal (2004)
Salon.Com (2006)
Oprah Magazine (2002, 2006)
New York Law Journal (2006)
Connecticut Law Tribune (2006)
Richmond-Times Dispatch (2006)
National Law Journal (2006)
ABC News (2006)
Business Wire (2006)
San Mateo County Times (2006)
Tennessean (2006)
California Lawyer (2005)
Arizona Republic (2005)
Chicago Reader (2005)
Court TV (2004-2005)
Legal Times (1996, 2004)
Village Voice (2004)
Orange County Register (2004)

San Francisco Recorder (2004)
Fort Lauderdale Sun-Sentinel (2002, 2004)
Pittsburgh Post-Gazette (2001-2002, 2004, 2006)
Chicago Tribune (1998, 2000, 2003)
Rochester Democrat and Chronicle (1999, 2004)
Amnesty International Magazine (2003)
Arts & Entertainment Channel (2003)
Orange County Register (2003)
Birmingham Post-Herald (2003)
Milwaukee Journal Sentinel (1999, 2002)
National Public Radio, This American Life (2002)
San Jose Mercury News (2000, 2002)
Austin American-Statesman (2002)
FBI Law Enforcement Bulletin (2002)
St. Louis Post-Dispatch (1998, 2001)
Detroit Free Press (1997, 2001)
Charleston Post and Courier (1997, 2001)
Minnesota Star Tribune (2001)
Dallas Morning News (1997-1998, 2000)
Chicago Daily Law Bulletin (2000)
Syracuse Post-Standard (2000)
Fort-Worth Star Telegram (2000)
Ascribe Newswire (2000)
National Public Radio (1999)
American Bar Association Journal (1999)
New York Law Journal (1999)
San Francisco Chronicle (1999)
Riverside Press-Enterprise (1997, 1998)
Hartford Courant (1997-1998)
Washington Post (1998, 1999)
New Orleans Times-Picayune (1998)
Raleigh News & Observer (1998)
Maury Povich Show (1997)
Detroit Daily News (1997)
New York Post (1997)
Memphis Commercial Appeal (1997)
Vancouver Columbian (1997)
Orlando Sentinel (1997)
Gary Post-Tribune (1997)
Wilmington News Journal (1997)
Mobile Register (1997)
Charleston Gazette-Mail (1997)
Wheeling Sunday News-Register (1997)
Columbus Disptach (1997)
Columbus Leger-Enquirer (1997)

Hayward Daily Review (2004)
Modesto Bee (2000, 2003)
Miami Herald (2002-2003)
Law and Order (2003)
CNN (2003)
USA Today (2003)
San Antonio News-Express (2003)
Toronto Star (2003)
Copley News Service (2003)
Seattle Times (1998, 2003)
Forensic Files (2001-2002)
Harpers Magazine (2002)
Deseret Morning News (2002)
San Mateo County Times (2002)
Capital Times (2002)
Boston Globe (1997, 2000-2001)
Port Huron Times Herald (2001)
Grand Rapids Press (2001)
American Prospect (2000)
San Francisco Examiner (2000)
Washington Times (2000)
Reason (2000)
University Wire (2000)
Nation (1999)
Chicago Magazine (1999)
Seattle Post-Intelligencer (1999)
Playboy Magazine (1999)
Federal News Service (1999)
U.S. News & World Report (1998)
Chicago Sun-Times (1998)
Baltimore Sun (1998, 1999)
Geraldo Rivera Live (1997)
Philadelphia Inquirer (1997)
Denver Post (1997)
New York Daily News (1997)
Newark Star-Ledger (1997)
Orange County News (1997)
Indianapolis News (1997)
Morristown Daily Record (1997)
Belleville News-Democrat (1997)
Greenville News (1997)
Cleveland Plain Dealer (1997)
Everett Herald (1997)
Augusta Chronicle (1997)
Macon Telegraph (1997)

Worcester Telegram (1997)
Contra Costa Times (1997)
Canton Repository (1997)
Tacoma News Tribune (1997)
Bridgewater Courier-News (1997)
Hackensack Record (1997)
Shreveport Times (1996-1997)

Scranton Times (1997)
Dayton Daily News (1997)
Eugene Register-Guard (1997)
Salem Statesman Journal (1997)
Trenton Times (1997)
Daily Camera (1995, 1997)
New Jersey Law Journal (1996)

PRESENTATIONS AT SCIENTIFIC AND ACADEMIC MEETINGS

The American Psychology-Law Society (2000, 2005-2006)
The Association for Psychological Science (2006)
The Law and Society Association (1992-1995, 1997-1998, 2002-2003, 2005)
The American Association of Law Schools (2000, 2005)
The American Society of Criminology (1991-2000, 2002, 2004)
Psychology & Law International, Interdisciplinary Conference (2003)
The American Psychological Association (2000-2001)
The Society for the Study of Social Problems (2001)
The American Sociological Association (1991, 1994-1996, 1998)
The Academy of Criminal Justice Sciences (1998)
The Pacific Sociological Association (1995-1996)
The Western Society of Criminology (1994)

PRESENTATIONS AT UNIVERSITIES

The University of Colorado, Boulder, School of Law (1997, 2006)
Harvard University School of Law (2006)
U.C.L.A. School of Law (2006)
University of San Francisco School of Law (2006)
Seattle University Law School (2005)
University of Wisconsin Law School (2005)
University of Chicago Law School (2005)
Washington University School of Law (2005)
Loyola University School of Law (2005)
University of California, Irvine (1996-1997, 1999-2001, 2003, 2005)
Claremont McKenna College (2000, 2005)
University of California, Berkeley School of Law (1991, 1998, 2004-2005)
University of Santa Clara, School of Law (2004)
University of Pittsburgh, School of Law (2004)
Golden Gate University, School of Law (2004)
Cardozo Law School, Yeshiva University (2001, 2004)
University of California, San Diego, Department of Psychology (2002)
California State University, Northridge, Department of Sociology (2002)

California Western School of Law (January, 2002)
University of Michigan, Ann Arbor School of Law (2000)
University of Washington, School of Law (2000)
University of Southern California, School of Law (1999)
University of California, Santa Barbara, Department of Psychology (1999)
Northwestern University School of Law (1998)
Wayne State University, The Center for Legal Studies (1998)
The University of Washington, Seattle, Department of Sociology (1998)
The University of Denver College of Law (1997)
The University of Colorado, Boulder, Department of Sociology (1993, 1995-1997)
Chinese People's Public Security University, Dept. of Criminology, Beijing, China (1996)
Tsingua University, School of Law, Beijing, China (1996)
Seton Hall University Law School (1996)
University of Delaware, Newark, Department of Legal Studies (1995)
Northern Arizona University, Department of Sociology (1995)
University of Minnesota, Minneapolis, Department of Sociology (1995)
University of California, Los Angeles, Department of Sociology (1994)

PRESENTATIONS TO LAW ENFORCEMENT

Miami Beach Police Department. Miami Beach, FLA. Full-day training course (2003)

Long Beach Police Department. Long Beach, CA (2002)

Broward County Sheriff's Office. Ft. Lauderdale, Florida. Three-day training course for investigators (2002)

Cyprus Police Training Program. Ministry of Justice and Public Order of the Republic of Cyprus. Nicosia, Cyprus. Full-day Training Session, (2000)

Law Enforcement Coordinating Committee for the Fifth Circuit. San Antonio, TX. Training Seminar (2000)

Half-day training course for law enforcement officers. Sponsored by Goebel & Vigen: Clinical, Forensic and Organizational Psychology (Approved for Continuing Education Credit). Shreveport, Louisiana (2000)

Supreme People's Procuratorate of the People's Republic of China." Beijing, China (1996)

The Hayward Police Department, Criminal Investigation Division. Hayward, CA (1993)

PRESENTATIONS TO THE JUDICIARY

Northern District of California Judicial Conference, Ninth Circuit (2004)
The Advanced Judicial Academy for Illinois Judges.” Champaign, Illinois (2003)
The National Judicial Institute. Victoria, British Columbia (2003)
National Judicial Institute. Ottawa, Ontario. Canada (2002)

PRESENTATIONS TO OTHER PROFESSIONAL ASSOCIATIONS

San Mateo County Private Defenders Association (2004, 2006)
National Child Abuse Defense & Resource Center (2006)
California Attorneys for Criminal Justice (2001, 2003, 2005)
Solano County Bar Association (2004)
Los Angeles County Bar Association (2004)
National Defender Investigation Association Western Regional Conference (2004)
Santa Clara County Public Defender’s Office (2004)
Habeas Corpus Resource Center. San Francisco, CA (2003)
San Francisco Public Defenders’ Office (2003)
San Diego Psychology-Law Society (2003)
California Public Defenders Association (2002)
Spokane Criminal Defense Attorneys (2002)
Naval Justice School (Prosecutors). San Diego, CA (2002)
Trial Defense Service Conference, United States Army (2001)
The Illinois Association of Criminal Defense Lawyers (2001)
Wisconsin Public Defender Conference (2001)
The National Association of Criminal Defense Attorneys, Minneapolis, MN (2001)
New Mexico Criminal Defense Lawyers Association (2001)
Los Angeles Public Defender’s Office (2001)
United States Air Force, Travis Air Force Base (2001)
San Diego County Public Defenders' Office (2000)
Orange County Public Defender's Office (2000)
West Virginia Public Defender Conference (2000)
Mississippi Public Defenders (May, 2000)
Goebel & Vigen, Shreveport, Louisiana, (2000)
United States Air Force, Randolph Air Force Base, San Antonio, Texas (2000)
Federal Defenders of San Diego, Inc (2000)
Indiana Public Defender Council (1999)
The Colorado State Public Defenders' Association (1999)
The Federal Defender Training Group, Washington, D.C (1999)
National Association of Criminal Defense Attorneys (St. Louis, MO, 1999)
Criminal Defense Attorneys of Michigan (1999)
Arizona Attorneys for Criminal Justice (1998)
Federal Public Defenders (Atlanta, GA, 1998)
Federal Defender Investigators and Paralegals (San Diego, CA, 1998)

The Justice Committee (Salem, MA, 1997)

LEGISLATIVE AND EXECUTIVE TESTIMONY

California Commission on the Fair Administration of Justice (2006)

Wisconsin Criminal Justice Study Commission (2006)

The Illinois House of Representatives (1999)

GRANTS

National Science Foundation (2005-2006)

University of California, Irvine. (1998-2002)

University of Colorado, Boulder (1994-1996)

MacArthur Foundation (1992-1993)

COURSES TAUGHT

LAW

Criminal Law

Criminal Procedure (Spring, 2007)

Wrongful Convictions (Spring, 2007)

GRADUATE

Miscarriages of Justice

Police Organization and Behavior

Police Scandal and Misconduct

Topics in Criminology

UNDERGRADUATE

Introduction to Criminology, Law and Society

Interrogation, Confession and the Law

Miscarriages of Justice

Influence, Memory and the Law

Topics in Criminology

Criminal Justice in the United States: An Introduction

The American Criminal Justice System: An Advanced Overview

Critical Thinking

Sociology of Law

Police, Law and Society

Police Interrogation and False Confessions
Sociology of White-Collar Crime

FORMAL POLICE INTERROGATION TRAINING

- 3/93 Attended and participated in one week advanced interrogation training course taught by the Federal Law Enforcement Training Center (FLETC). Glynco, Georgia. Received certificate.
- 1/92 Attended and participated in one week interrogation training course taught by the San Mateo Community College, Administration of Criminal Justice Department. San Mateo, California. Received certificate.
- 11/91 Attended and participated in two day advanced interrogation training course taught by Reid & Associates. San Francisco, California. Received certificate.
- 3/91 Attended and participated in three day introductory interrogation training course taught by Reid & Associates. Los Angeles, California. Received certificate.
- 12/90 Attended one-day in-house interrogation training course for Sergeants. Criminal Investigation Division, Oakland Police Department. Alameda, California.

OTHER LAW ENFORCEMENT RELATED SERVICE WORK

- 10/01-6/03 Member, Academic Education and Action Research Advisory Committee to the Chief of Police, Long Beach Police Department. Long Beach, CA.
- 5/84-8/84 Voluntary Internship. San Francisco District Attorney's Office, Consumer Fraud Division. San Francisco, CA.

PROFESSIONAL ACTIVITIES (SELECTIVE)

Peer Reviewer, Journals:

Legal and Criminological Psychology (2006)
Law and Human Behavior (2006)
Journal of Criminal Justice (2006)
Journal of Law, Economics and Organization (2005)
Law and Human Behavior (2005)
Justice Quarterly (1998, 2000, 2005)
Law & Social Inquiry (1997-1998; 2001; 2005)

Psychological Science in the Public Interest (2004)
Law, Culture and the Humanities (2004)
Queen's Law Journal (2004)
Psychological Science (2004)
Criminal Justice Ethics (2003)
Law & Society Review (1996-2000; 2002-2003)
Criminology (2001-2002)
Journal of Criminal Justice (2000)
Sociological Forum (1998-1999)
The Journal of Research in Crime and Delinquency (1995, 1999)
The Sociological Quarterly (1998)
Studies in Law, Politics and Society (1996)
The Journal of Criminal Law and Criminology (1996)
Social Problems (1996)
The American Journal of Sociology (1995)

Peer Reviewer, Book Manuscripts:

Cornell University Press (2006)
University of Michigan Press (2005)
AltaMira Press (2004)
University of Chicago Press (2004)
Academic Press (2003)
Aspen Publishers, Inc. (2000)

PROFESSIONAL MEMBERSHIPS

American Society of Criminology
American Psychology-Law Society
American Psychological Association
Association for Psychological Science
Law and Society Association
American Sociological Association
Academy of Criminal Justice Sciences

CONSULTATIONS (SELECTIVE)

Riverside County Sheriff's Association (2006)
Wisconsin Innocence Project (2006)
California Commission on the Fair Administration of Justice (2006)
Wisconsin Criminal Justice Study Commission (2006)
Centurion Ministries, Princeton, NJ (1998-Present)
Cochran, Scheck and Neufeld. New York, N.Y. (2003-Present)

MacArthur Justice Center, University of Chicago Law School. (1999; 2005-2006)
Solicitor's Office, State of South Carolina, Seventh Judicial Circuit (2005)
Wyoming Association of Correctional Employees (2005)
Northern California Innocence Project, San Francisco, CA (2004-2005)
Innocence Project Northwest, University of Washington, Seattle (1998-1999; 2005-2006)
California State Attorney General's Office, San Diego, CA (2002-2004)
Equal Justice Institute, Montgomery, ALA (2001-2004)
Beverly Monroe Coalition for Justice, Richmond, VA (1997-2003)
Sixty Minutes, New York, NY (2003)
Miami Beach, Police Department. Miami Beach, FLA (2003)
Broward County Sheriff's Office, Ft. Lauderdale, FLA (2002)
Innocence Project, Osgoode Hall Law School, York University. Toronto, Ontario (2000)
Innocence Project, Cardozo Law School. New York, NY (1999-2000)
Illinois State Legislature, Task Force on Recording of Interrogations (1999-2000)

CONSULTATION

N = 727 criminal and civil cases on which I have served as a consultant

40 States + District of Columbia (Since 1996)

COURT TESTIMONY

N=134 Times, 20 States (Since 1997)

(130 Criminal Cases, 4 Civil Cases)

State Courts: 121 Times

Federal Courts: 8 (Washington (2 X); Virginia (2X); Kentucky (2 X); Los Angeles, CA;
San Jose, CA)

Military Courts: 5 Times (Alabama, Georgia, Florida, Hawaii, California)

80 Jury and/or Bench Trials

- 1) California (57)
- 2) Colorado (7)
- 3) Washington (3)
- 4) Connecticut (2)
- 5) Oregon (2)
- 6) Alabama (1)

- 7) Florida (1)
- 8) Kansas (1)
- 9) Texas (1)
- 10) South Carolina (1)
- 11) Hawaii (1)
- 12) Pennsylvania (1)
- 13) Missouri (1)
- 14) Virginia (1)

46 Suppression Hearings

- 1) California (32)
- 2) Washington (5)
- 3) Kentucky (2)
- 4) Georgia (1)
- 5) New York (1)
- 6) Connecticut (1)
- 7) Texas (1)
- 8) Alabama (1)
- 9) Iowa (1)
- 10) Wisconsin (1)

8 Post-Conviction Hearings

- 1) Washington (2)
- 2) Indiana (1)
- 3) Missouri (1)
- 4) Connecticut (1)
- 5) Virginia (1)
- 6) Alabama (2)

References Available on Request

IN THE COURT OF APPEALS, DIVISION II

IN RE THE PRP OF

Jeffrey M. Taylor,

)
)
)
)
)
)
)
)
)
)
)

Court of Appeals No. _____
Mason County Superior Court
No. 03-1-00200-3

DECLARATION OF KIMBERLY
TAYLOR

1. I am over the age of 18 and competent to testify in this matter.
2. I have been married to the Petitioner since September of 1996.
3. After Jeffrey's arrest, and prior to trial in this matter, Jeffrey's attorney, Mr. Sergi, made very little effort to communicate with Jeffrey and myself regarding the defense in this case. Mr. Sergi spoke with me over the telephone on only two brief occasions, and he and his investigator met with me briefly two days prior to trial beginning. Jeffrey and I both wished to discuss his defense and participate in the defense, but Mr. Sergi would not communicate with us.
4. Prior to trial I informed Mr. Sergi that it would be helpful for our defense if he would obtain important documentary evidence from Jeffrey's employer, Gargoyles, Inc., in Kent, Washington. Specifically, I felt it would be important to obtain official company payroll time records of the days, and times of the day that Jeffrey was in Kent, working. I

felt that this could have been used at trial to show Jeffrey's whereabouts and the lack of opportunity for him to have committed the crimes alleged against him. Jeffrey and I had a 2 hour commute from our employment in S. King County to Star Lake, where the crimes allegedly occurred, and these records could have shown that we were not at the home at the times KH claims to have been sexually assaulted.

5. When I told Mr. Sergi of this and asked him to request these records, he told me unequivocally, "I'm not going to get them. If you want them, you can get them." After Mr. Sergi showed himself to be this disinterested in our defense and assisting us, I took it upon my self to procure the records. I received them from the company along with a cover letter signed by Elwira Vicky Wesolowski.
6. I gave those records and the cover letter to Mr. Sergi. He did nothing with them. He did not attempt to use them at trial, and he did not call Ms. Wesolowski as a witness at trial.

SIGNED THIS 18TH DAY OF DECEMBER, 2006



Kimberly Taylor

IN THE COURT OF APPEALS, DIVISION II

IN RE THE PRP OF

Jeffery M. Taylor,

)
)
)
)
)
)
)
)
)
)
)

Court of Appeals No. _____
Mason County Superior Court
No. 03-1-00200-3

DECLARATION OF FRANK
SEBASTIAN

1. I am over the age of 18 and competent to testify in this matter.
2. I am a Washington Licensed Private Investigator, 1734.
3. I was retained by Michael Kelly and the law firm of Van Siclén, Stocks & Firkins on behalf of Jeffery Taylor to investigate this case in the context of a Personal Restraint Petition for Mr. Taylor. I was also assisted in my investigation by my employee Shannon Givens, another licensed private investigator.
4. During the course of my investigation, I attempted to contact Mr. Taylor's trial attorney, Mr. Ron Sergi on two occasions. My intent, after discussing the case with Mr. Kelly, was to speak with Mr. Sergi in depth about his representation of Mr. Taylor at trial. I never reached Mr. Sergi directly, and I left voicemail messages for him the first time I called. Mr. Sergi never returned my telephone call, and I was consequently never able to speak with him.

SIGNED THIS 18th DAY OF DECEMBER, 2006

A handwritten signature in black ink, appearing to read 'Frank Sebastian', written over a horizontal line.

Frank Sebastian

IN THE COURT OF APPEALS, DIVISION II

IN RE THE PRP OF

Jeffery M. Taylor,

)
)
)
)
)
)
)
)
)
)
)

Court of Appeals No. _____
Mason County Superior Court
No. 03-1-00200-3

DECLARATION OF SHANNON
GIVENS

1. I am over the age of 18 and competent to testify in this matter.
2. I am a Washington Licensed Private Investigator, 1221.
3. I was retained, along with Frank Sebastian, by Michael Kelly and the law firm of Van Siclen, Stocks & Firkins on behalf of Jeffery Taylor to investigate this case in the context of a Personal Restraint Petition for Mr. Taylor.
4. On October 11, 2006 I contacted Mr. John Wilson of Sound Investigations in Olympia. Mr. Wilson is a private investigator who was contracted by the court to assist Mr. Sergi in the defense investigation of this case. I spoke with him on the above-mentioned date and inquired as to his work on the Taylor case. Mr. Wilson replied that he did not know offhand the details of the case and was not comfortable discussing names over the telephone. He indicated to me that any written reports, if any, would more likely than not have been turned over to Mr. Sergi, as Wilson would not have retained any information.

Further, Mr. Wilson explained that oftentimes he gives oral and no written reports to the attorney he is assisting. He did not know if that was the situation in this case. He suggested that I contact Mr. Sergi regarding the case.

DATED this 18 day of December, 2006.


Shannon Givens

investigation into this matter and about his trial tactics and strategic decisions. I was particularly interested in the following issues:

- a. What he and/or his investigator, Mr. Wilson did with respect to interviewing all of the potential witnesses who appeared in the State's discovery, *i.e.* the police report and other documents provided by the prosecution;
- b. Whether he and/or Mr. Wilson interviewed the alleged victim, K.H., her mother, Jayne Hoyos, and the investigating and arresting officers in the Mason County Sheriff's Department. I was particularly interested in the content of any such interviews, if they occurred, and any notes, summaries, and/or transcripts which Mr. Sergi and/or Mr. Wilson had of any such interviews.
- c. The extent and content of his meetings, discussions, and other communication with Mr. Taylor prior to trial in this case. I was particularly interested in whether and to what extent Mr. Sergi and/or Mr. Wilson discussed important aspects of Mr. Taylor's purported "confession" to members of the Mason County Sheriff's Department. In that regard I was interested in any effort by Mr. Sergi and/or Mr. Wilson to ascertain to what extent the "confession" may have been coerced, misrepresented by the Sheriff's Deputies, or any other information which could have been used to effectively combat the "confession" prior to trial, as well as at trial if necessary. I was also interested in the extent to which Mr. Sergi and/or Mr. Wilson attempted to discuss Mr. Taylor's disclosure in the "confession" that he had seen a psychologist in the past to determine whether there was any explanation for that statement which would mitigate and/or negate the inculpatory inference it was likely to have on the jury, should the court allow testimony

regarding the “confession.” I was interested in discussing and reviewing any documentation, notes, summaries, transcripts, etc. Mr. Sergi and/or Mr. Wilson had of these communications with Mr. Taylor.

- d. Whether Mr. Sergi and/or Mr. Wilson made any inquiries regarding interviewing K.H.’s mental health counselor, Ms. Kadlub, to determine the extent of any alleged disclosures to her by K.H. regarding alleged sexual assault by Mr. Taylor.

I had ascertained discrepancies between Ms. Kadlub’s letter and the various statements by K.H. and her mother, Jayne Hoyos regarding the extent and type of sexual assault alleged.

- e. Whether Mr. Sergi and/or Mr. Wilson made any inquiries and/or attempts to locate and obtain funding for expert witnesses for use both prior to trial in motions practice and at trial, if necessary. I was particularly interested in whether Mr. Sergi and/or Mr. Wilson identified and contemplated the need for expert witnesses to attack the State’s use of Mr. Taylor’s alleged “confession” as well as expert witnesses in the field of police protocol and proper technique for interviewing child accusers in sexual assault cases. In both instances I had identified the need for such experts, as I perceived problems with the techniques used in obtaining Mr. Taylor’s “confession” and the ultimate conclusory testimony that it was, indeed, a “confession.” I had also identified the need for a child interview expert, as I perceived significant problems with Detective Gardner’s multiple interviews of K.H. separated in time by over 3 months, and in which he ultimately obtained a “disclosure” of rape through suspect tactics after earlier being explicitly told that no penetration had occurred.

- f. The time and preparation Mr. Sergi put into this case as a whole.
6. On the one occasion, in September, 2006, which Mr. Sergi returned my phone calls and I was actually able to speak with him, we spoke for less than five minutes. Mr. Sergi informed me that (a) he had “very little memory” of this case; and (2) he had no file in his possession whatsoever. After I inquired whether he might, at least have the discovery produced by the State for my review, he again explained he did not have a file at all, as he had not maintained the file after the trial. Mr. Sergi then left a message on my legal assistant’s voicemail some days later informing her that if I wanted copies of the police reports in this matter, I could obtain them by contacting “Darci” at a given telephone number. Only when I called the number Mr. Sergi left, I learned that “Darci” referred to Ms. Darci Ward, the “Office Manager/Adult Felony Paralegal in the Mason County Prosecutor’s Office. Ms. Ward retrieved and provided the police reports for me in this matter.
 7. Thereafter, Mr. Sergi did not return any further phone calls placed either by me or by my investigator, Mr. Frank Sebastian.
 8. Attached to this Declaration are a number of documents referenced in Taylor’s Personal Restraint Petition. They are listed separately, below, and given separate Appendix identifiers. Those documents, along with their appendix identifiers and the source from which they were obtained are as follows:
 9. Attached hereto as **Appendix G** is a true and correct copy of the First Amended Information in *State v. Jeffrey M. Taylor*, No. 03-1-00200. This document was located in both the Mason County Sheriff’s Department reports provided to me by Ms. Darci Ward in the Prosecuting Attorney’s Office, as well as in the Mason County Superior Court file.

10. Attached hereto as **Appendix H** is a true and correct copy of the Judgment and Sentence in *State v. Jeffrey M. Taylor*, Mason County Superior Court No. 03-1-00200. This document was located in the Mason County Superior Court file.
11. Attached hereto as **Appendix I** is a true and correct copy of the Unpublished Opinion in, *State v. Jeffrey Michael Taylor*, Washington State Court of Appeals, Division II. No. 30952-1-II.
12. Attached hereto as **Appendix J** is a true and correct copy of the Mandate in *State v. Jeffrey Michael Taylor*, Washington State Court of Appeals, Division II. No. 30952-1-II.
13. Attached hereto as **Appendix K** is a true and correct copy of the Defendant's Omnibus Application and Response to State's Omnibus. This document was located in the Mason County Superior Court file for *State v. Jeffrey M. Taylor*, No. 03-1-00200.
14. Attached hereto as **Appendix L** is a true and correct copy of the three-page handwritten Statement of Jeffrey M. Taylor taken by Detective J.R. Gardner on March 21, 2003. This document was located in the Mason County Sheriff's Department reports provided to me by Ms. Darci Ward in the Prosecuting Attorney's Office.
15. Attached hereto as **Appendix M** is a true and correct copy of a three-page typewritten "officers report" by Detective Gardner in this case with entries ranging in dates from January 31, 2003 to March 21, 2003. This document was located in the Mason County Sheriff's Department reports provided to me by Ms. Darci Ward in the Prosecuting Attorney's Office.
16. Attached hereto as **Appendix N** are a true and correct copies of the June 3 and June 6, 2003 Declarations of Probable Cause in this case, signed by Detective Gardner. These

documents were located in the Mason County Sheriff's Department reports provided to me by Ms. Darci Ward in the Prosecuting Attorney's Office.

17. Attached hereto as **Appendix O** is a true and correct copy of Mr. Taylor's signed advisement of *Miranda* rights and waiver thereof. This document was located in the Mason County Sheriff's Department reports provided to me by Ms. Darci Ward in the Prosecuting Attorney's Office.

18. Attached hereto as **Appendix P** is a true and correct copy of a two-page typewritten Mason County Sheriff's Office Report by Deputy T. Rankin and dated January 27, 2003. This document was located in the Mason County Sheriff's Department reports provided to me by Ms. Darci Ward in the Prosecuting Attorney's Office.

19. Attached hereto as **Appendix Q** is a true and correct copy of a three-page handwritten Statement by Jayne Hoyos on Mason County Sheriff's Office letterhead and dated January 27, 2003. This document was located in the Mason County Sheriff's Department reports provided to me by Ms. Darci Ward in the Prosecuting Attorney's Office.

20. Attached hereto as **Appendix R** is a true and correct copy of a one-page typewritten letter from Sharon L. Kadlub, Counselor, dated March 8, 2003 and addressed to Detective Gardner. This document was located in the Mason County Sheriff's Department reports provided to me by Ms. Darci Ward in the Prosecuting Attorney's Office.

21. Attached hereto as **Appendix S** is a true and correct copy of a four-page handwritten Statement by K.H. taken by Detective Gardner and written on Mason County Sheriff's Office letterhead and dated March 12, 2003. This document was located in the Mason County Sheriff's Department reports provided to me by Ms. Darci Ward in the Prosecuting Attorney's Office.

22. Attached hereto as **Appendix T** is a true and correct copy of a two-page typewritten Mason County Sheriff's Office Follow-Up Report by Detective Gardner and written on Mason County Sheriff's Office letterhead and dated June 5, 2003. This document was located in the Mason County Sheriff's Department reports provided to me by Ms. Darci Ward in the Prosecuting Attorney's Office.
23. Attached hereto as **Appendix U** is a true and correct copy of a four-page handwritten Statement by K.H. taken by Detective Gardner and written on Mason County Sheriff's Office letterhead and dated June 6, 2003. This document was located in the Mason County Sheriff's Department reports provided to me by Ms. Darci Ward in the Prosecuting Attorney's Office.
24. Attached hereto as **Appendix V** are true and correct copies of Jeffrey Taylor's payroll time sheets from his employer, Gargoyles, Inc. reflecting the time period between August 2, 1999 through May 31, 2000. These documents were provided to me by Mr. Taylor's spouse, Kimberly Taylor.

DATED this 20th day of December, 2006.

VAN SICLEN, STOCKS & FIRKINS


Michael J. Kelly, WSBA #31816
Attorney for Petitioner

RECEIVED & FILED IN
CO. CLERK'S OFFICE

2003 JUN -9 P 2:55

MASON CO. WA.
PAT SWARTOS, CO. CLERK
BY Ch DEPUTY

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

STATE OF WASHINGTON,

)
)
) Plaintiff,) NO. 03-1-00200-3

vs.

) FIRST AMENDED INFORMATION
)

JEFFREY M. TAYLOR,

) WM081374)

HT:6'02" WT:185 HAIR:UNK EYES:BLU) MCS #03-01231
WASH D/L: TAYLOJM268NL Defendant.) RCW 9A.44.073

) RCW 9A.44.083

I, Gary P. Burleson, Prosecuting Attorney for the County of Mason, State of Washington, by this First Amended Information accuse the above-mentioned defendant: **JEFFREY M. TAYLOR** with the crimes of:

- COUNT I: RAPE OF A CHILD IN THE FIRST DEGREE
- COUNT II: RAPE OF A CHILD IN THE FIRST DEGREE
- COUNT III: RAPE OF A CHILD IN THE FIRST DEGREE
- COUNT IV: RAPE OF A CHILD IN THE FIRST DEGREE
- COUNT V: CHILD MOLESTATION IN THE FIRST DEGREE

committed as follows, to wit:

COUNT I:

In the County of Mason, State of Washington, between the 1st day of November, 1999 and the 30th day of April, 2000, the Defendant, JEFFREY M. TAYLOR, did commit RAPE OF A CHILD IN THE FIRST DEGREE, a Class A felony, in that said defendant being at least twenty-four (24) months older than a child, engaged in sexual intercourse with that child who was less than twelve (12)

8

years of age and to whom the Defendant who was not married, named herein as Jane Doe (DOB: 042291), to-wit: inserted his finger in her vagina when he was showing her his baseball cards; contrary to RCW 9A.44.073 and against the peace and dignity of the State of Washington.

COUNT II:

In the County of Mason, State of Washington, between the 1st day of November, 1999 and the 30th day of April, 2000, the Defendant, JEFFREY M. TAYLOR, did commit RAPE OF A CHILD IN THE FIRST DEGREE, a Class A felony, in that said defendant being at least twenty-four (24) months older than a child, engaged in sexual intercourse with that child who was less than twelve (12) years of age and to whom the Defendant who was not married, named herein as Jane Doe (DOB: 042291), to-wit: inserted his finger in her vagina when he was showing her how to play a computer game; contrary to RCW 9A.44.073 and against the peace and dignity of the State of Washington.

COUNT III:

In the County of Mason, State of Washington, between the 1st day of November, 1999 and the 30th day of April, 2000, the Defendant, JEFFREY M. TAYLOR, did commit RAPE OF A CHILD IN THE FIRST DEGREE, a Class A felony, in that said defendant being at least twenty-four (24) months older than a child, engaged in sexual intercourse with that child who was less than twelve (12) years of age and to whom the Defendant who was not married, named herein as Jane Doe (DOB: 042291), to-wit: inserted his finger in her vagina when they were in the television room and his wife walked past the room; contrary to RCW 9A.44.073 and against the peace and dignity of the State of Washington.

COUNT IV:

In the County of Mason, State of Washington, between the 1st day of November, 1999 and the 30th day of April, 2000, the Defendant, JEFFREY M. TAYLOR, did commit RAPE OF A CHILD IN THE FIRST DEGREE, a Class A felony, in that said defendant being at least twenty-four (24) months older than a child, engaged in sexual intercourse with that child who was less than twelve (12) years of age and to whom the Defendant who was not married, named herein as Jane Doe (DOB: 042291), to-wit: inserted his finger in her vagina in his bedroom; contrary to RCW 9A.44.073 and against the peace and dignity of the State of Washington.

COUNT V:

In the County of Mason, State of Washington, between the 1st day of November, 1999 and the 30th day of April, 2000, the Defendant, JEFFREY M. TAYLOR, did commit CHILD MOLESTATION IN THE FIRST DEGREE, a Class A felony, in that said defendant did have sexual contact with another, to-wit: Jane Doe (DOB: 042291), who was less than twelve (12) years of age and not married to the perpetrator, and the perpetrator was at least thirty-six (36) months older than the victim, to-wit: rubbed her vagina when traveling in the van; contrary to RCW 9A.44.083(1) and against the peace and dignity of the State of Washington.

Dated:

June 9, 2003

GARY P. BURLERSON,
Prosecuting Attorney

By:

Carol L. Case
CAROL L. CASE, #17052
Deputy Prosecutor

RECEIVED & FILED

OCT 2 2003

PAT SWARTOS, Clerk of the Superior Court Mason Co. Wash

16 pgs

SUPERIOR COURT OF WASHINGTON
COUNTY OF MASON

STATE OF WASHINGTON, Plaintiff,

v.

JEFFREY M. TAYLOR,
Defendant.

SID:
If no SID, use DOB: 8-13-74

03-9-976-7
03-1-200-3

No. ~~03-1-300-3~~

JUDGMENT AND SENTENCE (JS)

- Prison RCW 9.94A.712 Prison Confinement
- Jail One Year or Less RCW 9.94A.712 Prison Confinement
- First-Time Offender
- Special Sexual Offender Sentencing Alternative
- Special Drug Offender Sentencing Alternative
- Clerk's Action Required, para 4.15.2, 5.3, 5.6 and 5.8

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on AUGUST 22, 2003 by plea jury-verdict bench trial of: THREE COUNTS OF RAPE OF A CHILD IN THE FIRST DEGREE

COUNT	CRIME	RCW	DATE OF CRIME
I	RAPE OF A CHILD FIRST DEGREE	9A.44.073	NOV 99-APRIL 2000
III	RAPE OF A CHILD FIRST DEGREE	9A.44.073	NOV 99-APRIL 2000
IV	RAPE OF A CHILD FIRST DEGREE	9A.44.073	NOV 99 - APRIL 2000

as charged in the AMENDED Information.

Additional current offenses are attached in Appendix 2.1

The court finds that the defendant is subject to sentencing under RCW 9.94A.712.

JUDGMENT AND SENTENCE (JS) (Prison)
(RCW 9.94A.500, 9.94A.505)(WPF CR 84.0400 (7/2003))

Page 1 of 11

55

pros 3x jail-VR SG DOC

- A special verdict/finding for use of **firearm** was returned on Count(s) _____ . RCW 9.94A.602, (Ch 290 L 2002 § 11, effective 7/1/03 Ch. 379 L 2003 § 10).
- A special verdict/finding for use of **deadly weapon other than a firearm** was returned on Count(s) _____ . RCW 9.94A.602, (Ch 290 L 2002 § 11, effective 7/1/03 Ch. 379 L 2003 § 10).
- A special verdict/finding of **sexual motivation** was returned on Count(s) _____ . RCW 9.94A. 835.
- A special verdict/finding for **Violation of the Uniform Controlled Substances Act** was returned on Count(s) _____ , RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine **when a juvenile was present in or upon the premises of manufacture** was returned on Count(s) _____ . RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- The court finds that the offender has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- The crime charged in Count(s) _____ involve(s) **domestic violence**.
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
1 N/A					
2					
3					
4					
5					

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525.
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

JUDGMENT AND SENTENCE (JS) (Prison)
 (RCW 9.94A.500, 9.94A.505)(WPF CR 84.0400 (7/2003))

The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	6	XII	162-216 MOS	N/A	162-216 MOS	LIFE
III	6	XII	162-216 MOS	N/A	162-216 MOS	LIFE
IV	6	XII	216-162 MOS	N/A	162-216 MOS	LIFE

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present.

Additional current offense sentencing data is attached in Appendix 2.3.

2.4 EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence above within below the standard range for Count(s). Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney did did not recommend a similar sentence.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are attached as follows:

III. JUDGMENT

- 3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.
3.2 [] The court DISMISSES Counts [X] The defendant is found NOT GUILTY of Counts II - RAPE OF A CHILD FIRST DEGREE AND COUNT V - CHILD MOLESTATION FIRST DEGREE.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

JASS CODE \$ TBD Restitution to: KAYLEE HOYOS 970 W. BULB FARM ROAD, SHELTON, WA 98584 RTN/RJN

(Name and Address--address may be withheld and provided confidentially to Clerk of the Court's Office)
PCV \$ 500.00 Victim assessment RCW 7.68.035
CRC \$ Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190
Criminal filing fee \$ 110.00 FRC
Witness costs \$ 349.10 WFR
Sheriff service fees \$ 38.70 SFR/SFS/SFW/WRF
Jury demand fee \$ 100.00 JFR
Extradition costs \$ EXT
Other \$
PUB \$ 450.00 Fees for court appointed attorney RCW 9.94A.760
WFR \$ 429.00 Court appointed defense expert and other defense costs RCW 9.94A.760
FCM/MTH \$ Fine RCW 9A.20.021; [] VUCSA chapter 69.50 RCW, [] VUCSA additional fine deferred due to indigency RCW 69.50.430
CDF/LDI/FCD \$ Drug enforcement fund of RCW 9.94A.760
NTF/SAD/SDI
CLF \$ Crime lab fee [] suspended due to indigency RCW 43.43.690
\$ 100.00 Felony DNA collection fee [] not imposed due to hardship RCW 43.43.7541
RTN/RJN \$ Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum) RCW 38.52.430
\$ Other costs for:
\$ 2076.80 TOTAL RCW 9.94A.760

[X] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[] shall be set by the prosecutor.

[X] is scheduled for Jan. 22, 2004

[] RESTITUTION. Schedule attached.

Restitution ordered above shall be paid jointly and severally with:

<u>NAME of other defendant</u>	<u>CAUSE NUMBER</u>	<u>(Victim name)</u>	<u>(Amount-\$)</u>
<i>RJN</i>			
_____	_____	_____	_____
_____	_____	_____	_____

The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8)

All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month commencing _____ RCW 9.94A.760.

The defendant shall report as directed by the clerk of the court and provide financial information as requested. RCW 9.94A.760(7)(b).

In addition to the other costs imposed herein, the court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate. RCW 9.94A.760.

The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190 and RCW 9.94A.780(5).

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.2 DNA TESTING. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

HIV TESTING. The defendant shall submit to HIV testing. RCW 70.24.340.

4.3 The defendant shall not have contact with KAYLEE HOYOS 4-22-91 (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE (not to exceed the maximum statutory sentence).

Domestic Violence No-Contact Order or Antiharassment No-Contact Order is filed with this Judgment and Sentence.

4.4 OTHER: _____

which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and Chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 committed before July 1, 2000. See RCW 9.94A.715 for community custody range offenses, which include sex offenses not sentenced under RCW 9.94A.712 and violent offenses committed on or after July 1, 2000. Use paragraph 4.7 to impose community custody following work ethic camp.]

On or after July 1, 2003, DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories; or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

a) the defendant committed a current or prior:		
i) Sex offense	ii) Violent offense	iii) Crime against a person (RCW 9.94A.411)
iv) Domestic violence offense (RCW 10.99.020)		v) Residential burglary offense
vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine		
vii) Offense for delivery of a controlled substance to a minor; or attempt, solicitation or conspiracy (vi, vii)		
b) the conditions of community placement or community custody include chemical dependency treatment.		
c) the defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745.		

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

The defendant shall not consume any alcohol.

Defendant shall have no contact with: _____

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

The defendant shall participate in the following crime-related treatment or counseling services: _____

The defendant shall undergo an evaluation for treatment for domestic violence substance abuse mental health anger management and fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: _____

Other conditions: _____

For sentences imposed under RCW 9.94A.712, other conditions may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than 7 working days.

4.7 **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 **RESTITUTION HEARING.**
[] Defendant waives any right to be present at any restitution hearing (sign initials): _____.
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634.
- 5.6 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

Cross off if not applicable:

5.7 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.130, you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

If you leave the state following your sentencing or release from custody but later move back to the state of Washington, you must register with the sheriff of the county of your residence within 24 hours of your return to the state. If you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within 30 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution, whichever is earlier. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within 10 days of such termination.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 48 hours excluding weekends and holidays after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require you to list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(7).

5.8 The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.

5.9 **OTHER:** _____
DONE in Open Court and in the presence of the defendant this date: 10/2/03

Carol L. Case
Deputy Prosecuting Attorney
WSBA # 17052
Print name: CAROL L. CASE

[Signature]
Attorney for Defendant
WSBA # 19670
Print name:

[Signature]
JUDGE Print name: **JAMES B. SAWYER**
[Signature]
Defendant
Print name:

CAUSE NUMBER of this case: 03-1-200-3

I, PAT SWARTOS, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of the Court of said County and State, by: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. _____ Date of Birth AUGUST 13, 1974
(If no SID take fingerprint card for State Patrol)

FBI No. _____ Local ID No. _____

PCN No. _____ Other _____

Alias name, SSN, DOB: UNK

Race:
 Asian/Pacific Islander Black/African-American Caucasian
 Native American Other: _____

Ethnicity: **Sex:**
 Hispanic Male
 Non-Hispanic Female

FINGERPRINTS: I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, C. L. ... Dated: 10-2-03

DEFENDANT'S SIGNATURE: [Signature]

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

FILED
COURT OF APPEALS
DIVISION II

05 APR 12 AM 10:43
STATE OF WASHINGTON
BY _____
DEPT. _____

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON

No. 30952-1-II

Respondent

v.

JEFFREY MICHAEL TAYLOR

UNPUBLISHED OPINION

Appellant

MORGAN, A.C.J. – Jeffrey Michael Taylor appeals convictions for child rape and molestation. We affirm.

Between November 1999 and April 2000, Taylor and his wife Kim were staying with Kim’s parents. KH, then age 9, did not live with Kim’s parents, but she came there after school each day until her mother got off work.

In January 2003, KH told her mother that Taylor had touched her inappropriately. The mother notified the police.

On March 12, 2003, KH told Detective Gardner that Taylor had molested her in a van. She did not allege penetration.

On March 21, 2003, Taylor initially told Gardner that he had never been alone with KH. Then, as he and Gardner continued to talk, he said that “it could have happened . . . [b]ut I just don’t remember.”¹ When Gardner asked if Taylor could have done the things that KH alleged, Taylor stated that it was “a possibility. I have been to a psychologist in the past for doing

¹ Report of Proceedings (RP) at 126.

impulsive things and being rebellious towards my parents and family.”² Taylor acknowledged the opportunity and time to molest KH, said he was willing to get counseling or take tests to see if the acts did occur, and asked for help rather than jail time because he had a new family to take care of. They did not discuss rape.

In June 2003, KH told Gardner that Taylor had put his finger in her vagina while they were playing with baseball cards, while they were playing video games on a computer, while they were in the TV room, and while they were in Taylor’s bedroom.

On June 5, 2003, the State filed an information which, as later amended, charged Taylor with child molestation in the first degree and four counts of child rape in the first degree. Count I alleged:

In the County of Mason, State of Washington, between the 1st day of November, 1999 and the 30th day of April, 2000, the Defendant, JEFFREY M. TAYLOR, did commit RAPE OF A CHILD IN THE FIRST DEGREE, a Class A felony, in that said defendant being at least twenty-four (24) months older than a child, engaged in sexual intercourse with that child who was less than twelve (12) years of age and to whom the Defendant who was not married, named herein as Jane Doe . . . to-wit: inserted his finger in her vagina when he was showing her his baseball cards; contrary to RCW 9A.44.073.^[3]

The other rape counts were identical, except that in the “to-wit” clause, Count II alleged that Taylor had “inserted his finger in her vagina when he was showing her how to play a computer game;” Count III alleged that Taylor had “inserted his finger in her vagina when they were in the

² RP at 127.

³ Clerk’s Papers (CP) at 79-80.

television room and his wife walked past the room;” and Count IV alleged that Taylor had “inserted his finger in her vagina in his bedroom.”⁴

Before trial, the State moved to exclude time sheets from Taylor’s work. Taylor’s counsel responded that he would not be offering them, as he expected that testimony from Taylor’s wife would encompass the same information.

At the beginning of trial, the court read the charging information to the jury venire.

After the jury was selected and sworn, KH took the stand but became upset after giving her name, age, year in school, and identifying Taylor. The court took a recess, and she did not complete her testimony until later in the day. When she did, she said that Taylor had “unzipped [her] pants and put his hand in [her] private parts,”⁵ and “put his finger inside”⁶ her. She did not remember how many times he had done this, but he had done it while they were in his bedroom, while they were playing video games, while they were in the TV room, and while they were looking at baseball cards. He had also grabbed her “privates,” outside of clothing, while they were in a van.

KH’s mother testified that she usually picked up KH around 6 P.M., and that Taylor was “usually always there.”⁷ KH’s great-aunt testified that Taylor and Kim stayed at her house except on Mondays and Wednesdays; that KH was not permitted in the Taylor’s bedroom; that

⁴ CP at 80.

⁵ RP at 91.

⁶ RP at 92.

⁷ RP at 76.

Taylor “was hardly home when [KH] was there;”⁸ that KH and Taylor had never been in the van together; and that her house did not have any video game machines or computers that worked. Taylor’s father, Stanley, testified that Taylor and Kim stayed at his home on Mondays and Wednesdays. Kim testified that when they did not stay at Stanley’s home on Mondays and Wednesdays, they both left for work at 5 or 5:30 A.M. and did not return home until 7 or 8 P.M. due to the length of their commute. Kim also testified that the aunt and uncle did not have a working computer or video game in their house.

At the end of the evidence, the court instructed that the jury could not consider the charges against the defendant as evidence in the case. The court also gave a to-convict instruction for each of the five counts. The four relating to child rape (Counts I-IV) did not state the alleged act of intercourse or its location. Rather, they stated:

To convict the defendant of the crime of rape of a child in the first degree as charged in [Count I, II, III, or IV], each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) Between the 1st day of November 1999 and the 30th day of April 2000, the defendant had sexual intercourse with [KH];
- (2) That [KH] was less than twelve years old at the time of the sexual intercourse and was not married to the defendant;
- (3) That the defendant was at least twenty-four months older than [KH]; and
- (4) That the acts occurred in the State of Washington.⁹

The jury began deliberations at about 2 P.M. At 4:40 P.M., the court received a note in which the jury asked if it could see the “charging information.”¹⁰ Without objection from Taylor, the court replied yes and provided the information. Later the same day, the jury asked if

⁸ RP at 156.

⁹ CP at 42-45.

¹⁰ CP at 29.

it could “reach a verdict on some counts and be hung on others.”¹¹ The court responded, “Yes.”¹² The next day, the jury found Taylor guilty on three counts of child rape in the first degree, not guilty on one count of child rape in the first degree, and not guilty of child molestation in the first degree. After sentencing, Taylor filed this appeal.

I.

The first issue is whether the trial court erred by providing the charging information to the jury during deliberations. Taylor claims that the jury could not use extrinsic evidence, the charging information was such evidence, and that he was denied a fair trial.

Extrinsic evidence is “information that is outside all the evidence admitted at trial, either orally or by document.”¹³ It may not be considered “because it is not subject to objection, cross examination, explanation or rebuttal.”¹⁴ It will warrant a new trial if “there is reasonable ground to believe the defendant may have been prejudiced.”¹⁵

Assuming without holding that it was error to furnish the charging document to the jury during deliberations, the error was harmless beyond a reasonable doubt under the particular circumstances here. The court had read the document to the jury at the trial’s outset, so the jury already knew its contents. The court expressly instructed the jury that the document was not

¹¹ CP at 28.

¹² CP at 28.

¹³ *Richards v. Overlake Hosp. Medical Center*, 59 Wn. App. 266, 270, 796 P.2d 737, review denied, 116 Wn.2d 1014 (1990).

¹⁴ *State v. Balisok*, 123 Wn.2d 114, 118, 866 P.2d 631 (1994).

¹⁵ *State v. Cummings*, 31 Wn. App. 427, 430, 642 P.2d 415 (1982).

evidence, extrinsic or otherwise, and the jury is presumed to have followed that instruction. The information did not contain any allegations that were not supported by sufficient evidence, and during trial its allegations had been subjected to cross examination, explanation, and rebuttal.¹⁶ Perceiving no prejudice, we decline to reverse.¹⁷

II.

The next issue is whether the prosecutor engaged in misconduct during closing argument. Given that Taylor did not object, he must show not only “that the prosecutor’s conduct was improper and prejudiced his right to a fair trial,”¹⁸ but also that the improper conduct was “so flagrant and ill intentioned that no curative instructions could have obviated the prejudice.”¹⁹ Prejudice “is a substantial likelihood the instances of misconduct affected the jury’s verdict.”²⁰ We review in context, considering “the total argument, the issues in the case, the evidence addressed in the argument, and the jury instructions.”²¹

¹⁶ *Balisok*, 123 Wn.2d at 118.

¹⁷ This conclusion also disposes of Taylor’s contention that his counsel was ineffective for not objecting when the court proposed to furnish the jury with a copy of the information. Prejudice is an essential component of ineffective assistance. *State v. McFarland*, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995).

¹⁸ *State v. Carver*, 122 Wn. App. 300, 306, 93 P.3d 947 (2004) (citing *State v. Dhaliwal*, 150 Wn.2d 559, 578, 79 P.3d 432 (2003)).

¹⁹ *State v. Belgarde*, 110 Wn.2d 504, 507, 755 P.2d 174 (1988).

²⁰ *Dhaliwal*, 150 Wn.2d at 578 (quoting *State v. Pirtle*, 127 Wn.2d 628, 672, 904 P.2d 245 (1995), *cert. denied*, 518 U.S. 1026 (1996)).

²¹ *Carver*, 122 Wn. App. at 306.

A.

Taylor claims that the prosecutor should not have argued that “sexually based crimes are considered especially heinous. Especially, especially, heinous when they are committed against a child.”²² “[R]eference to the heinous nature of a crime and its effect on the victim can be proper argument.”²³ Such a reference is improper, however, if it only “[a]ppeals to the jury’s passion and prejudice.”²⁴

The comment in issue here was a brief preface to the prosecutor’s recital of the evidence. Taken in context, it was not substantially prejudicial, and any prejudice could have been cured by a prompt objection and curative instruction. It does not warrant reversal.

B.

Taylor claims that the prosecutor improperly abridged his right to remain silent. The prosecutor argued:

The testimony from the Defendant’s mother-in-law who could not even draw a diagram of her own residence. We have testimony of the Defendant’s wife. That testimony was nearly identical, identical. It’s been discussed, and discussed, and discussed, and re-discussed. And when his wife said she didn’t know, or didn’t remember the last time she talked with her husband about this case, she pinpointed to last night. He’s the only one that sat here, listened to all the testimony and was able to tell somebody what anyone else said.^[25]

²² RP at 333.

²³ *State v. Clafin*, 38 Wn. App. 847, 849-50, 690 P.2d 1186 (1984), *review denied*, 103 Wn.2d 1014 (1985).

²⁴ *State v. Echevarria*, 71 Wn. App. 595, 598, 860 P.2d 420 (1993); *Clafin*, 38 Wn. App. at 850.

²⁵ RP at 333-34.

“When a prosecutor improperly remarks on a defendant’s failure to testify, it violates his Fifth Amendment privilege against self-incrimination.”²⁶ But in *State v. Miller*,²⁷ the court did not outlaw comments “that Miller had the opportunity to tailor his testimony after hearing all the other witnesses.”²⁸ The court said:

A witness’s ability to hear prior testimony and to tailor his account accordingly, and the threat that ability presents to the integrity of the trial, are no different when it is the defendant doing the listening. Allowing comment upon the fact that a defendant’s presence in the courtroom provides him a unique opportunity to tailor his testimony is appropriate—and indeed, given the inability to sequester the defendant, sometimes essential—to the central function of the trial, which is to discover the truth.^[29]

It was not misconduct for the prosecutor here to argue similarly.

C.

According to Taylor, the prosecutor argued that Taylor made statements to Gardner about all the charges, when in reality Taylor had made statements to Gardner only about the molestation charge. The prosecutor stated:

And let’s talk about the Defendant’s statement to Detective Gardner. “I don’t remember doing what [KH] said I did. I did live with [KH’s aunt] at the time that this occurred and when [KH] was at the house being babysat. I’m not saying it didn’t happen, but I just don’t remember.” Not something you forget, molesting and raping an 8, 9 year old child.

...

²⁶ *State v. French*, 101 Wn. App. 380, 386, 4 P.3d 857 (2000); see also *State v. Ramirez*, 49 Wn. App. 332, 336, 742 P.2d 726 (1987).

²⁷ 110 Wn. App. 283, 40 P.3d 692 (2002).

²⁸ *Miller*, 110 Wn. App. at 283-84.

²⁹ *Miller*, 110 Wn. App. at 285 (quoting *Portuondo v. Agard*, 529 U.S. 61, 73, 120 S. Ct. 1119, 146 L.Ed.2d 47 (2000)).

“If I did something that is wrong, I’m willing to go on probation or do whatever it takes to stay out of jail so I can take care of my family. I have a new baby and a new job with responsibilities. If I did do something to [KH], I would be very upset and remorseful about it. And I would want [her parents] to know I would never do anything to hurt [KH] intentionally.” But he did. You don’t rape and molest a child accidentally. You just don’t do it accidentally.³⁰

We agree that the prosecutor should not have referred to the rapes while discussing what Taylor said to Gardner. On the other hand, the prosecutor was entitled to argue, outside the context of Gardner’s discussion with Taylor, that neither molestation nor rape is something one forgets or does by accident. The argument was brief, and the jury cannot have been confused about whether Taylor and Gardner had discussed only the molestation; Gardner himself testified that KH had not made allegations of penetration until after his interview with Taylor, and his testimony on the point was not challenged. The jury was instructed not to regard the arguments of counsel as evidence, and it is presumed to have followed the court’s instructions. There was little prejudice, what there was could easily have been obviated by an objection and curative instruction, and we decline to reverse on this ground.

D.

Taylor contends that the prosecutor impermissibly used the “golden rule” argument in closing argument. The prosecutor said:

You saw a little girl, 12 years old, on this witness stand. You’ll recall before you got to sit in these chairs, whether you wanted to or not, how would a little girl feel coming to tell a bunch of strangers, 14 people, about these horrible things that the Defendant did to her. Terrified, scared, embarrassed, and possible even a little guilt because when she finally disclosed to her mother, it was wrong. You saw one terrified, frightened, humiliated, embarrassed little girl up here who was not able to get past the fact that [her aunt] babysat her. That was enough to set her off. And it took the rest of the day to get her back up here and calm down. That was no act. Nobody’s that good, especially a little 12 year old girl.

³⁰ RP at 336.

...
This happened in 1999 and 2000. And [KH] could not recall a lot of details. And she was not asked a lot of details. We needed her to say what happened and get her out of here.

...
No one's asking you to be sympathetic to [KH]. We're just asking you to be aware that you acknowledge that a child would be terrified, frightened, embarrassed, humiliated on the witness stand.³¹

A "golden rule" argument is one that "urg[es] the jurors to place themselves in the position of one of the parties to the litigation, or to grant a party the recovery they would wish themselves if they were in the same position."³² It is improper "because it encourages the jury to depart from neutrality and to decide the case on the basis of personal interest and bias rather than on the evidence."³³

After testifying for a few minutes, KH was too upset to continue. She had to come back and finish later. In the argument just quoted, the prosecutor was merely asking the jury to judge KH's credibility in light of how she was feeling in court. He was not asking the jurors to put themselves in KH's position, or to resolve the case as they would want it resolved for them or their families. There was no misconduct on this ground.³⁴

³¹ RP at 337, 349.

³² *Adkins v. Aluminum Co. of America*, 110 Wn.2d 128, 139, 750 P.2d 1257 (1988) (quotation omitted).

³³ *Adkins*, 110 Wn.2d at 139 (quoting *Rojas v. Richardson*, 703 F.2d 186, 191 (5th Cir.1983)).

³⁴ These holdings also dispose of Taylor's argument that his counsel was ineffective by not objecting during closing argument. Counsel was not deficient on any of the four grounds, nor did any of the four generate enough prejudice to warrant relief. *McFarland*, 127 Wn.2d at 334-35.

III.

In a pro se statement of additional grounds, Taylor argues that his counsel was ineffective by not objecting during the prosecutor's closing argument. First, he asserts that counsel should have objected to the prosecutor's use of a statement he made to Gardner about having seen a psychologist. Gardner testified:

I asked Jeff if it was possible that this incident did happen with he and [KH]. Jeff said, "There is a possibility. I have been to a psychologist in the past for doing impulsive things and being rebellious towards my parents and family." Jeff also agreed, contrary to his handwritten statement, that he did have the opportunity and the time to do what [KH] alleged happened.^[35]

In closing arguments, the prosecutor stated:

He also told Detective Gardner when asked if it was possible that he did this to [KH], "There is a possibility. I have been to a psychologist in the past for doing impulsive things and being rebellious towards my parents and family." He also agreed, contrary to his handwritten statement, that he did have the opportunity to do exactly what [KH] said he did.^[36]

The prosecutor merely reiterated Gardner's testimony, and defense counsel had no grounds on which to object.

Second, Taylor contends that his counsel should have offered time records from his employer to show that he lacked an "opportunity to commit these alleged crimes during the time periods, which I was accused of."³⁷ KH's great-aunt, Taylor's father, and Taylor's wife all testified about his work schedule. The record does not show what, if anything, the employer's

³⁵ RP at 127.

³⁶ RP at 336-37.

³⁷ Statement of Additional Grounds at 2.

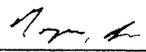
records would have added. Taylor has not shown either deficient performance or resulting prejudice.³⁸

Third, Taylor alleges that his counsel did not permit him to testify. Although he was the only one with “authority to decide whether or not to testify,”³⁹ he must show interference with his authority by evidence, as opposed to mere allegations,⁴⁰ and he has not produced evidence here.

Finally, Taylor asserts that his attorney did not call certain witnesses. The record does not show what any of them would have said if called. Accordingly, Taylor has not borne his burden of showing both deficient performance and resulting prejudice.⁴¹

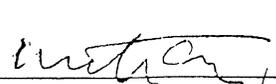
Affirmed.

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

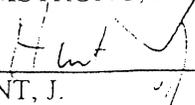


MORGAN, A.C.J.

We concur:



ARMSTRONG, J.



HUNT, J.

³⁸ *McFarland*, 127 Wn.2d at 334-35.

³⁹ *State v. Robinson*, 138 Wn.2d 753, 758, 982 P.2d 590 (1999).

⁴⁰ *Robinson*, 138 Wn.2d at 759-60.

⁴¹ *McFarland*, 127 Wn.2d at 334-35.

RECEIVED & FILED IN
CITY CLERK'S OFFICE

2005 DEC 27 AM 10:10

CLERK
(1A)

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

JEFFREY MICHAEL TAYLOR,

Appellant.

No. 30952-1-II

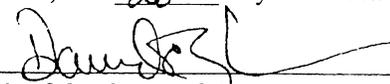
MANDATE

Mason County Cause No.
03-1-00200-3

The State of Washington to: The Superior Court of the State of Washington
in and for Mason County

This is to certify that the opinion of the Court of Appeals of the State of Washington, Division II, filed on April 12, 2005 became the decision terminating review of this court of the above entitled case on November 29, 2005. Accordingly, 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.

IN TESTIMONY WHEREOF, I have hereunto set
my hand and affixed the seal of said Court at
Tacoma, this 20th day of December, 2005.


Clerk of the Court of Appeals,
State of Washington, Div. II

90



Page 2
Mandate 30952-1-II

Thomas Edward Doyle
Attorney at Law
PO Box 510
Hansville, WA, 98340-0510

Patricia Anne Pethick
Attorney at Law
PO Box 7269
Tacoma, WA, 98406-0269

Hon. James Sawyer
Mason Co Superior Court
Judge
PO Box 639
Shelton, WA 98584

Monty Dale Cobb
Mason County Prosecutors Office
521 N 4th Ave Ste A
PO Box 639
Shelton, WA, 98584-0639

Indeterminate Sentence Review Board
PO Box 40907
Olympia, WA 98504-0907

Jeffrey Michael Taylor
DOC#861924 H2B5
Stafford Creek Corr Ctr
191 Constantine Way
Aberdeen, WA 98520

RECEIVED & FILED

JUL 9 2003

IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR MASON COUNTY

PAT SWARTOS, Clerk of the
Superior Court Mason Co. Wash

1 State of Washington,

2 Plaintiff,

3 v. *Taylor, Jeffrey*
4 Defendant.

) No. *03-1-00200-3*

) Defendant's Omnibus Application
) and Response to State's Omnibus

5
6
7 (1) Defense makes the following request:

- 8 (a) additional investigative reports in the state's possession
- 9 including photographs;
- 10 (b) test results from scientific testing of any substances;
- 11 (c) test results of any fingerprint examination made;
- 12 (d) provide criminal history on civilian witnesses proposed for
- 13 trial;
- 14 (e) if necessary, arrange for the interview of proposed witnesses the
- 15 state may call as witnesses, in a timely manner;
- 16 (f) that the state provide proof of convictions it intends to use to
- 17 impeach the defendant shall he/she testify;

18 (2) Defense makes the following response to the state;

- 19 (a) nature of defense: general denial unwitting possession
- 20 (b) relying upon alibi defense: yes no
- 21 (c) defense of insanity or diminished capacity: yes no
- 22 (d) scientific test: none
- 23 (e) incompetence: yes no
- 24 (f) witness list: those in police reports; others will be provided;
- 25 (g) documentary evidence: none *will be provided by 7/30/03*
- 26 (h) prior convictions: prove
- 27 (i) chain of custody: stipulated to unless otherwise stated;
- 28 Estimated trial length: 2 1/2 days

29 (3) Additional issues: *would like audio tapes made available to defense*

Dated this 3 day of July 2003

R. Sergi

Ronald E. Sergi WSBA# 19670

Ronald E. Sergi
Attorney At Law
6207 St. Andrews St SE
Olympia, Washington
98513
(360) 352-5802

Omnibus Application and Response

14

Mason County Sheriff's Department
Shelton, WA 98584

STATE OF WASHINGTON)
)
COUNTY OF MASON)

Statement of Jeffrey M. Taylor, being first duly sworn on oath deposes and says:

My name is Jeff Taylor, I am _____ years of

age and was born on 08/13/74, at Shelton

I am married single and reside at 11002 123 St. Ct. E.

_____, phone _____, I am employed by E.R. Solutions, since _____

This statement taken by J.R. GARNER

at 0955 hours on 3/21/03, at 9080 Wood P-2

I Don't Remember ever doing what is ACCUSED of me, I DID live with Shirley at the time this occurred and when Kaylee was at the house being babysat.

I Am not saying it didn't happen But I just don't remember.

I Am willing to go to counseling OR take any tests to find out if something did happen.

I certify under penalty of Perjury, under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge

Dated: 3-21-03 at Mason County, WA

[Signature]
Witness

Signature

Signed: Jeffrey M. Taylor

Witness

Page 2 of 3 Statement of Jeff Taylor
If something like THIS DID Happen
And the test shows IT DID
I am willing to take responsibility
for my actions.

Q) Did you ever have the opportunity to
do this to Kylee?

A) Yes

Q) you don't recall doing this?

A) No

Q) Are you willing to get help if it
is proven that you did touch Kylee.

A) yes

Q) Do you think its possible that
the accusations might be true?

A) There is a possibility, I have been to
the psychologist in the past for doing
impulsive things and being rebellious
towards my parents + family.

If I did something that is wrong
I am willing to go on probation or
do whatever it takes to stay out
of jail so I can take care of
my family. I have a new
baby and new job with lots of

Witness


Witness

I certify under penalty of Perjury, under
the laws of the State of Washington that
the foregoing statement is true and
correct to the best of my knowledge

Dated: 3-21-03 at Mason County, WA

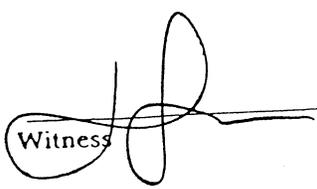
Signed:  18

Page 3 of 3 Statement of _____

Responsibilities, If I did do something
to Kaylee I would be very upset
and remorseful about it and I
would want the Hero's to know
I would never do anything to hurt
Kaylee intentionally.

- Q) Is there anything or anyone that could show
you absolutely did not have anything to
do with the allegations?
- A) No not really

~~Handwritten signature~~

Witness 

Witness

I certify under penalty of Perjury, under
the laws of the State of Washington that
the foregoing statement is true and
correct to the best of my knowledge

Dated: 3-21-03 at Mason County, WA

Signed:  19

MASON COUNTY SHERIFF'S OFFICE

OFFICERS REPORT

CASE: 03-01231

INCIDENT: Sex Offense

VICTIM: Hoyos, Kaylee J.

SUSPECT: Taylor, Jeff

DATE: 01/27/03

DETECTIVE: J. R. Gardner #1027

01/31/03

I was assigned this case and reviewed its contents. I called the victim's mother Jayne Hoyos and spoke with her about her daughter's case. Jayne said she has Kaylee scheduled for counseling with Sharon Kadlub starting next week. It was agreed that we would let further disclosure come out through therapy/counseling.

Jayne states that the suspect, Jeff Taylor is around 35 years of age. A triple I was order for Taylor.

03/10/03

I received a letter from Sharon Kadlub indicating Kaylee disclosed to her, the unwanted touching by Jeff Taylor. Kadlubs letter was placed in the file.

03/12/03 0900 hrs

I met with Kaylee J. Hoyos and her mother Jayne. Kaylee presented herself as a normal, bright 11 1/2 year old girl. She was able to articulate the reason she was here for the interview and said she was a little scared but wanted to tell her story. Kaylee demonstrated her ability to distinguish right and wrong and truth and lies. She also understood that we only wanted to talk about the truth.

Jayne left the room for the interview and Kaylee disclosed the following information in her statement:

Kaylee said she would stay at her Aunt Shirley's house in Star Lake after school, Monday through Friday, from 1600 hrs to anywhere from 1700 to 2000 hrs. Kaylees mother would pick her up after she got off of work. This arrangement lasted from Nov. 1999 until Spring of 2000. Kaylee thinks it was about April or May that she stopped going to Aunt Shirley's.

According to Kaylee, Jeff Taylor and his wife Kim also lived at Aunt Shirley's and on occasions would be at the home while Kaylee was there. Kaylee said Jeff is a cousin by marriage. (Kim is Shirley's daughter)

Kaylee said this usually happened when her mother had to work late. Kaylee states that Jeff would have her come into the TV room to look at baseball cards or play video games. Jeff would tell Kaylee to sit on his lap and would unbutton her pants and place his hand on her private parts. Kaylee describes her private parts as being the area between her legs. Kaylee said Jeff would place his hand underneath her underwear and touch her bare skin with his hand. Kaylee denies and digital penetration and said that it was only on the outside. When asked if Jeff touched her anywhere else or ever exposed himself to her, Kaylee said no.

Jayne also provided the case file with a statement of how her daughter disclosed the incident to her and a further explanation of the dynamics involved with Shirley and Jeff and her babysitting situation. Jayne indicates that even though Jeff was working in King County, He would have had ample time on the nights Jayne was late at work and picked up her daughter at 2000 hours. Jayne also said Shirley has moved to Puyallup and Jeff and Kim Taylor have moved with her.

Jayne said when she first heard about her daughter being molested by Jeff, her husband called Shirley and was told of the allegations. Shirley told the Hoyo's that Jeff wouldn't do something like this and didn't believe the allegations. Jayne said she also was aware of other allegations about Jeff being a suspect in a sex offense in 1999/2000. She said she confronted Jeff in the spring of 2000 and Jeff denied it. Jayne said she didn't feel comfortable with her daughter being in the same home with Jeff back then and terminated her babysitting relationship with Shirley at that time.

Jeff was the subject of a sex offence investigation in 2000. The case was forwarded to the Prosecutors Office under case number 00-10183 on 10/13/00. Copies of the case will be provided with this case file. The status of the case is unknown at this time.

03/17/03

I attempted to contact the suspect at his residence at 11002 123rd. St. Ct. East., Puyallup. I spoke with Jeff Taylor's mother in law Shirley. Shirley said the home belongs to her and that Jeff and her daughter Kim Live with her. She said both work for a collections company in Renton, WA. and were gone from 6am until 7pm. I asked that she have Jeff call me this week or I would have to look for him at his place of employment. Shirley agreed to give Jeff my business card.

03/19/03

Jeff Taylor called and said he had this Friday (3/21) off and would be able to meet with me then. I made a 10 am appointment with Jeff at Edgewood Police Department for an interview.

03/21/03 0930 hrs

I met with Jeff and his wife Kim. Kim waited in the lobby while Jeff and I spoke about the incident in a separate room. Jeff said he and his wife have a new baby boy and he is now working for E.R. Solutions located in Renton. Jeff handed me a three-page hand written statement that he had filled out. The statement mentions several other family members that could have molested Kaylee, and outlines how he was never alone with Kaylee. Jeff also indicates that he has been threatened by the victim's father Lex Hoyo's. I advised Jeff of his rights, which he waived and stated he would speak to me about the incident. I told Jeff I would place his statement in the case file and added the perjury statement at the bottom of his statement for him to sign.

Jeff and I Spoke about the allegations and Jeff went from total denial that the incident ever happened to it could have happened but he did not remember doing it. In Jeff's written statement to me, he said he was living at Shirley's home at Star Lake during the time frame that this occurred. He also said if this happened he does not remember it. I asked Jeff if it is possible this incident did happen with he and Kaylee, Jeff said "There is a possibility, I have been to the Psychologist in the past for doing impulsive things and being rebellious towards my parents and family". Jeff also agreed contrary to his hand written statement, that he did have the opportunity and time to do what Kaylee alleged happened.

Jeff said he was willing to take any test or go to counseling to see if something did happen between he and Kaylee. Jeff said if it did happen, he would want to get help and go on probation and not jail since he has a family to take of now.

In the course of the 90-min. interview, Jeff went from denying any involvement with Kaylee and her allegations, to it could have happened, but I don't remember. He also said he wanted to find out if it did happen, and wanted to see about counseling. Jeff also said if it did happen he wanted to take responsibility for his actions. See statements from Jeff Taylor.

I certify (or declare) under penalty of Perjury under the laws of the State of Washington that the foregoing is true and correct.

DATE TO CASE FILE:

DETECTIVE J. R. Gardner 1027 MCSO

03 1 00200 3

DECLARATION OF PROBABLE CAUSE

Case Number: 03-01231

Probable cause exists for the charging and/or arrest and/or detention of the defendant based on the following fact and circumstances:

The following occurred in MASON COUNTY, IN THE STATE OF WASHINGTON

That on 03/12/03 I interviewed 11 y/o Kaylee J. Hoyos (DOB 04/22/91⁹¹). Kaylee disclosed that between November 1999, and April 2000 Jeffrey M. Taylor (DOB 08/13/74), on several occasions, (4 total) on different days, would unbutton her pants and place his hands on her vaginal area touching her with a rubbing motion. Kaylee originally disclosed to her mother and her counselor prior to this interview.

Kaylee said all contact with Jeffrey Taylor occurred at the Star Lake, WA. Residences where Taylor lived at the time of the incident.

Jeffrey Taylor was interviewed on 03/21/03. He went from total denial that the incident occurred to "it could have happened, but I don't remember", and When asked if this incident possibly did happen? Taylor replied "there is a possibility, I have been to psychologists in the past for doing impulsive things".

At the time of the incident the victim was under the age of 12 and was not married to the perpetrator who was over the age of 18 and at least 36 months older than the victim

Based on the information supplied by the victim and Taylor's inconsistent stance on his part in the alleged crime, I believe Probable Cause exists for the charging of Jeffery M. Taylor For Child Molestation.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing facts and attached arresting agency affidavit are true and correct to the best of my knowledge.

Dated: 6/3/03

03 I 00200 3

Signed in Mason County, Washington by:

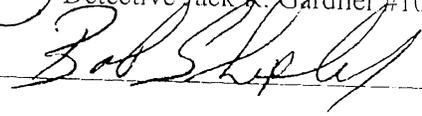
Signature of Detective



A handwritten signature in black ink, appearing to be 'J.R. Gardner', written over a horizontal line.

Detective Jack R. Gardner #1027

Supervisor



A handwritten signature in black ink, appearing to be 'Bob Skyles', written over a horizontal line.

DECLARATION OF PROBABLE CAUSE

Case Number: 03-01231

Probable cause exists for the charging and/or arrest and/or detention of the defendant based on the following fact and circumstances:

The following occurred in MASON COUNTY, IN THE STATE OF WASHINGTON

That on 03/12/03 and 06/06/03 I interviewed 11 y/o Kaylee J. Hoyos (DOB 04/22/09). Kaylee disclosed that between November 1999, and April 2000 Jeffrey M. Taylor (DOB 08/13/74), on several occasions, (5 total) on different days, would unbutton her pants and place his hands on her vaginal area touching her with a rubbing motion. Kaylee went on to say in her second interview that Jeff Taylor had inserted his finger into her vagina on four of those occasions, and fondled her vaginal area on one other occasion while riding in a van.

Kaylee was able to articulate and demonstrate that she understood what was meant by penetration in regards to Jeff Taylor inserting his finger into her vagina. Stating "Jeff would put his finger just into the flap of my private parts (pointing to her vaginal area) and tickle me there but did not put his whole finger inside me".

Jeffrey Taylor was interviewed on 03/21/03. During his interview, while under Miranda, he went from total denial that the incident occurred to "it could have happened, but I don't remember", and when asked if this incident possibly did happen? Taylor replied "there is a possibility, I have been to psychologists in the past for doing impulsive things". Taylor also said if he did something wrong he wanted to get help for his problem.

At the time of the incident the victim was under the age of 12 and was not married to the perpetrator who was over the age of 18 and at least 36 months older than the victim

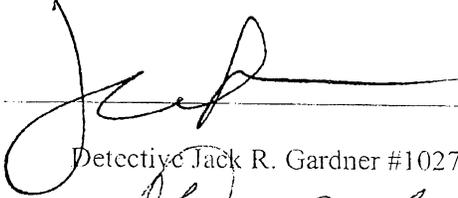
Based on the information supplied by the victim and Taylor's inconsistent stance on his part in the alleged crime, I believe Probable Cause exists for the charging of Jeffrey M. Taylor For Child Rape in the First Degree and Child Molestation in the First Degree.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing facts and attached arresting agency affidavit are true and correct to the best of my knowledge.

Dated: 6/6/02

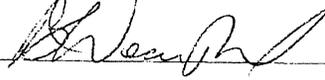
Signed in Mason County, Washington by:

Signature of Detective _____

A handwritten signature in black ink, appearing to read 'Jack R. Gardner', written over a horizontal line.

Detective Jack R. Gardner #1027

Supervisor _____

A handwritten signature in black ink, written over a horizontal line.

Mason County Sheriff's Office
Shelton, WA 98584

Place Edgewood P.D.
Time 0940
Date 3/21/07

BEFORE WE ASK YOU ANY QUESTIONS YOU MUST UNDERSTAND YOUR RIGHTS.

1. You have the right to remain silent.
2. Anything you say can be used against you in a court of law.
3. You have the right at this time to talk to a lawyer and have him present with you while you are being questioned.
4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.
5. You can decide at any time to exercise these rights and not answer any questions or make any statements.

JAF (3)

SIGNED: [Signature] WITNESS: [Signature]
DATE: 3-21-03 TIME: 9:45 AM

WAIVER

After the warning and in order to secure a waiver, the following questions should be asked and an affirmative reply secured to each question.

1. Do you understand each of these rights I have explained to you? yes
2. Having these rights in mind, do you wish to talk to us now? yes

SIGNED: [Signature] WITNESS: [Signature]
DATE: 3-21-03 TIME: 9:45 AM

ADDITIONAL WARNING TO JUVENILE

If you are under the age of 18, anything you say can be used against you in a juvenile court prosecution for a juvenile offense and can also be used against you in an adult court criminal prosecution if you are to be tried as an adult.

SIGNED: _____ WITNESS: _____
DATE: _____ TIME: _____

MASON COUNTY SHERIFF'S OFFICE

Case Number: 03-01231

Incident : Sex Offense

Date: 01-27-03

Deputy: T. Rankin #1043

On 01-27-03 at 0850 hours I contacted the complainant at the Mason County Courthouse identified as,

Hoyos, Jayne H. DOB 09-24-59
970 W. Bulb Farm Rd
Shelton, WA 98584
360-482-6080 H
360-426-3623 W
W-F

who was reporting that her daughter identified as,

Hoyos, Kaylee J. DOB 04-22-91
970 W. Bulb Farm Rd
Shelton, WA 98584
360-482-6080
W-F

was the victim of a sexual assault two years ago. Jayne said in her written statement that last night 01-26-03 she and Kaylee were at home talking about inappropriate touching . Jayne said Kaylee burst into tears and told her that about two years ago while she was at day care after school at Jaynes aunts residence identified as,

McDougal, Shirley
260 W. Satsop Dr
Elma,WA
W-F

she was touched in her private area by a male who lived at the same residence identified as,

Taylor, Jeff
11002 123 Rd St Ct E.

MASON COUNTY SHERIFF'S OFFICE
OFFICER'S REPORT

Case Number 03-01231

Page 2

Puyallup, WA
253-848-5477
W-M

who is Shirley's Son -In Law at the time was living with Shirley at 260 W. Satsop Rd Elma, WA. Jayne said Kaylee told her that when Jeff Taylor would get home they would go into the back room and play Ninetendo when the inappropriate touching took place. Kaylee told Jayne that everyday when she was at Shirley's residence from November 11, 1999 to April 2000 Jeff Taylor put his hand inside her pants and with one finger forcible penetrated her private area.

Jaynes said when she ask Kaylee why she waited so long to tell her. Kaylee said she was afraid. Jaynes said she contacted her aunt Shirley and told her what Kaylee told her. Shirley talked to Jeff Taylor who denied Kaylee accusations and said she was lying. See Jaynes statement in case file.

This case file to be forwarded to detectives for follow up

I certify (or declare) under penalty of Perjury under the laws of the State of Washington that the foregoing is true and correct.

Deputy J. P. [Signature] # 1047 # MCSO

Supervisor _____ # MCSO

Date 01-27-03

4

Mason County Sheriff's Department
Shelton, WA 98584

03-01231

STATE OF WASHINGTON)
)
COUNTY OF MASON)

Statement of Jayne Hoyos, being first duly sworn on oath deposes and says:

My name is Jayne Hoyos, I am 43 years of age and was born on 9-24-59, at _____.

I am (married) single and reside at 970 W Bulb Farm Rd - Shelton, phone 482-6080. I am employed by Mason General Hospital, since 2001.

This statement taken by _____ at 8:50 am hours on Jan 27 2003 at Mason County Court Hse

On Sunday 1-26-03 my daughter ^(KAYLEE) and I were having a discussion about people touching her and never to let it happen. I asked her if anyone had ever touched her inappropriately before and she burst into tears. I asked who and she said "Jeff". I asked what he had done and she said he put his hands in her pants. He also put his fingers inside of her. I asked how many times this happened and she said "Everyday".

(we had talked about this often.)

My Aunt (Shirley McDougal) Babysat Kaylee after school until I picked her up at about

Witness

Witness

I certify under penalty of Perjury, under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge
Dated: 1-27-03 At Mason County, WA

In my presence

Mason County Sheriff's Department
Shelton, WA 98584

Page 2 of _____ Statement of _____

6:00 pm. Sometimes it was later. Kaylee said when Jeff got home they would go in the back room to play Nintendo.

This is when he would touch her. My Aunt watched Kaylee from 11-00 through 4-00 during that time charges were pressed on Jeff for touching two other girls at Star Lake. Katie Kallonen + Amber Hanson. When I heard this I asked Jeff if it was true. He said they were lying. He never touched them. I believed him. About a week after he was charged with the accusation Kaylee said she didn't want to go to my Aunt's house anymore. My sister in law started taking care of her at a different location.

When I asked Kaylee why she hadn't told me sooner, she said she was afraid to.

I was Business manager at The Bon in Olympia. During November, December + January it is required for me to work up to 12 hours a day and sometimes I wasn't able to pick Kaylee up at 6:00. There were several nights I would pick her up ~~at~~ as late as 8:00.

Witness

Witness

I certify under penalty of Perjury, under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge
Dated: 1-27-03 At Mason County, WA

Signed: W. M. H. H. H.

Mason County Sheriff's Department
Shelton, WA 98584

Page 3 of 3 Statement of Jayme Hoyer

my relationship with Kim (my cousin) and her husband Jeff was pretty casual. The only conversation I really had with them was during dinner. Many times when I would get to my aunts to pick up Kaylee, my aunt would invite us to stay for dinner. (if it wasn't too late) Kim and Jeff were usually always at home by the time I got there. Especially during the months of the holiday season at the Bon.

Whenever I picked up Kaylee, she was either watching TV, doing her homework or in the back room playing nintendo.

Witness _____

Witness _____

I certify under penalty of Perjury, under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge

Dated: _____ at Mason County, WA

10

SHARON L. KADLUB, M.ED.
ACT COUNSELING, INC.

March 8, 2003

RE: KAYLEE HOYAS

Dear Detective Gardner,

I have met with Kaylee twice. She reported that from age eight to nine an "uncle" Jeff touched her inappropriately almost daily while she was at daycare. Jeff would put her on his lap and touch her "private parts".

She reported that the lights would be off. He lured her into the back room to play video games. Although he never threatened her, she was scared he would hurt her so she didn't tell anyone. His behavior made her have nightmares. She said she withdrew and felt alone. She spent much of her time trying to find other places to go after school so she would not have to spend time with him.

Kaylee is glad to have this out in the open and hopes he will never be allowed to hurt other children.

Respectfully,


Sharon L. Kadlub, Counselor

Mason County Sheriff's Department
Shelton, WA 98584

03-01231

STATE OF WASHINGTON)
)
COUNTY OF MASON)

Statement of _____, being first duly sworn on oath deposes and says:

My name is Kaylee J. Hoyos, I am 11 1/2 years of

age and was born on 04-22-91, at Penikese WA

I am married / single and reside at 970 W. BULL FARM RD., Shelton, WA

phone 482-6000. I am employed

by ELMA MIDDLE SCHOOL, since _____

This statement taken by Det - J.R. Coanman

at 0915 hours on 3/12/03 at M/C S/O

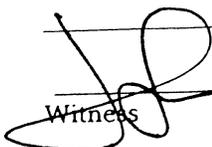
I WAS BEING BABYSAT BY MY AUNT SHIRLEY AT HER HOME IN STAR LAKE. I STARTED THIS IN NOV. 1999 UNTIL SPRING OF 2000. I THINK IT WAS APRIL OR MAY. I WOULD STAY WITH SHIRLEY AFTER SCHOOL M-F FROM 4:00 PM UNTIL 5-8:00 AT NIGHT WHEN MY MOM WOULD PICK ME UP FROM AUNT SHIRLEY AFTER HER WORK. SOMETIMES JEFF TAYLOR WOULD BE AT AUNT SHIRLEY'S HOUSE BECAUSE HE LIVED THERE WITH HIS WIFE KIM.

I certify under penalty of Perjury, under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge

Dated: 3-12-03 at Mason County, WA

Signature

Signed: Kaylee Hoyos


Witness

Witness

Mason County Sheriff's Department
Shelton, WA 98584

Page 2 of _____ Statement of _____

He worked a long time and would be there on the nights my mom worked late.

Jeff has a big collection of baseball caps and he would take me into the TV Room to show me. He made me sit on his lap, that's when he would ^{on bottom +} ~~hit~~ ^{hit} my pants and put his hand down my pants. Sometimes it would happen in his bed room, we would sit on the edge of his bed and he would do it there too. He would stop if his wife Kim walked by. Jeff would pull his hand out and then start again after she left.

Q) How old were you when it happened?

A) I was 8 years old at the time.

Q) Are you related to Jeff Taylor?

A) Yes he's my cousin by marriage. Kim, Jeff's wife, is Shirley's daughter.

Q) How many times did Jeff touch you?

A) About 10 or 20 times.

Q) How did Jeff Taylor touch you?

A) He would put his hand in my priv. parts between my legs.


Witness

Witness

I certify under penalty of Perjury, under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge

Dated: 3-12-03 at Mason County, WA

Signed: Kaylee Howard 13

Mason County Sheriff's Department
Shelton, WA 98584

Page 3 of _____ Statement of _____

He would put his hand on me, under my under pants and touch my privs with his bare hand on my skin.

Q) Did Jeff ever touch you anywhere else?

A) No just between my legs.

Q) Did Jeff ever put his fingers inside your priv. parts?

A) No only the outside.

Q) Did you tell Jeff to stop it?

A) I did a couple of times, and he did.

Q) Did Jeff ever tell you why he was doing this?

A) No

Q) Did Jeff ever ask you not to tell anyone

A) No not really, I was too scared to tell anyone until my mom asked me one time and it all came out then.

Q) Have you ever been touched by anyone else like Jeff touched you?

A) Never.

Q) What do you think should happen to Jeff?


Witness

Witness

I certify under penalty of Perjury, under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge

Dated: 3-12-03 at Mason County, WA

... (Name) 12

Mason County Sheriff's Department
Shelton, WA 98584

Page 4 of _____ Statement of _____

A) He should get in trouble so he
cant do this AGAIN.

Q) Did Jeff even take his clothing off
or make you touch him?

A) No never.

Witness

Witness

I certify under penalty of Perjury, under
the laws of the State of Washington that
the foregoing statement is true and
correct to the best of my knowledge

Dated: 3-12-03 at Mason County, WA

Karee Howard 14

MASON COUNTY SHERIFF'S DEPARTMENT
OFFICERS FOLLOW-UP REPORT

CASE: 03-01231

DATE: 06/05/03

DETECTIVE: J. Gardner

On the above date I spoke with D.P.A. Case about the Hoyos/Taylor Case. She indicated that when she interviewed the victim she was told by the victim that there was slight penetration of the suspect's finger into the victim's vagina. D.P.A. Case requested a follow up interview with the victim to see if there was a proper explanation of what was meant by penetration and to see if indeed there was penetration that might have been missed in the first interview.

I called the victims Mother and arranged for the second interview. Jayne Hoyos said she would bring Kaylee in on Friday.

06/06/03 0830 hrs.

I spoke with Kaylee and asked her if she remembers talking about penetration and if she fully understood what was meant by it. As an example I used my mouth/lips to simulate her "private parts". Kaylee was able to name her private part as her vagina. I demonstrated the difference between touching and penetration by placing my finger over the top of my lips to show touching, and then put my finger past the opening of my lips to show what penetration is.

I then asked Kaylee to demonstrate to me, using her own mouth and finger, what Jeff did to her. She said he didn't put his finger all the way in but rubbed the top and put it in a little. This was demonstrated by Kaylee by putting the tip of her finger just past the outer plain of her lips actually penetrating the lips with the tip of her finger. I asked her how far Jeff put his finger into her and Kaylee said not very far, just inside the flaps and tickling it with his finger.

Kaylee went on to say that this occurred on 4 occasions. Once while Jeff was showing her his baseball cards, once while she was playing a computer game with Jeff, once while she was in the T.V. room with Jeff. She also said Jeff's wife Kim walked by and he stopped. The fourth time Kaylee said she was in Jeff's bedroom.

Kaylee could not remember exact dates but indicated this occurred between November 1999 and April 2000. All these incidents occurred at the Star Lake home indicated in the first interview.

Detective J. R. Gardner 1027 MCSO

Mason County Sheriff's Department
Shelton, WA 98584

STATE OF WASHINGTON)
)
COUNTY OF MASON)

Statement of Kaylee J. Hoyos, being first duly sworn on oath deposes and says:

My name is Kaylee J. Hoyos, I am 12 years of

age and was born on 04/22/91, at _____

I am married / single and reside at 970 V. BULO FARM RD. Shelton

_____, phone _____, I am employed by _____, since _____

This statement taken by Det J.P. Gardner

at 0830 hours on 6/6/07 at M/C Court House

Jeff touched me on my private parts ~~the way~~ I was not sure what you meant last time, but he put his finger in my vagina while he was touching me. He put his finger inside my flap and would tickle me. He would do this at Aunt Stanley's house where he lived. He did it a lot, in the TV room, in his bedroom when he showed me his baseball cards, one time Jeff's wife Kim was in the house when he was

I certify under penalty of Perjury, under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge

Dated: 6/6/07 at Mason County, WA

Signature

Signed: Kaylee Hoyos

Witness

Witness

Mason County Sheriff's Department
Shelton, WA 98584

Page 2 of 11 Statement of _____

Doing it and when she walked by she would stop. Kim never came into the room, she just walked by. Jeff would start as soon as she went by. He did it while I was playing his computer games too.

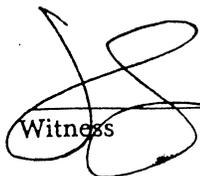
Jeff touched me in front of Shirley's van one time. He didn't put his finger in me just touched my privates. I don't remember where we were but we were driving somewhere. Mark Shirley and Kim were up front and Jeff and I were in the back of the van.

Q) Can you show me how Jeff touched you by using your own mouth and fingers?

A) Kaylee demonstrated by putting her fingers over the top of her lips and pressing back and forth like a saw, but did not demonstrate that Jeff put his finger into her flaps and tickled her.

Q) I asked Kaylee if she can remember how far he put his finger into her?

A) She replied "Just a little bit".


Witness

Witness

I certify under penalty of Perjury, under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge

Dated: 6/6/01 at Mason County, WA

Signed: Kaylee Hoyos 37

Mason County Sheriff's Department
Shelton, WA 98584

Page 3 of 4 Statement of _____

Kaylee then showed me with her open finger and placing the tip into her mouth just past her lips.

Q) Kaylee can you tell me what or where your vagina is?

A) uh-huh its my private parts (pointing to her vaginal area)

Q) when you say Jeff put his finger in your "flap" what do you mean?

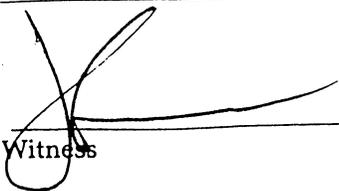
A) Down here (pointing at her groin)

Q) Are you talking about ~~the~~ where your vagina starts?

A) uh-huh, yes Right Here (again, pointing at her groin area)

Q) So when I showed you how to make your lips or your mouth take the place of your private parts, do you understand what I mean?

A) I think so


Witness

Witness

I certify under penalty of Perjury, under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge

Dated: _____ at Mason County, WA

Signed: Kaylee Houos 38

Mason County Sheriff's Department
Shelton, WA 98584

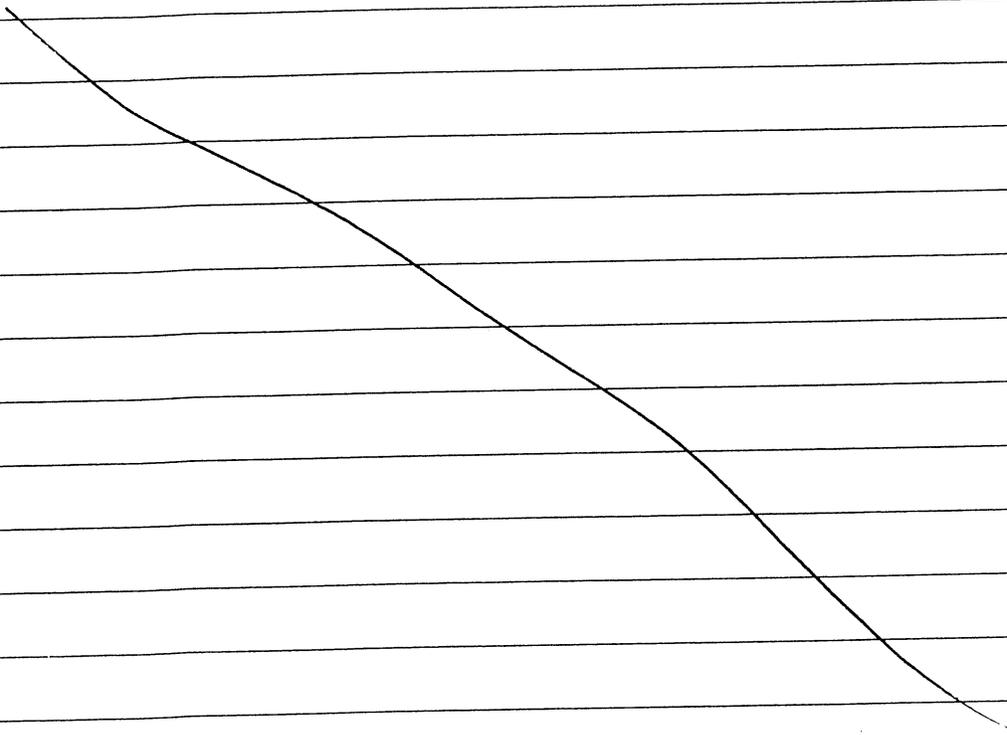
Page 4 of 4 Statement of _____

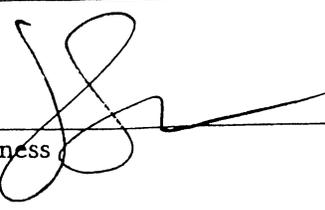
Q) What Does It Mean?

A) That Its By Private parts, But Not Really, Just Pretend.

Q) And Did Jeff Put His Finger Inside Your Private Parts? Not Just on Top?

A) Yes But Sometimes It Was Just on Top.



Witness 

Witness _____

I certify under penalty of Perjury, under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge

Dated: 6/6/03 at Mason County, WA

Signed: Kawlee Hayes 39

Gargoyles, Inc.

June 26, 2003

Kimberly Taylor
11002 – 123rd St. Ct. East
Puyallup, WA 98374

Dear Kimberly Taylor:

On your request I am providing you with Jeffrey Taylor's dates of employment at Gargoyles, Inc. According to our Human Resources files above mentioned, former employee was hired on October 13, 1997 and terminated on February 23, 2001.

At this time we are unable to release any other information on this employee, until we receive valid documentation. The note you faxed on June 25, 2003 we consider not valid. The note you provided was a request addressed only to one specific employer and we are unable to accept as a document that authorizes Gargoyles, Inc. to release personal information.

Please contact me if you wish to discuss this matter further and obtain a list of documents that Gargoyles will accept as a form of authorization to release employee's personal file.

Sincerely,



Elwira Vicky Wesolowski
Payroll Specialist

Punch Detail
 01/01/99 -> 12/31/99

07/09/2001

TAYLOR, JEFFREY M.		0001009995 480000		STANDARD					
ID IN	Dept	ACTIVITY	OUT	ID IN	Dept	ACTIVITY	OUT	TOTALS	
Mon 08/02	800a*U		1147a	M 1237p			510p	8.50	8.50
Tue 08/03	800a*U		1137a	M 1226p			414p	7.50	16.00
Wed 08/04	757a*U		1135a	M 1230p			501p	8.00	24.00
Thu 08/05	755a*U		1200p	M 100p			508p	8.25	32.25
Fri 08/06	800a-410098*U			A 1133a-410098					
	A 1142a-480000		435p					8.50	40.75
Mon 08/09	754a*U		1140a	M 1243p			501p	8.00	48.75
Tue 08/10	757a*U		1134a	M 1227p			503p	8.00	56.75
Wed 08/11	801a*U		1140a	M 1222p			500p	8.25	65.00
Thu 08/12	757a*U			A 941a-410098			1136a		
	M 1222p-410000		509p					8.50	73.50
Fri 08/13	800a*U		1133a	M 1229p			454p	8.00	81.50
Add Punch	225 08/05 1200p								
Add Punch	225 08/05 100p								

Acct:410098	REG:	5.50			
Acct:410000	REG:	5.00			
Acct:480000	REG:	69.50	OT:	1.50	
Totals:	REG:	80.00	OT:	1.50	
	Accrued	Taken	Balance		

TAYLOR, JEFFREY M.		0001009995 480000		STANDARD				
ID	IN Dept	ACTIVITY	OUT	ID	IN Dept	ACTIVITY	OUT	TOTALS
Mon 08/16	756a*U		1144a	M	1216p		510p	8.75 8.75
Tue 08/17	755a*U		1131a	M	1228p		506p	8.00 16.75
Wed 08/18	802a*U		1144a	M	1222p		456p	8.25 25.00
Thu 08/19	800a*U		1204p	M	1229p*S		511p	8.75 33.75
Fri 08/20	759a*U		1139a	M	1230p		456p	8.25 42.00
Mon 08/23	801a*U		1134a	M	1231p		509p	8.25 50.25
Tue 08/24	801a*U		1115a	M	1220p		504p	8.00 58.25
Wed 08/25	759a*U		1127a	M	1224p		516p	8.25 66.50
Thu 08/26	758a*U		1132a	M	1226p		507p	8.00 74.50
Fri 08/27	755a*U		1200p	M	100p		356p	7.00 81.50
Mon 08/30	754a*U		1200p	M	1229p*S		624p	10.00 91.50
Tue 08/31	750a*U		1204p	M	1221p*S		705p	
	M 731p*S		1018p					13.75 105.25
Add Punch	225 08/27 1200p							
Add Punch	225 08/27 100p							

Acct: 480000

REG: 103.25 OT: 2.00
 Accrued Taken Balance

TAYLOR, JEFFREY M.		0001009995 480000		STANDARD				
ID IN	Dept	ACTIVITY	CUT	ID IN	Dept	ACTIVITY	OUT	TOTALS
Wed 09/01	758a*U		1132a	M 1229p			504p	8.00 8.00
Thu 09/02	756a*U		1147a	M 1232p			455p	8.25 16.25
Fri 09/03	757a*U		1205p	M 1231p*S			433p	8.00 24.25
Tue 09/07	800a*U		1140a	M 1238p			356p	7.00 31.25
Wed 09/08	804a*U			A 833a-470000			1132a	
	M 1229p		454p					8.00 39.25
Thu 09/09	804a*U		1136a	M 1225p			458p	8.25 47.50
Fri 09/10	759a*U			A 1018a-470000			1201p	
	M 101p-470000		430p					7.50 55.00
Mon 09/13	806a*U			A 812a-470000			1202p	
	M 1226p-470000*S		518p					8.75 63.75
Tue 09/14	805a*U		1151a	M 1229p			506p	8.25 72.00
Wed 09/15	752a*U		1202p	M 1234p			500p	8.75 80.75
Holiday Hours 225 09/06 1200p 8.00				[No effect on weekly]				

Acct:470000

REG: 21.25

Acct:480000

REG: 51.50 OT: 8.00 HOL: 8.00
 REG: 72.75 OT: 8.00 HOL: 8.00

Totals:

Accrued Taken Balance

TAYLOR, JEFFREY M.		0001009995 480000		STANDARD					
ID	IN Dept	ACTIVITY	OUT	ID	IN Dept	ACTIVITY	OUT	TOTALS	
Thu 09/16	805a*U		1224p	M 1253p-090000*S			502p	8.50	8.50
Fri 09/17	759a-090000*U		1206p	M 1233p-090000*S			441p	8.25	16.75
Mon 09/20	757a*U		1203p	M 1234p			436p	8.00	24.75
Tue 09/21	821a*U		1201p	M 1229p*S			501p	8.25	33.00
Wed 09/22	807a*U			A 844a-410000			1131a		
	M 1225p-470000			A 159p-480000			237p	5.50	38.50
Thu 09/23	802a*U		1159a	M 1238p-540000			458p	8.25	46.75
Fri 09/24	801a-540000*U			A 1058a-480000			1202p		
	M 1227p*S		215p					5.75	52.50
Mon 09/27	807a*U			A 839a-410000			1214p		
	M 1237p-410000*S		446p					8.25	60.75
Tue 09/28	802a-470000*U			A 856a-540000			1200p		
	M 1227p-540000*S		500p					8.50	69.25
Wed 09/29	800a*U			A 814a-470000					
	A 1142a-480000		1202p	M 1227p*S			458p	8.50	77.75
Thu 09/30	808a-470000*U		1207p	M 1229p*S			619p	9.75	87.50
Added Hours	225 09/22 1200p FTO		[H]	2.50					
Added Hours	225 09/24 1200p FTO		[H]	2.25					

Acct:090000	REG:	9.75	OT:	2.50
Acct:410000	REG:	10.25		
Acct:470000	REG:	15.75		
Acct:540000	REG:	14.75		
Acct:480000	REG:	34.50	FTO:	4.75
Totals:	REG:	85.00	OT:	2.50

FTO:	4.75
------	------

Accrued	Taken	Balance
---------	-------	---------

TAYLOR, JEFFREY M.		0001009995 480000		STANDARD					
ID	IN Dept	ACTIVITY	OUT	ID	IN Dept	ACTIVITY	OUT	TOTALS	
Fri 10/01	759a-470000*U			A	825a-480000		1134a	7.75	7.75
	M 1228p		445p						
Mon 10/04	806a*U		1249p	M	112p*S				
	A 243p-410000		434p						
Tue 10/05	805a-410000*U		1146a	M	1212p-410000*S		430p	8.00	15.75
Wed 10/06	802a-410000*U		1159a	M	1229p-410000			8.00	23.75
	A 237p-540000		433p						
Thu 10/07	803a-410000*U		1158a	M	1225p-410000*S			8.00	31.75
	A 231p-480000		504p						
Fri 10/08	806a-410000*U			A	839a-480000		1208p	8.50	40.25
	M 1236p*S		507p						
Mon 10/11	757a*U		1139a	M	1227p		448p	8.50	48.75
Tue 10/12	757a-470000*U			A	838a-480000		1201p	8.00	56.75
	M 1224p*S		450p						
Wed 10/13	802a*U			A	807a-470000			8.25	65.00
	A 833a-480000		1203p	M	1230p*S		428p	8.00	73.00
Thu 10/14	814a-470000*U		1137a	M	1231p		459p	7.75	80.75
Fri 10/15	759a-470000*U			A	908a-480000		1208p		
	M 1232p-540000*S			A	222p-480000		507p	8.50	89.25

Acct:410000

REG: 22.50

Acct:470000

REG: 10.75

Acct:540000

REG: 3.50

Acct:480000

REG: 48.25 OT: 4.25

Totals: REG: 85.00 OT: 4.25

Accrued Taken Balance

TAYLOR, JEFFREY M.		0001009995 480000		STANDARD					
ID	IN Dept	ACTIVITY	OUT	ID	IN Dept	ACTIVITY	OUT	TOTALS	
Mon 10/18	752a-470000*U			A	817a-480000		938a	2.00	2.00
Tue 10/19	800a*U		1227p	M	1248p*S		321p	7.00	9.00
Wed 10/20	802a*U			A	816a-540000				
	A 843a-480000		1134a	M	1218p		459p	8.25	17.25
Thu 10/21	801a-470000*U		858a	M	859a*S		1147a		
	M 1224p		432p					8.00	25.25
Fri 10/22	749a-470000*U		1216p	M	1257p				
	A 107p-410000			A	330p-480000		441p	8.25	33.50
Sat 10/23	720a-410000*U		159p					6.75	40.25
Mon 10/25	759a-470000*U			A	915a-480000		1205p		
	M 1230p*S		453p					8.50	48.75
Tue 10/26	759a-470000*U			A	830a-480000				
	A 838a-410000			A	918a-480000		1208p		
	M 1231p*S		430p					8.00	56.75
Wed 10/27	804a-470000*U			A	845a-480000		1205p		
	M 1225p*S		447p					8.50	65.25
Thu 10/28	803a-540000*U		1203p	M	1231p-540000*S				
	A 236p-480000		444p					8.25	73.50
Fri 10/29	805a-540000*U			A	1029a-540000		1156a		
	M 1233p		719p					10.75	84.25
Added Hours	225 10/18 1200p FTO	[H]			6.00				
Added Hours	225 10/19 1200p FTO	[H]			1.00				

Acct:410000	REG:	9.50	OT:	0.25		
Acct:470000	REG:	15.50				
Acct:540000	REG:	13.25	OT:	4.00		
Acct:480000	REG:	41.75	FTO:	7.00		
Totals:	REG:	80.00	OT:	4.25	FTO:	7.00
	Accrued	Taken	Balance			

TAYLOR, JEFFREY M.		0001009995 480000		STANDARD					
ID	IN Dept	ACTIVITY	OUT	ID IN Dept	ACTIVITY	OUT	TOTALS		
Mon 11/01	817a*U			A 1032a-540000		1211p			
	M 1231p-540000*S		445p				8.25	8.25	
Tue 11/02	758a-540000*U		1205p	M 1233p-540000*S		444p	8.25	16.50	
Wed 11/03	803a-540000*U		1131a	M 1226p-540000		440p	7.75	24.25	
Thu 11/04	814a-470000*U			A 857a-540000		1134a			
	M 1214p-540000		458p				8.00	32.25	
Fri 11/05	748a-540000*U		1207p	M 1230p*S		500p	8.75	41.00	
Mon 11/08	801a*U		1204p	M 1225p*S		506p	8.75	49.75	
Tue 11/09	801a*U		1204p	M 1229p*S		450p	8.25	58.00	
Wed 11/10	758a-470000*U		849a	M 850a*S		1207p			
	M 1233p*S		435p				8.00	66.00	
Thu 11/11	805a-470000*U			A 853a-480000		1202p			
	M 1228p*S		503p				8.50	74.50	
Fri 11/12	801a-470000*U		1203p	M 1237p		509p	8.75	83.25	
Mon 11/15	801a-470000*U			A 857a-480000		1208p			
	M 1237p*S		518p				8.75	92.00	
Add Punch	225 11/05 500p								

Acct:470000	REG:	17.25	OT:	2.25
Acct:540000	REG:	37.00	OT:	1.00
Acct:480000	REG:	34.50		
Totals:	REG:	88.75	OT:	3.25
	Accrued	Taken	Balance	

TAYLOR, JEFFREY M.		0001009995 104800		STANDARD							
ID	IN	Dept	ACTIVITY	OUT	ID	IN	Dept	ACTIVITY	OUT	TOTALS	
Tue 11/16	803a	104700*U		1204p	M	1229p*S			500p	8.50	8.50
Wed 11/17	802a	104700*U			A	824a-104800			1201p		
	M	1250p		457p						8.25	16.75
Thu 11/18	803a	104700*U			A	911a-104800			1204p		
	M	1240p		413p						7.75	24.50
Fri 11/19	756a	104700*U			A	914a-104800			1203p		
	M	1220p*S		500p						8.75	33.25
Mon 11/22	800a	104700*U			A	854a-105400					
	A	855a-014197		1210p	M	1239p-014197*S			450p	8.25	41.50
Tue 11/23	758a	104700*U			A	830a-104800			1206p		
	M	1239p		502p						8.50	50.00
Wed 11/24	740a	104700*U			A	821a-104800			212p	6.50	56.50
Mon 11/29	800a	104700*U			A	837a-104800			1205p		
	M	1229p*S		504p						8.50	65.00
Tue 11/30	751a	*U		1207p	M	1231p*S			843p	12.50	77.50
Change Punch	225	11/16	803a-								
		11/16	803a-104700								
Change Punch	225	11/17	802a-								
		11/17	802a-104700								
Change Punch	225	11/17	824a-								
		11/17	824a-104800								
Change Punch	225	11/18	803a-								
		11/18	803a-104700								
Change Punch	225	11/18	911a-								
		11/18	911a-104800								
Change Punch	225	11/19	756a-								
		11/19	756a-104700								
Change Punch	225	11/19	914a-								
		11/19	914a-104800								
Change Punch	225	11/22	800a-								
		11/22	800a-104700								
Change Punch	225	11/22	854a-								
		11/22	854a-105400								
Change Punch	225	11/22	855a-								
		11/22	855a-014197								
Change Punch	225	11/22	1239p-								
		11/22	1239p-014197								
Change Punch	225	11/23	758a-								
		11/23	758a-104700								
Change Punch	225	11/23	830a-								
		11/23	830a-104800								
Change Punch	225	11/24	740a-								
		11/24	740a-104700								
Change Punch	225	11/24	821a-								
		11/24	821a-104800								
Added Hours	225	11/24	1200p FTO	[H]		1.50					
Holiday Hours	225	11/25	1200p 8.00								
Holiday Hours	225	11/26	1200p 8.00								
Change Punch	225	11/29	800a-								
		11/29	800a-104700								
Change Punch	225	11/29	837a-								
		11/29	837a-104800								

Acct:014197	REG:	7.25				
Acct:104800	REG:	54.25	OT:	2.00	FTO:	1.50
	HOL:	16.00				
Acct:104700	REG:	14.00				
Totals:	REG:	75.50	OT:	2.00	FTO:	1.50
	HOL:	16.00				
	Accrued	Taken	Balance			

TAYLOR, JEFFREY M.		0001009995 104800		STANDARD						
ID	IN	Dept	ACTIVITY	CUT	ID	IN	Dept	ACTIVITY	CUT	TOTALS
Wed	12/01	804a*U		1207p	M	1234p*S			446p	8.25 8.25
Thu	12/02	758a*U		1203p	M	1223p*S			419p	8.00 16.25
Fri	12/03	804a*U		1203p	M	1226p*S			432p	8.00 24.25
Sat	12/04	807a*U		507p						9.00 33.25
Mon	12/06	759a*U		1206p	M	1234p*S			505p	8.50 41.75
Tue	12/07	757a*U		1208p	M	1237p*S			509p	8.75 50.50
Wed	12/08	758a*U		500p						9.00 59.50
Fri	12/10	757a*U		1156a	M	1233p			428p	8.00 67.50
Tue	12/14	801a*U		1207p	M	1235p*S			507p	8.50 76.00
Wed	12/15	758a*U		440p						8.75 84.75
Added Hours		225	12/09 1200p FTO	[H]		8.00				
Added Hours		225	12/13 1200p FTO	[H]		8.00				

Acct:104800

REG: 70.50 OT: 14.25 FTO: 16.00
 Accrued Taken Balance

TAYLOR, JEFFREY M.		0001009995 104800		STANDARD					
ID	IN Dept	ACTIVITY	OUT	ID	IN Dept	ACTIVITY	OUT	TOTALS	
Thu	12/16 757a*U		1207p	M	1229p*S		437p	8.25	8.25
Fri	12/17 756a*U		250p					6.75	15.00
Mon	12/20 800a*U		1206p	M	1226p*S		429p	8.25	23.25
Tue	12/21 837a*U		1130a	M	1232p		434p	7.00	30.25
Wed	12/22 800a*U		1210p	M	1247p		421p	7.75	38.00
Mon	12/27 758a*U		1132a	M	1229p		504p	8.00	46.00
Tue	12/28 756a*U			A	1023a-103000				
	A 1038a-104700		311p					7.25	53.25
Wed	12/29 806a*U		1204p	M	1232p*S		448p	8.25	61.50
Thu	12/30 752a*U		1227p	M	1245p*S		343p	7.75	69.25
Added Hours	225 12/17 1200p FTO	[H]						1.00	
Added Hours	225 12/21 1200p FTO	[H]						1.00	
Holiday Hours	225 12/23 1200p 8.00								
Holiday Hours	225 12/24 1200p 8.00								
Added Hours	225 12/28 1200p FTO	[H]						0.75	
Added Hours	225 12/30 1200p FTO	[H]						0.25	
Holiday Hours	225 12/31 1200p 8.00								

Acct:103000	REG:	0.25				
Acct:104800	REG:	64.50	FTO:	3.00	HOL:	24.00
Acct:104700	REG:	4.50				
Totals:	REG:	69.25	FTO:	3.00	HOL:	24.00

	Accrued	Taken	Balance			
Employee totals:						
Acct:014197	REG:	7.25				
Acct:090000	REG:	9.75	OT:	2.50		
Acct:103000	REG:	0.25				
Acct:104700	REG:	18.50				
Acct:104800	REG:	189.25	OT:	16.25	HOL:	40.00
	FTO:	20.50				
Acct:410000	REG:	58.75	OT:	1.00		
Acct:410098	REG:	5.50	OT:	4.25		
Acct:470000	REG:	80.50	OT:	2.25		
Acct:480000	REG:	1293.75	OT:	87.25	HOL:	24.00
	FTO:	148.75	PRSNLHOL:	16.00		
Acct:540000	REG:	68.50	OT:	5.00		
Totals:	REG:	1732.00	OT:	118.50	HOL:	64.00
	FTO:	169.25	PRSNLHOL:	16.00		

> YTD TOTALS

TOTAL MISSED DAYS
AND PAID

(NOT INCLUDING SCHEDULED HOLIDAYS
AND MISSED HOURS NOT PAID)

— HOURS MISSED WITHOUT PAY
FROM 7/5/99 TO 7/23/99 TOTAL 15 DAYS (EACH 8HRS)

=====

0001009995 TAYLOR, JEFFREY M. 104700 STANDARD

TAYLOR, JEFFREY M.		0001009995 104800		STANDARD						
ID	IN	Dept	ACTIVITY	OUT	ID	IN	Dept	ACTIVITY	OUT	TOTALS
Mon	01/03	800a*U		1203p	M	1232p*S			453p	8.50 8.50
Tue	01/04	757a*U		1206p	M	1230p*S			440p	8.25 16.75
Wed	01/05	814a*U			A	827a-104700			1209p	
		M	1231p-104700*S	528p						9.00 25.75
Thu	01/06	747a-104700*U		1214p	M	1233p*S			722p	11.25 37.00
Fri	01/07	757a-104700*U		1155a	M	1235p			407p	7.25 44.25
Tue	01/11	841a*U		1209p	M	1240p			449p	7.50 51.75
Wed	01/12	807a*U		1208p	M	1231p*S			437p	8.00 59.75
Thu	01/13	756a*U		1205p	M	1233p*S			429p	8.00 67.75
Fri	01/14	800a*U		1202p	M	1258p			310p	6.25 74.00
Change Punch	225	01/06	747a							
		01/06	747a-104700							
Change Punch	225	01/07	757a							
		01/07	757a-104700							
Added Hours	225	01/10	1200p PRSNLHOL [H]					8.00		
Added Hours	225	01/11	1200p FTO [H]					0.50		

Acct:104800 REG: 46.75 FTO: 0.50 PRSNLHOL: 8.00

Acct:104700 REG: 23.00 OT: 4.25

Totals: REG: 69.75 OT: 4.25 FTO: 0.50

PRSNLHOL: 8.00

Accrued Taken Balance

TAYLOR, JEFFREY M.		0001009995	104800	STANDARD				TOTALS				
ID	IN	Dept	ACTIVITY	OUT	ID	IN	Dept	ACTIVITY	OUT			
Mon 01/17	806a	*U		1208p	M	1234p	*S		431p	8.00	8.00	
Tue 01/18	805a	*U			A	815a-105301			1202p			
	M	1227p	*S	430p						8.00	16.00	
Wed 01/19	804a	*U			A	1135a-014198			1201p			
	M	1223p-014198	*S	427p						8.25	24.25	
Thu 01/20	756a	*U		1202p	M	1240p			435p	7.75	32.00	
Fri 01/21	757a-105301	*U		1210p	M	1235p	*S		443p	8.25	40.25	
Mon 01/24	802a	*U		1208p	M	1238p			438p	8.25	48.50	
Tue 01/25	755a	*U		1219p	M	1250p			500p	8.50	57.00	
Wed 01/26	745a	*U		1204p	M	1247p			506p	8.50	65.50	
Thu 01/27	801a	*U		1206p	M	1234p	*S		439p	8.25	73.75	
Fri 01/28	802a	*U		1208p	M	1235p	*S		426p	8.00	81.75	
Mon 01/31	801a	*U		1215p	M	1245p			626p	10.00	91.75	
Remove Punch		225	01/18	1228p								
Add Punch		225	01/25	500p								

Acct:105301	REG:	15.75	OT:	0.25
Acct:014198	REG:	4.75		
Acct:104800	REG:	69.50	OT:	1.50
Totals:	REG:	90.00	OT:	1.75

Accrued	Taken	Balance
---------	-------	---------

TAYLOR, JEFFREY M.		0001009995 104800		STANDARD					
ID	IN Dept	ACTIVITY	OUT	ID IN Dept	ACTIVITY	OUT	TOTALS		
Tue 02/01	758a*U		1201p	M 1236p		434p	8.00	8.00	
Wed 02/02	757a*U		1209p	M 1244p		428p	8.00	16.00	
Thu 02/03	802a*U		1204p	M 1229p*S		434p	8.00	24.00	
Fri 02/04	756a*U		1201p	M 1231p		424p	8.00	32.00	
Mon 02/07	753a*U		1204p	M 1227p*S		433p	8.00	40.00	
Tue 02/08	804a*U		1207p	M 1232p*S		419p	7.75	47.75	
Wed 02/09	759a*U		1201p	M 1231p					
	A 1250p-105301		333p					7.00	54.75
Thu 02/10	756a-105301*U			A 1032a-104800		1207p			
	M 1233p*S		432p				8.00	62.75	
Fri 02/11	810a-100900*U		155p				5.75	68.50	
Mon 02/14	800a*U		1203p	M 1235p		432p	8.00	76.50	
Tue 02/15	757a*U		1201p	M 1234p		427p	8.00	84.50	
Added Hours	225 02/08 1200p FTO	[H]		0.25					
Added Hours	225 02/09 1200p FTO	[H]		1.00					
Change Punch	225 02/10 1032a								
	02/10 1032a-104800								
Change Punch	225 02/11 810a								
	02/11 810a-100900								
Added Hours	225 02/11 1200p FTO	[H]		2.25					

Acct:105301

REG: 5.25

Acct:100900

REG: 5.75

Acct:104800

REG: 71.50 OT: 2.00 FTO: 3.50

Totals: REG: 82.50 OT: 2.00 FTO: 3.50

Accrued Taken Balance

TAYLOR, JEFFREY M.		0001009995 104800		STANDARD		ACTIVITY	OUT	TOTALS	
ID	IN Dept	ACTIVITY	OUT	ID IN	Dept				
Wed	02/16	759a*U	1204p	M	1234p		430p	8.00	8.00
Thu	02/17	801a*U		A	846a-105301		430p	8.50	16.50
Fri	02/18	807a*U	434p					8.50	25.00
Mon	02/21	756a*U	1201p	M	1230p*S		436p	8.00	33.00
Tue	02/22	751a*U	1207p	M	1232p*S		429p	8.25	41.25
Wed	02/23	757a*U	1202p	M	1234p		429p	8.00	49.25
Thu	02/24	759a*U	1202p	M	1250p		429p	7.75	57.00
Fri	02/25	753a-104300*U	419p					8.25	65.25
Mon	02/28	800a*U		A	1030a-105300		1213p		
		M 1223p-105300*S	420p					8.00	73.25
Tue	02/29	755a*U	1203p	M	1228p*S		802p	11.50	84.75

Acct:105301	REG:	7.75			
Acct:104300	REG:	8.00	OT:	0.25	
Acct:104800	REG:	62.25	OT:	1.00	
Acct:105300	REG:	5.50			
Totals:	REG:	83.50	OT:	1.25	

Accrued Taken Balance

TAYLOR, JEFFREY M.		0001009995 104800		STANDARD				TOTALS	
ID	IN Dept	ACTIVITY	OUT	ID IN Dept	ACTIVITY	OUT			
Wed 03/01	754a*U			A 1055a-104300		428p	8.50	8.50	
Thu 03/02	759a*U		413p				8.25	16.75	
Fri 03/03	802a*U		420p				8.25	25.00	
Mon 03/06	801a-104300*U		221p				6.25	31.25	
Tue 03/07	756a*U		1156a	M 1229p		431p	8.00	39.25	
Wed 03/08	758a*U			A 824a-105301		1247p			
	M 108p*S		433p				8.25	47.50	
Thu 03/09	757a*U		1157a	M 1224p*S		426p	8.00	55.50	
Fri 03/10	756a*U		1209p	M 1234p*S		400p	7.50	63.00	
Mon 03/13	806a*U		1201p	M 1241p					
	A 220p-105301		424p				7.75	70.75	
Tue 03/14	755a*U		430p				8.50	79.25	
Wed 03/15	757a*U		1203p	M 101p		417p	7.25	86.50	
Added Hours	225	03/06 1200p FTO	[H]				1.75		
Change Punch	225	03/08 824a							
		03/08 824a-105301							
Added Hours	225	03/10 1200p FTO	[H]				0.50		
Change Punch	225	03/13 220p							
		03/13 220p-105301							
Added Hours	225	03/15 1200p FTO	[H]				0.75		

Acct:105301

REG: 10.00

Acct:104300

REG: 11.75

Acct:104800

REG: 60.25 OT: 4.50 FTO: 3.00

Totals: REG: 82.00 OT: 4.50 FTO: 3.00

Accrued Taken Balance

TAYLOR, JEFFREY M.		0001009995 104800		STANDARD						
ID	IN	Dept	ACTIVITY	OUT	ID	IN	Dept	ACTIVITY	OUT	TOTALS
Thu	03/16	808a*U		426p						8.25 8.25
Fri	03/17	759a*U		1205p	M	1233p*S			406p	7.50 15.75
Tue	03/21	802a*U		1204p	M	1237p			426p	8.00 23.75
Wed	03/22	759a*U		416p						8.25 32.00
Thu	03/23	802a*U		413p						8.25 40.25
Fri	03/24	752a*U		203p	M	240p			459p	8.75 49.00
Mon	03/27	816a*U		1217p	M	1239p*S			427p	8.00 57.00
Tue	03/28	746a*U		1201p	M	1230p*S			403p	7.75 64.75
Wed	03/29	758a*U		412p						8.25 73.00
Thu	03/30	735a*U		424p						9.00 82.00
Fri	03/31	726a*U		1207p	M	1254p			702p	
		M	741p	258a						18.00 100.00
Added Hours	225	03/17	1200p	FTO	[H]	0.50				
Added Hours	225	03/20	1200p	PRSNLHOL	[H]	8.00				
Out punch	225	04/01	258a							

Acct:104800

REG: 89.00 OT: 11.00 FTO: 0.50
 PRSNLHOL: 8.00

Accrued Taken Balance

TAYLOR, JEFFREY M.		0001009995 105302		STANDARD					
Mon	04/03	805a*U	ACTIVITY	OUT	ID IN	Dept	ACTIVITY	OUT	TOTALS
				1233p	M	101p*S		429p	8.00 8.00
Tue	04/04	743a*U		1223p	M	1247p*S		433p	8.25 16.25
Wed	04/05	747a*U		1204p	M	1227p*S		434p	8.25 24.50
Thu	04/06	801a*U		1157a	M	1226p*S		432p	8.00 32.50
Fri	04/07	748a*U		434p					8.75 41.25
Mon	04/10	826a*U		1200p	M	1226p*S		500p	8.00 49.25
Tue	04/11	806a*U		1215p	M	1237p*S		458p	8.75 58.00
Wed	04/12	742a*U		1159a	M	1225p*S		457p	8.75 66.75
Thu	04/13	820a*U		1158a	M	1229p		500p	8.25 75.00
Fri	04/14	747a*U		1204p	M	1226p*S		429p	8.50 83.50

Acct:105302

REG: 80.00 OT: 3.50

Accrued Taken Balance

TAYLOR, JEFFREY M.		0001009995 105302		STANDARD					
ID	IN Dept	ACTIVITY	OUT	ID IN Dept	ACTIVITY	OUT	TOTALS		
Mon 04/17	824a*U		1205p	M 1230p*S		500p	8.00	8.00	
Tue 04/18	822a*U		1158a	M 1227p*S		454p	8.25	16.25	
Wed 04/19	821a*U		1204p	M 1222p*S		157p	5.50	21.75	
Thu 04/20	822a*U		1159a	M 1227p*S		457p	8.25	30.00	
Fri 04/21	819a*U		1157a	M 1227p		452p	8.00	38.00	
Mon 04/24	827a*U		1214p	M 1240p*S		458p	8.00	46.00	
Tue 04/25	825a*U		1159a	M 1229p		503p	8.00	54.00	
Wed 04/26	826a*U		1204p	M 1232p*S		501p	8.00	62.00	
Thu 04/27	824a*U		1210p	M 1233p*S		457p	8.00	70.00	
Fri 04/28	828a*U		1200p	M 1230p		500p	8.00	78.00	
Sat 04/29	757a-104800*U		1203p	M 1235p		530p	9.00	87.00	
Added Hours	225 04/19 1200p FTO	[H]		2.50					
Add Punch	225 04/28 1200p								
Add Punch	225 04/28 1230p								
Change Punch	225 04/29 757a								
	04/29 757a-104800								

Acct:105302	REG:	78.00	FTO:	2.50		
Acct:104800	OT:	9.00				
Totals:	REG:	78.00	OT:	9.00	FTO:	2.50
	Accrued	Taken	Balance			

TAYLOR, JEFFREY M.		0001009995 105301		STANDARD					
ID	IN Dept	ACTIVITY	OUT	ID IN	Dept	ACTIVITY	OUT	TOTALS	
Mon 05/01	815a*U		1126a	M 1200p			510p	8.50	8.50
Tue 05/02	818a*U		1205p	M 1229p*S			503p	8.25	16.75
Wed 05/03	827a*U		1204p	M 1228p*S			503p	8.00	24.75
Thu 05/04	823a*U		1156a	M 1227p			505p	8.00	32.75
Fri 05/05	822a*U		1201p	M 1231p			500p	8.25	41.00
Mon 05/08	825a*U		1201p	M 1232p			457p	8.00	49.00
Tue 05/09	824a*U		1203p	M 1229p*S			505p	8.00	57.00
Wed 05/10	820a*U		1159a	M 1227p*S			501p	8.25	65.25
Fri 05/12	828a*U		1203p	M 1227p*S			502p	8.00	73.25
Mon 05/15	824a*U		1233p	M 1258p*S			502p	8.00	81.25
Add Hours	225 05/11 1200p FTO	[H]							8.00

Acct:105301

REG: 80.25 OT: 1.00 FTO: 8.00
 Accrued Taken Balance

TAYLOR, JEFFREY M.		C001009995 105301		STANDARD					
ID	IN Dept	ACTIVITY	CUT	ID IN	Dept	ACTIVITY	OUT	TOTALS	
Tue 05/16	756a*U		1235p	M 101p*S			501p	8.50	8.50
Wed 05/17	804a*U		1235p	M 1259p*S			501p	8.50	17.00
Thu 05/18	816a*U		1232p	M 1257p*S			502p	8.25	25.25
Fri 05/19	801a*U		1234p	M 1256p*S			509p	9.00	34.25
Mon 05/22	746a 104800*U		602p					10.25	44.50
Tue 05/23	748a 104800*U		1218p	M 1242p*S					
	A 1243p 104800		557p					9.75	54.25
Wed 05/24	749a 104800*U		558p					10.25	64.50
Thu 05/25	705a 104800*U		1232p	M 1255p 104800*S			606p	10.50	75.00
Fri 05/26	706a 104800*U		1206p	M 1238p 104800			450p	9.25	84.25
Tue 05/30	759a 104800*U		652p					10.75	95.00
Wed 05/31	754a 104800*U		1211p	M 1244p 104800			555p		
	M 638p 104800		1032p					13.25	108.25
Add Hol	225 05/29 1200p 8.00								

Acct:105301	REG:	32.00	OT:	2.25	HOL:	8.00
Acct:104800	REG:	64.00	OT:	10.00		
Totals:	REG:	96.00	OT:	12.25	HOL:	8.00

Accrued Taken Balance

CERTIFICATE OF SERVICE

I certify that I caused one copy of the foregoing Personal Restraint Petition, with Legal Argument and Authorities and Motion to Transfer Verbatim Report to be served on the following parties of record and/or interest parties by ABC Legal Messenger Services of the same to the following:

Court of Appeals of Washington, Division II
Ste 300 MS TB-06
Tacoma, WA 98402-4454

DATED this 20th day of December 2006.

VAN SICLEN, STOCKS & FIRKINS

Nadia Feller

Nadia Feller,
Legal Assistant for Mike Kelly

FILED
COURT OF APPEALS
DIVISION II
06 DEC 20 PM 2:45
STATE OF WASHINGTON
BY *[Signature]*
DEPUTY