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

IN RE THE PERSONAL RESTRAINT
PETITION OF:

JAKE JOSEPH MUSGA,

Petitioner.

NO. 46987-1-II

STATE'S RESPONSE TO
PERSONAL RESTRAINT PETITION

A. ISSUES PERTAINING TO DISCRETIONARY REVIEW

1. Should the inadequately supported petition be dismissed since its unproven claims of pre-plea ineffective assistance of counsel are founded upon speculative assertions, uninformed opinions and incomplete records that omit information apparently material to the representation he asks this Court to review?

2. Has petitioner failed to prove his guilty pleas were the consequence of ineffective counsel when they were strategically purposed to achieve a favorable sentencing outcome by portraying him as taking responsibility for raping and murdering a toddler entrusted to his care to spare the victim's family the further hardship of the trial he now asks this Court to grant, having failed to persuade the trial court to impose the standard range sentence he desired?

1 3. Is petitioner's request for reinstatement of his direct appeal meritless when it is
2 based on an erroneous claim he was never advised of the appellate rights he failed to exercise?

3
4 B. STATUS OF PETITIONER

5 Petitioner is restrained pursuant to a final judgment entered November 21, 2013, in
6 Pierce County Cause No.13-1-01369-1 pursuant to his guilty pleas for the first degree rape and
7 murder of a two year old boy entrusted to his care—aggravated by the deliberate cruelty of
8 those crimes, the excessiveness of the injuries inflicted, and the particular vulnerability of his
9 victim. Apx.R; S at 4¹, Y. These crimes first came to law enforcement's attention just after 4:00
10 a.m., March 30, 2013, when police responded to a 911 call reporting a heavily bruised toddler
11 with breathing difficulties in a Tacoma apartment building lobby. Apx.A at 20; D at 27. Visible
12 portions of the toddler's forehead, face, chest, arms and legs were covered in too many bruises
13 to count. Apx.A at 12. A physician at Mary Bridge Children's Hospital diagnosed the toddler
14 with non-accidental inner cranial bleeding in two locations, multiple areas of lung collapse, a
15 large volume of blood in his abdomen, a damaged pancreas, a very high level of alcohol in his
16 blood system, and rectal bleeding consistent with sexual assault. Apx.B at 16; D at 27; E at 115;
17 F at 124. The toddler, C.C., was pronounced dead at 7:50 a.m. that morning. *Id.* An autopsy
18 revealed the death to be a homicide caused by blunt force trauma to C.C.'s abdomen and head.
19 Apx.H, M at 586. The documented injures included:

- 20
21 1. Acute blunt injuries of the head. A. Face and scalp bruises and abrasions.
22 B. Superior frenulum laceration. C. Multiple subscalpular contusions. D.
23 Acute brain injuries. i. Acute subdural hematomas. ii. Acute subarachnoid
24 hemorrhages. iii. Focal traumatic axonal injury. iv. Cerebral edema and
25 early hypoxic ischemic damage.

¹ Appendices are numbered in order of arrangement when Bates stamp numbering is not provided.

- 1 2. Acute blunt injuries of the abdomen. A. Torso bruises and abrasions. B.
2 Mesentery laceration with hemoperitoneum, 800 milliliters.
- 3 3. Acute anorectal lacerations consistent with sexual assault. A. Full
4 thickness anorectal mucosa tears. B. Circumferential anal mucosal
5 hematoma. C. Deep perirectal hemorrhage.
- 6 4. Acute ethanol intoxication (0.11 g/dL).
- 7 5. Old blunt head injury, small subdural neomembrane.
- 8 6. Old blunt abdominal injury, mesenteric granulation and fibrosis. Apx. M
9 at 586.

10 The circumstances surrounding C.C.'s untimely death were revealed as the investigation
11 continued. His mother, Laura Colley, had been dating petitioner for five months. Apx.A at 12;
12 K at 315-16. Petitioner moved into an apartment with Colley and C.C. three months into the
13 relationship. *Id.* Jobless, petitioner spent most days in the apartment with C.C. while Colley
14 worked. Apx.A at 12; K at 315-16. Colley was enthusiastic about petitioner's apparent interest
15 in her son. Apx.K at 315. Petitioner purportedly told a fellow jail inmate "he learned not to hit
16 the kid in front of others." Apx.N at 636. The bruising that covered C.C.'s body intermittently
17 occurred over an undetermined period. Apx.D at 28. Three photographs taken of C.C. the day
18 before his death showed moderate bruising on his face and torso, which literally paled in
19 comparison to the severe bruising that covered his body when emergency responders found him
20 clinging to life the next day. Apx.K at 337; *compare* Q at 361-63 with P at 2-4.

21 Colley arranged to leave C.C. alone with petitioner for several days beginning with
22 Thursday, March 28, 2013, so she could spend time with family in McCleary, WA. Apx.K at
23 315. She changed C.C.'s diaper with her sister just before leaving. Apx. K at 315, 337; O at 8-9.
24 There were no injuries around C.C.'s rectal area at the time, and the seven used diapers police
25 found in the apartment had yet to be filled with C.C.'s blood. Apx.K at 337; L. Colley left for

1 McCleary with her sister around 7:00 p.m. Apx.K at 315. Petitioner claimed he went to bed two
2 hours later and spent the next day alone with C.C. until they fell asleep in the same bed around
3 2:00 a.m. Apx.A at 13. Petitioner claimed he awoke to find C.C. had fallen out of bed. *Id.*
4 Petitioner said he carried C.C. downstairs because he noticed C.C. was not breathing. *Id.* at 13.
5 When an officer asked whether C.C. consumed any chemicals, petitioner said he might have
6 snuck a drink of vodka, which cannot be reconciled with C.C.'s acute ethanol intoxication of .11
7 g/dL. *Id.*; M at 586. Petitioner mentioned Colley's parents might be "pretty upset" with him
8 since his first unsupervised overnight with C.C. ended in hospitalization. *Id.*; Apx.B 16.
9

10 Karen Howard lived in the apartment directly beneath petitioner's unit. Apx.J at 290-91.
11 She heard "something ... being dropped or bounced around" in petitioner's apartment from
12 roughly 11:30 p.m. Friday, March 29th, to 1:30 a.m. Saturday, March 30th. *Id.* At the time, C.C.
13 was 39 inches long and weighed 36 pounds. Apx.M at 587. Petitioner was 6'2" and weighed
14 about 185 pounds. Apx.Q at 5. Howard heard "the baby screaming" when she knocked on
15 petitioner's front door, threatening to call the police if the "fighting" noises continued. *Id.* The
16 baby's screams fell silent. *Id.* Petitioner never opened the door. *Id.* Howard heard similar albeit
17 less intense noises emanating from petitioner's apartment over a two hour period the night
18 before. *Id.* at 291-92; Apx.A at 12.
19

20 The 911 caller, Saldavia, also spoke to police.² He arrived at the apartment building
21 around 3:30 a.m. Apx.C at 20. Shortly thereafter he saw petitioner run into the lobby with C.C.
22 Apx. C at 20. Although petitioner initially appeared to be crying, Saldavia was puzzled by his
23
24

25 ² A number of other people were interviewed by police in course of this investigation to include: the Tacoma
medical responders as well as C.C.'s biological father Brannon Jones, aunt Leah Jensen, aunt Jamie Wilson, uncle
James Williams, grandmother Bobbye Choate, and grandfather Ron Jones. Apx.O at 1-10.

1 callousness once C.C. was taken by emergency responders. Apx.C at 20. Saldavia elaborated on
2 petitioner's disconcerting demeanor in a recorded interview:

3 [Petitioner] seemed concerned but ... more really concerned [sic] the kid was
4 injured but more concerned ... someone was gonna find out ... kinda like a oh
5 shit, I messed up ... he was more ... scared than worried ... scared for himself
almost.... Apx.G at 131-32.

6 C.C.'s external injuries were documented at the hospital. Apx.E at 115. Bruises extended around
7 his body from the top of his head to his feet. Apx.E at 115; F at 124; I at 222-26³; P at 2-5. His
8 arms, ears, and sides were cut. *Id.* His rectum was bruised and bleeding. *Id.*

9 Petitioner's secured apartment was forensically processed pursuant to a search warrant.
10 Apx.B at 17. There were blood stains throughout the unit, including portions of the interior front
11 door, carpet, entry walls, exterior bathroom door, toilet, blue blanket in the bathtub, bathtub,
12 underside of a bath mat, bathroom counter, tissue from a bathroom garbage can, pair of silver
13 shorts, child's blanket, baby wipes and diapers. Apx.E at 115-16; C; I at 226-40; L; O at 2-3; P
14 at 5; Pet.⁴Apx.T. C.C.'s DNA profile was extracted from blood adhering to the blue blanket,
15 wipes container, four carpet sections, shorts, and counter. Apx. C at 6. A bottle of vodka, a Sea
16 Hawks cup, and a child's bottle were collected with other items. *Id.*⁵ The child's bottle and the
17 Sea Hawks cup tested positive for ethanol. Apx.O at 9 (Disc. No. 631-33, 646-47).

18
19 Even the career criminal defense attorney petitioner proffers as an expert in his PRP
20 concedes the evidence underlying petitioner's child rape, murder, and aggravating
21 circumstances was "relatively strong." Pet.Apx.hh at 7, ¶ 22. Attorney Keith Hall filed a limited
22 notice of appearance at petitioner's arraignment, followed by a Notice of Appearance, Demand
23

24 ³ Although extremely difficult to view, these images are directly relevant to the ineffective assistance claim as they
25 would influence any reasonable attorney's assessment of the case.

⁴ The State's appendices are cited "Apx."; whereas petitioner's appendices are cited "Pet.Apx.".

⁵ Police collected a vast array of physical evidence, many pieces of which were subjected to forensic testing for
fingerprints, DNA, cell phone data, and the presence of chemicals. Apx.O at 1-10.

1 for Jury Trial, Demand for Discovery, Bill of Particulars and Omnibus Application by Richard
2 Warner and Hall. Apx.S. According to the Washington State Bar Association both attorneys are
3 criminal law practitioners in good standing. Warner (WSBA No. 21399) was admitted in 1992
4 and Hall was admitted in 2004. *Id.*⁶

5 The entirety of the work completed by petitioner's legal team remains unclear due to his
6 failure to perfect the record with information peculiarly within his control as his trial counsel's
7 former client. *E.g.*, Pet.Apx. K-L; O-P; R; V at 3; 6 bb at 4. It is nevertheless apparent his legal
8 team investigated the case, consulted a medical expert, discussed the case with petitioner in
9 person for many hours on multiple occasions, negotiated the case, timely advised petitioner of
10 the State's offer (which required him to plead guilty to the base offenses and sentencing
11 aggravators as charged), accurately apprised him of his options and avoided exposing him to the
12 impending aggravated murder charge by timely communicating his acceptance to the State.
13 *E.g.*, Pet.Apx. H; K-N; S at 4-6, 8-9; U Ex.1-2); Apx. T-X.

14 Counsel explained the plea documents to petitioner's satisfaction in person. Apx.R, T-X;
15 Pet.Apx.(S at 5-6, 8). The sentencing consequences addressed included the State's explicit intent
16 to seek an exceptional sentence above the standard range as well as the court's discretion to
17 impose such a sentence based on the pleas. *Id.* Counsel was with petitioner when petitioner
18 entered a factual plea explaining he:
19

20 lost [his] temper after [C.C.] pee'd [sic] all over [him] when [he] was changing
21 [C.C.'s] diaper so [he] picked [C.C.] up and slammed him into the floor. When
22 [C.C.] would not stop crying [petitioner] put [his] finger into [C.C.'s] rectum
23 Apx. U at 8; V at 9; Pet.Apx.S.

24
25 ⁶https://www.mywsba.org/LawyerDirectory/LawyerProfile.aspx?Usr_ID=21399; https://www.mywsba.org/LawyerDirectory/LawyerProfile.aspx?Usr_ID=35802.

1 This account is consistent C.C.'s injuries as well as the fighting sounds that drew petitioner's
2 downstairs neighbor near enough to his front door to hear the baby's screams. Apx.B at 16; D at
3 27; E at 115; F at 124; J at 290-91. Petitioner further stipulated to the originally charged
4 aggravating circumstances by admitting his deliberate cruelty, the excessiveness of C.C.'s
5 injuries as well as his particular vulnerability. Apx.U at 8; V at 9. Once the pleas were accepted,
6 the defense team redirected its efforts to marshalling mitigation evidence for sentencing.
7 Apx.W; Pet.Apx.S at 10-11; U; ee at 8, 38-47.

8
9 Counsel's manifest objective was to persuade the court to impose a standard range
10 sentence by portraying petitioner as immature and drug addled, yet remorseful and willing to
11 accept responsibility for his crimes to spare the victim's family the additional pain of a trial—
12 with a "There are no excuses" refrain. *Id.*; Apx.X at 6, 15. This theme was advanced through the
13 statements made by petitioner, his mother, and the defense-retained psychologist. *Id.*; *e.g.*, Pet.
14 Apx. ee at 48-50. The court's decision to sentence petitioner to ten years less than the sixty
15 sought by the State was influenced by the facts petitioner's defense team brought to its attention.
16 *E.g.* Pet.Apx. ee. at 50-52, 55 ("I do think ... [petitioner] is entitled to some consideration given
17 his age and his lack of maturity and his substance abuse issues....").

18
19 At no point during petitioner's plea, pre-sentence interviews or sentencing did he ever
20 make the accusations now leveled at counsel despite having many opportunities to do so. *Id.*; S;
21 Apx.T-V; W at 7-18; X. His remarkable reversal from contrition to recalcitrancy followed the
22 court's imposition of an exceptional sentence that did not measure up to the standard range
23 sentence the Musgas were striving for. *E.g.*, Apx.X at 13; Pet.Apx.E at 4. Although petitioner
24 failed to timely appeal his exceptional sentence after being properly advised of his right to
25 appeal, his PRP was timely filed. Apx.U at 5; V at 5; Z.

1 C. ARGUMENT

2 Personal restraint procedure has its origins in the State's habeas corpus remedy,
3 guaranteed by article 4, section 4, of the State Constitution. A personal restraint petition is not a
4 substitute for an appeal. *In re Hagler*, 97 Wn.2d 818, 823-824, 650 P.2d 1103 (1982).
5 Collateral relief undermines the principles of finality, degrades the prominence of trial, and may
6 deprive society the right to punish admitted offenders. *Id.*; *In re Woods*, 154 Wn.2d 400, 409,
7 114 P.3d 607 (2005). These significant costs require collateral relief to be limited in the state as
8 well as federal courts. *Id.*

9
10 In this collateral action, petitioner must show constitutional error resulted in actual
11 prejudice. Mere assertions are insufficient to demonstrate actual prejudice. The rule that
12 constitutional errors must be proven harmless beyond a reasonable doubt has no application. *In*
13 *re Mercer*, 108 Wn.2d 714, 718-721, 741 P.2d 559 (1987); *Hagler*, 97 Wn.2d at 825; *Woods*,
14 154 Wn.2d 409. A petitioner must show a fundamental defect resulted in a complete
15 miscarriage of justice to obtain collateral relief for alleged nonconstitutional error. *In re Cook*,
16 114 Wn.2d 802, 812 792 P.2d 506 (1990); *Woods*, 154 Wn.2d 409. This is a higher standard
17 than actual prejudice. *Cook*, at 810. Inferences must be drawn in favor of the judgment's
18 validity. *Hagler*, 97 Wn.2d at 825-826. This high threshold is necessary to preserve the integrity
19 of the trial process, and recognizes the petitioner had an opportunity to obtain judicial review by
20 appeal. *Woods*, 154 Wn.2d at 409. Reviewing courts have three options in evaluating personal
21 restraint petitions:

- 22 1. If a petitioner fails to meet the threshold burden of showing actual
23 prejudice from constitutional error or a fundamental defect resulting in a
24 miscarriage of justice, the petition must be dismissed;
- 25 2. If a petitioner makes a prima facie showing of actual prejudice, but the
merits cannot be determined on the record, the court should remand for a
hearing on the merits or for a reference hearing pursuant to RAP 16.11(a)
and RAP 16.12;

1 3. If the court is convinced a petitioner has proven actual prejudice arising
2 from constitutional error or a miscarriage of justice, the petition should
3 be granted.

4 ***In re Hews***, 99 Wn.2d 80, 88, 660 P.2d 263.

5 1. THE INADEQUATELY SUPPORTED PETITION SHOULD BE
6 DISMISSED BECAUSE ITS UNPROVEN CLAIMS OF PRE-PLEA
7 INEFFECTIVE ASSISTANCE OF COUNSEL ARE FOUNDED
8 UPON SPECULATIVE ASSERTIONS, UNINFORMED OPINIONS
9 AND INCOMPLETE RECORDS THAT OMIT INFORMATION
10 APPARENTLY MATERIAL TO THE REPRESENTATION
11 PETITIONER IS ASKING THIS COURT TO REVIEW.

12 A personal restraint petitions must include a statement of facts upon which the claim of
13 unlawful restraint is based and the evidence available to support the factual allegations. RAP
14 16.7(a)(2); ***In re Williams***, 111 Wn.2d 353, 759 P.2d 436 (1988). They must be supported by
15 affidavits stating particular facts, certified documents, certified transcripts, and the like.
16 ***Williams***, 111 Wn.2d at 364; *see also In re Connick*, 144 Wn.2d 442, 28 P.3d 729 (2001). If a
17 petitioner's allegations are based on matters outside the existing record, the petitioner must
18 demonstrate he has competent, admissible evidence to establish the facts entitling him to relief.
19 ***Connick***, at 451. A petition must be dismissed when the petitioner fails to provide sufficient
20 evidence to support his claims. ***Williams***, 111 Wn.2d at 364.

21 A fatal flaw running through the entirety of the petition is its dependence on the logical
22 fallacy that the absence of evidence is evidence of absence, which is to say the absence of a
23 complete account of the activities counsel undertook on petitioner's behalf is evidence of
24 inactivity. This reasoning is particularly problematic in a PRP where petitioner bears the burden
25 of proving his claims. A problem compounded by the fact the pre-plea ineffective assistance
 claims can only be fairly assessed through careful review counsel's entire case file with
 supplemental affidavits wherever necessary to account for undocumented activities and
 counsel's reasons for proceeding as they did.

1 a. The relevant portions of petitioner's "expert" opinions are
2 unfounded and the remainder fails to support his claims.

3 A petitioner collaterally attacking prior convictions must do more than claim a
4 constitutional deficiency in general terms. Facts underlying the claim and the evidence
5 supporting the factual allegations must be stated. *In re Cook*, 114 Wn.2d 802, 813, 792 P.2d
6 506 (1990) (citing *Williams*, 111 Wn.2d at 353, 365). Bare assertions are insufficient. *In re*
7 *Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992). A mere statement of evidence the petitioner
8 *believes* will prove his factual allegations is not sufficient. The petitioner must adduce
9 competent, admissible evidence to establish the facts allegedly entitling him to relief. If the
10 petitioner's evidence is based on knowledge in possession of others, he must present their
11 affidavits or other corroborative evidence. Affidavits must contain matters to which the affiants
12 may competently testify. In short, the petitioner must prove his factual allegations are based on
13 more than speculation, conjecture, or inadmissible hearsay. *Id.* at 886.

14 Poignant examples of the review-precluding consequence of petitioner's effort to argue
15 inferences of ineffective representation from the absence of evidence he was required to adduce
16 are present in the opinions he offers to inform this Court's weighty decision of whether to
17 absolve an admitted child rapist and murderer from his guilty pleas and label the two lawyers
18 constitutionally ineffective despite their known efforts to advance petitioner's interests. The
19 declaration of career criminal defense attorney Todd Maybrown is especially illustrative.
20 Pet.Apx.bb. Maybrown identifies the materials he reviewed to inform an unfavorable opinion of
21 counsel's performance that he should know cannot be supported by those materials:

22 Information (dated April 3, 2013); Declaration for Determination of Probable
23 Cause (dated April 3, 2013); police reports and records from Tacoma Police
24 Department Incident No. 130890189; selected transcripts from the trial court
25 proceedings in State v. Musga, Pierce County Cause No. 13-1-01389-1;
Statement of Defendant on Plea of Guilty to Non -Sex Offense (dated
September 9, 2013) and Statement of Defendant on Plea of Guilty to Sex
Offense (dated September 9, 2013; State' s Sentencing Memorandum (dated
November 14, 2013) with attached documents; Defense Presentencing

1 Documents (dated November 14, 2013) with attached documents; Pre-Sentence
2 Investigation report (dated November 18, 2013); Judgment and Sentence (dated
3 November 21, 2013); and Findings of Fact and Conclusions of Law for
4 Exceptional Sentence (dated December 5, 2013). *Id.* at 4.

5 Anyone with Maybrown's experience should know the catalogue of confidential activities a
6 defense team undertakes for a client would rarely, if ever, be recorded in the materials he
7 reviewed. Conspicuously missing from them are any work product documents, statements from
8 any member of the defense team with personal knowledge of the defense strategy, or records
9 documenting counsel's activities. The dearth of relevant information should have led Maybrown
10 to conclude he needed more information to render an opinion on matters of such moment.

11 Instead, Maybrown irresponsibly pressed on, adapting to the omissions by couching his
12 findings in terms of what competent counsel "would" do, or "must" do, or are "required to" do,
13 without applying his compendium of debatable maxims to what counsel actually did or did not
14 do. Maybrown is also incapable of commenting on the decisions underlying counsel's actions,
15 or the circumstances affecting counsel's decisions at the time. *E.g., Id.* at 8-14. Maybrown's
16 conclusions are consequently reduced to the bare assertions of a well credentialed, perhaps well
17 paid, partisan.

18 Reading Marybrown's declaration with a careful eye to avoid the unwarranted
19 assumptions it invites, reveals it to be form, without relevant substance. Had Maybrown
20 reviewed the incomplete record attached to the PRP, he would have known the attorneys he
21 carelessly characterizes as ineffective completed many, if not all, of the tasks he *purportedly*
22 deems essential, whatever their true relevance to an objective standard of competence which
23 cannot be reduced to such a list. *See Strickland v. Washington*, 466 U.S. 668, 688-89, 104 S.
24 Ct. 2052 (1984). Maybrown's only reference to counsel's work product is attributed to an
25 unidentified source who is evidently not a member of the trial team with personal knowledge of
the information disclosed.

1 The supporting affidavit of Private Investigator Patrick Pitt fares no better. It begins by
2 summarizing the high points of Pitt's career as "British Police Officer", which does not
3 obviously qualify him to speak intelligently about how American criminal defense attorneys
4 should investigate their cases. Apx.V at 1. He has only been working as a criminal defense
5 investigator for three years, and it is unclear how much of that work was undertaken outside this
6 country where the expectations of defense attorneys may differ. *Id.* Despite stressing the
7 importance of witness interviews, Pitt acknowledges he never interviewed the attorneys whose
8 investigation he critiques, or any other member of the defense team, to include the defense
9 investigator he describes as deficient. *Id.*, at 2, 4-5. In fact, his only witness interviews were
10 conducted with three predictably biased individuals—petitioner, his mother and father—which
11 easily fails to approach Pitt's professed standards for conducting a competent investigation. *Id.*
12 at 3. Pitt identifies issue-essential work product he never reviewed, then, like Maybrown,
13 ventures a number of opinions predicated on the absence of relevant information in the
14 materials he did review. *E.g. Id.* at 4. Pitt also cites to the *apparent* absence of discretionary
15 investigative services, which, if they caught on, might increase the earning potential of private
16 investigators, but have never been identified as essential to a competent defense. *E.g., Id.* at 9;
17 ***Strickland***, 466 U.S. at 688-89. Competent criminal defense attorneys can, and often do,
18 conduct their own investigations where it is ethical, reasonable and cost-effective to do so. ER
19 201. Like Maybrown, when Pitt's opinions are scrutinized they are either irrelevant to the issues
20 before the Court, unwarranted assumptions based on incomplete information, or opinions that
21 do little more than repeat the bare assertions of three biased witnesses who have not been
22 established as having personal knowledge of everything counsel did in petitioner's case.

1 b. The affidavits provided by petitioner and his mother do not
2 adequately supplement the record as neither is grounded in
3 comprehensive first person knowledge of counsel's strategy,
4 tactical decisions, and conduct.

5 Petitioner has not provided a legitimate explanation for why he failed to provide this
6 Court a comprehensive account of the representation he has asked it to review. The declarations
7 he and his mother submitted do not adequately supplement the record as there are no facts from
8 which to infer they were aware of the full extent of counsel's strategies, tactics, decisions or
9 activities. *E.g.*, Pet.Apx.E, G.

10 In an effort to assist her son, petitioner's mother expresses dissatisfaction with the
11 representation she believes he received. Pet.Apx.E. It is evident she does not have an in-depth
12 understanding of counsel's activities or professional judgment, which is largely her complaint.
13 Mrs. Musga never hired an attorney before this incident, and she does not seem to appreciate
14 that counsel owed petitioner a duty of confidentiality and competence even though she and her
15 husband paid for their services. *E.g.* Pet.Apx.E at 1, 5-6; RPC 1.1 [2]; 1.6; RPC 1.8, cmt.[11]-
16 [12]. Observance of their duty to exercise professional judgment on petitioner's behalf may have
17 prudently caused counsel to refrain from permitting Mrs. Musga from being as involved in the
18 defense as she would have liked to the end of safeguarding their work product from inadvertent
19 disclosures, or to avoid compromising their ability to call her as a witness, regardless of
20 petitioner's purported desire for his parents to actively contribute to the investigation. *E.g. Id.* at
21 3; *E.g.*, Pet.Apx.G at 1; *State v. Humphries*, 181 Wn.2d 708, 723, 336 P.3d 1121 (2014)
22 (adversarial process could not function effectively if every tactical decision required client
23 approval); *Taylor v. Illinois*, 484 U.S. 400, 418, 108 S. Ct. 646 (1988). The fact counsel may
24 not have satisfactorily answered the Musgas' questions about the case or pursued leads they
25 thought were important does not establish counsel was ineffective; to the contrary, it may
 evince their family received the sound professional judgment they purchased. *Id.*

1 Mrs. Musga's affidavit does, however, call her veracity into question as it claims she
2 knowingly misrepresented petitioner's revelations of guilt to the trial court in order to advance
3 his strategy for obtaining a mid-range sentence. *Id.* at 5 (No. 23) *compare with* Apx.W;
4 Pet.Apx.E at 4; S at 40-42. Having failed in their gambit, she now avers an unwavering belief
5 in his innocence. *Id.* at 5. One version must be false.

6 Petitioner's affidavit likewise fails to factually support his claims because it is
7 predominantly comprised of unsubstantiated criticisms and similarly betrays a lack of personal
8 knowledge about counsel's strategies, tactics, decisions, and activities. Pet.Apx.G. This Court
9 cannot accurately assess counsel's performance from the one-sided and incomplete version of
10 the representation petitioner presents. There is not even enough information to warrant a
11 reference hearing as the court "need not hold an evidentiary hearing if the allegations ... are
12 inherently unreliable, are not supported by specific facts or are not grounds for withdrawal ... if
13 true." See *United States v. Huges*, 16 F.d. 949, 951, (8th Cir. 1994)(citing *United States v.*
14 *Thompson*, 906 F.2d 1292, 1299 (8th Cir.) *cert. denied*, 498 U.S. 989, 111, S. Ct. 530 (1990)).
15 A petitioner bearing the burden of production in a PRP will not receive the extraordinary
16 expenditure of scarce societal resources required for a post-conviction hearing to test
17 presumptively valid guilty pleas by simply failing to produce critical components of the record
18 he is responsible for perfecting.

19 There is at least one email documenting trial counsel's previous willingness to
20 accommodate petitioner's discovery requests. Pet.Apx.CC. The email implies petitioner limited
21 his request to documents, rather than seeking an affidavit explaining the entirety of the
22 representation, which would include actions, omissions and the reasons for each; yet such
23 information is essential to the review of an ineffective investigation claim. *Id.*

1 c. Petitioner unfairly asks this court to evaluate counsel's
2 representation based on emails particularly within his control that
3 omit facts apparently material to counsel's decisions.

4 A party seeking review has the burden of perfecting the record. An inadequate record
5 precludes meaningful review. *State v. Vazquez*, 66 Wn. App. 573, 583, 832 P.2d 883 (1992);
6 *State v. Locati*, 111 Wn. App. 222, 226, 43 P.3d 1288 (2002). Courts cannot determine the
7 significance of omissions in the record unless they are credibly informed of the missing
8 evidence's substance. *See State v. Jury*, 19 Wn. App. 256, 265, 576 P.2d 1302 (1978).

9 Petitioner elected to adduce a number of incomplete emails that seem to contain
10 information material to his claims. *E.g.*, Pet.Apx. K-L, O-R. He accounted for these omissions
11 by claiming they were produced in the form received. Obj. (Apr. 24, 2015) at 5. But that
12 explanation does not make the omissions any less problematic or explain why petitioner did not
13 take further steps to secure production of those documents in their entirety from the attorneys
14 who remain beholden to him. RPC 1.9. *See State v. Garcia*, 57 Wn. App. 927, 934, 791 P.2d
15 244 (1990) (a defendant may not avoid the requirement of perfecting the record by claiming
16 trial counsel refused to provide the evidence necessary for review).

17 An incomplete August, 14, 2013, email between petitioner's trial counsel appears likely
18 to contain information material to this Court's review as it seems to reveal a fact that may have
19 impacted petitioner's options:

20 **Warner to Hall:** We should see him together next week to discuss it and
21 confront him w[**content missing**] (which is too close to what Angel and I
22 suspect but Jake has denied-[**content missing**]). PRP Apx.K.

23 The outcome of the referenced discussion may well have vitiated the utility of further
24 investigation or fundamentally limited counsel's options going forward. For example, if this
25 discussion led to petitioner confessing his crimes to counsel it might have become impossible
for them to call him as a witness to refute his guilt without suborning perjury. Representations
made by petitioner at the plea and sentencing, and by his counsel at sentencing, tend to suggest

1 petitioner ultimately revealed inculpatory information to counsel. *E.g.*, Apx. U at 8; V at 9; W;
2 Pet.Apx. ee at 43.

3 The remainder of petitioner's appendices and exhibits only provide glimpses into the
4 representation he wants reviewed. There are so many unanswered questions about what the
5 defense team actually did that the Court is really being asked to decide whether unknown
6 conduct was reasonable under these circumstances. Meanwhile, the representations petitioner
7 made to the trial court through his plea and sentencing support a reasonable inference he was
8 well aware additional investigation would have either proved useless or further corroborated his
9 guilt. The petition should be dismissed.

10
11 2. PETITIONER'S GUILTY PLEAS WERE PART OF A STRATEGY TO
12 SECURE A STANDARD RANGE SENTENCE BY PORTRAYING
13 PETITIONER AS A REMORSEFUL YOUNG MAN TAKING
14 RESPONSIBILITY FOR RAPING AND MURDERING THE
TODDLER LEFT UNDER HIS CARE TO SPARE HIS VICTIM'S
FAMILY THE TRIAL HE NOW SEEKS BECAUSE THAT
STRATEGY FAILED.

15 A successful ineffective assistance of counsel claim requires petitioner to show counsel's
16 performance was prejudicially deficient. *In re Crace*, 174 Wn.2d 835, 840, 280 P.3d 1102
17 (2012). "Prejudice" is defined as a reasonable probability the outcome of the proceeding would
18 have been different but for counsel's unprofessional errors. To be reasonable the probability
19 must undermine confidence in the outcome. *Id.* at 840, 847.

20 The petition alleges ineffective assistance predicated on: (a) deficient pre-plea
21 investigation and (b) failure to advise petitioner his factual plea to the aggravating factors
22 underlying his exceptional sentence relieved the State of having to prove those factors. If the
23 Court reaches the merits of these issues, review of the incomplete record presented should result
24 in the petition being dismissed due to its failure to overcome the strong presumption of
25 counsel's effectiveness and the pleas' validity. The deficient investigation claim fails because

1 petitioner did not prove counsel unreasonably refrained from conducting further investigation or
2 that additional investigation would have produced outcome-altering evidence. Whereas, the
3 ineffective advisement claim fails to overcome the presumption of the plea's validity given
4 petitioner's expressed understanding of the sentencing consequences of the pleas in addition to
5 the aggravated murder charge he avoided through them. *E.g.*, Apx.T; Pet.Apx.I, M, L.
6

7 a. Petitioner waived his inadequate pre-trial investigation claim.

8 A guilty plea waives all claims of a constitutional nature occurring before the plea that
9 did not undermine the voluntariness of the plea or the understanding with which it was entered.
10 *United States v. Bohn*, 956 F.2d 208, 209 (9th Cir., Wash. 1992) (citing see *United States v.*
11 *Caperell*, 9.38 F.2d 975, 977 (9th Cir. 1991).

12 Petitioner entered a constitutionally valid plea of guilty to the crimes and aggravating
13 factors charged in the Original Information. Apx.U-V; S at 4-9. Having forfeited his
14 constitutional right to challenge his case then, he should not be permitted to collaterally attack
15 the pre-plea investigation now. The allegedly wanting witness interviews and lead tracking had
16 no bearing on whether petitioner was aware of his responsibility for the charged crimes, the
17 rights he gave up by pleading guilty or the sentencing consequences of his decision. There is no
18 substantiated reason petitioner would have refrained from alerting the trial court to the long list
19 of alleged grievances through his plea colloquy, presentence interviews and sentencing colloquy
20 if there was any truth to them, unless he purposely remained silent to sample the outcome of his
21 sentencing strategy. The waiver rule petitioner labors to circumvent exists to protect society's
22 interests in finality from precisely the kind machinations at work in this collateral attack.
23 Petitioner's procedurally barred challenge to the pre-plea investigation should be dismissed.
24
25

1 b. Petitioner failed to overcome the strong presumption counsel
2 effectively investigated his case.

3 The Washington Supreme Court has never held effective representation requires counsel
4 to undertake an independent investigation of a criminal defendant's case. *State v. A.N.J.*, 168
5 Wn.2d 91, 109, 225 P.3d 956 (2010). Counsel must make reasonable investigations *or* make a
6 reasonable decision that makes particular investigations unnecessary. *Strickland v.*
7 *Washington*, 466 U.S. 668, 691, 104 S. Ct. 2052 (1984)(emphasis added). Judicial scrutiny of
8 counsel's performance is highly deferential. *Id.*

9 Petitioner mistakenly adapts to his failure to adduce a complete record of counsel's
10 strategies, tactics, and decisions, by inviting this Court to read strict investigative requirements
11 into *Strickland's* flexible standard. *E.g.* Pet.Apx.V; bb. But the rigid performance protocol
12 petitioner proposes is at odds with controlling authority. *Hill v. Lockhart*, 474 U.S. 52, 57-58,
13 106 S. Ct. 366 (1985)(citation omitted). As such, it should have no bearing on this Court's
14 evaluation of counsel's competence, yet it is the only support for petitioner's claim, making
15 dismissal the only appropriate result.

16
17 c. Petitioner has not proved the defense investigation was deficient.

18 The investigation required, if any, varies according to the facts of each case. *A.N.J.*, 168
19 Wn.2d at 111-112. Defense attorneys are not called upon "to scour the globe on the off chance
20 something will turn up...." *Rompilla v. Beard*, 545 U.S. 374, 383, 125 S. Ct. 2456 (2005);
21 *Wiggins v. Smith*, 539 U.S. 510, 525, 123 S. Ct. 2527 (2007). Reasonably diligent counsel may
22 draw a line when they have good reason to think further investigation would be a waste. *Id.* The
23 fact useful evidence might have come from additional defense investigation may likewise fail to
24 establish the overseeing attorney was constitutionally deficient, for defendants are not entitled
25

1 to perfect counsel. *State v. Adams*, 91 Wn.2d 86, 91, 586 P.2d 1168 (1978) (quoting *Beasley v.*
2 *United States*, 491 F.2d 687, 696 (6th Cir. 1974)). Counsel is only constitutionally required to
3 evaluate the evidence against the accused and the likelihood of conviction if the case proceeds
4 to trial, so the defendant can meaningfully consider a plea. See *Lockhart*, 474 U.S. at 57-58;
5 *A.N.J.*, 168 Wn.2d 109, 111-12.

6 One of petitioner's own affidavits explains counsel's allegedly expressed decision not to
7 investigative information petitioner deemed important because they decided it was "unreliable"
8 or "hearsay." Pet.Apx.E at 3. There is nothing in the record to refute the accuracy of this
9 professional assessment. *Id.* It supports a reasonable inference the investigation was
10 competently targeted at obtaining admissible evidence from reliable sources. This inference
11 combines with the known components of the defense investigation and the presumption of
12 counsel's effectiveness to defeat the merits of petitioner's claim. Deficient performance
13 predicated on inadequate investigation is typically found where counsel does virtually nothing
14 to pursue patently useful information without a reasonable explanation. *E.g.*, *In re Brett*, 142
15 Wn.2d 868, 881, 16 P.3d 601 (2001) (counsel "did almost nothing"); *A.N.J.*, 168 Wn.2d at 110
16 (counsel not excused from conducting "some investigation"); *State v. Jury*, 19 Wn. App. 256,
17 264-65, P.2d 1302 (1978) (counsel "made virtually no factual investigation" combined with
18 other failures); *Smith v. Mahoney*, 611 F.3d 978, 986, (9th Cir., 2010) ("engaged in almost no
19 investigation of ... the crime ... never ... hired an investigator [and] conceded ...he 'did not
20 feel a need to go beyond anything [the defendant] told him."); compare with *State v. Cameron*,
21 30 Wn. App. 229, 232, 633 P.2d 901 (1981) (alleged infrequency or brevity of attorney-client
22 meetings not enough to demonstrate ineffective assistance).
23
24
25

1 Counsel's known investigative activities easily surpass the minimum constitutional
2 threshold of competency, for counsel:

- 3 (1) Reviewed discovery, which contained detailed statements from the only
4 identified witnesses to have material information about the
circumstances of C.C.'s life and death;
- 5 (2) Retained a private investigator to *at least* create an independent timeline
of the critical events surrounding petitioner's crimes;
- 6 (3) Retained a medical expert to review C.C.'s exceedingly incriminating
medical records,
- 7 (4) Retained a DNA expert to independently test the samples examined by
the State;
- 8 (5) Researched a jail informant who attributed inculpatory statements to
petitioner;
- 9 (6) Strategized the case as a defense team, and
- 10 (7) Discussed the case with petitioner in person for many hours over many
11 in person visits during which counsel seemingly confronted him with
material inconsistencies and prophylactically advised him against further
12 discussing his case with fellow inmates who might share his disclosures
with police. *E.g.* Apx.O; T; Pet.Apx.E at 4; G at 2, 5; H; K-L; N.

13 Despite petitioner's reference to it as a negative, Hall's association with Warner after disclosing
14 his lack of experience with murder trials, was actually keeping with the rules of professional
15 conduct and further supports the presumption of competent preparation. See RPC 1.1 [1]; *In re*
16 *Brett*, 142 Wn.2d at 882 (failure to seek co-counsel contributed to deficient investigation). Once
17 more, all these activities were undertaken to independently evaluate a case in which petitioner—
18 by his own pre-plea admissions—was the only one capable of inflicting the extremely
19 incriminating injuries C.C. endured. Even the career criminal defense attorney retained to
20 advance this PRP characterized the State's case as "relatively strong", which, considering the
21 source and the circumstances under which the opinion was rendered, could be fairly interpreted
22 as euphemistic for all but impossible to successfully defend. Pet.Apx.bb at 7.

24 The time available for additional investigation of unknown utility was likely impacted
25 by the deadline the State imposed on its discretionary offer. *E.g.* Apx.T; Pet.Apx.J; *see State v.*

1 *McCollum*, 88 Wn. App. 977, 982-83, 947 P.2d 1235 (1997)(no evidence of inadequate
2 investigation given defendant's early decision to plead guilty); *see also State v. Wheeler*, 95
3 Wn.2d 779, 803-04, 631 P.2d 376 (1981); *State v. Kenyon*, 150 Wn. App. 826, 832, 208 P.3d
4 1291 (2009). Counseling petitioner to reject the offer to enable additional, potentially useless,
5 investigation would have triggered the filing of an aggravated murder charge, guaranteeing
6 petitioner at least a life sentence in the event of conviction. *See State v. Waldenberg*, 174 Wn.
7 App. 163, 168, 301 P.3d 41 (2013). Had that occurred, it is all but certain a claim of ineffective
8 assistance predicated on the loss of a valuable pretrial offer would have followed. *See Lafler v.*
9 *Cooper*, ___ U.S. ___, 132 S. Ct. 1376, 1387 (2012).

10
11 After the deal was struck, counsel's investigative efforts were redirected to securing
12 mitigation evidence through independent DNA testing, psychological evaluation and contact
13 with petitioner's relations. Apx.T W; Pet.Apx.ee at 43-44. It remains possible counsel did
14 everything, or nearly everything, petitioner claims to be necessary, or had a legitimate reason
15 for doing otherwise. There is consequently no demonstrated validity to the suggestion counsel
16 "did virtually nothing to investigate this case..." even when review is limited to the incomplete
17 record petitioner produced. Pet. at 16.

18
19 d. Petitioner has not proved he was prejudiced by the alleged
20 deficiency.

21 The prejudice component of the *Strickland* test as applied to guilty pleas focuses on
22 whether counsel's allegedly deficient performance affected the outcome of the plea process.
23 *Hill*, 474 U.S. at 58-59. A petitioner can only satisfy this requirement by showing a reasonable
24 probability he would have insisted on going to trial instead of pleading guilty but for a proven
25 deficiency. *Id.* The analysis will often depend on the likelihood a discovery would have led

1 counsel to change his recommendation as to the plea. This assessment will, in turn, depend on
2 whether the undiscovered evidence would have changed the outcome of a trial. These
3 predictions should be made objectively, without regard for the "idiosyncrasies of the particular
4 decision maker." *Id.* at 59-60. "Bare assertions ... [a] petitioner would not have pleaded guilty
5 but for defense counsel's alleged deficiency is not sufficient to establish prejudice." *In re Riley*,
6 122 Wn.2d 772, 782, 863 P.2d 554 (1993). Appellate courts will not find actual prejudice solely
7 because defense counsel neglected to conduct investigation that might have helped the defense
8 where, as here, the incomplete record compels the court to speculate about how helpful it would
9 have been. *See Id.*; *Jury*, 19 Wn. App. at 265.

11 Petitioner's detailed criticism of counsel's alleged investigative failures does not identify
12 any outcome-altering evidence that more investigation would have obtained. Petitioner and two
13 other witnesses told police C.C. was fine when his mother left him in petitioner's exclusive care.
14 Petitioner told police C.C. remained in his exclusive care from the time of her departure to when
15 he carried C.C.'s broken body into the downstairs lobby. Petitioner's downstairs neighbor
16 described hearing something being bounced around on the floor above her unit and a baby
17 screaming in the interim. Whereas the 911 caller described petitioner's demeanor as callous
18 while describing C.C.'s anticipated death. C.C.'s blood was all over the apartment, to include
19 several blood-filled diapers consistent with the anal rape detected by medical personnel. And
20 the toddler had a blood alcohol level exceeding the driving limit for an adult. *See supra*; RCW
21 46.61.502. Petitioner has not established how any of the allegedly necessary but purportedly
22 uncompleted investigative steps would have altered his decision to avoid proceeding to trial on
23 an amended aggravated murder charge with these conviction-worthy facts instead of pleading
24

1 guilty as originally charged. Especially in light of his manifest strategy to obtain a standard
2 range sentence through feigned contrition for his crimes. Actual prejudice has not been shown.

3
4 e. Petitioner failed to overcome the strong presumption counsel
5 effectively advised him of the sentencing consequences of
6 pleading guilty as charged to the Original Information.

7 Petitioner must show counsel failed to substantially assist him in deciding whether to
8 plead guilty and that the failure caused the plea. *In re Cross*, 180 Wn.2d 664, 706, 327 P.3d 660
9 (2014)(citing *McCullum*, 88 Wn. App. at 982-83); *State v. Osborne*, 102 Wn.2d 87, 99, 684
10 P.2d 684 P.2d 683 (1984); *In re Peters*, 50 Wn. App. 702, 703, 750 P.2d 643 (1988)).

11 Petitioner has not proved counsel's assistance was deficient.

12 Competent trial counsel must aid a criminal defendant in evaluating the evidence against
13 him and in discussing the direct consequences of a guilty plea. *State v. Malik*, 37 Wn. App. 414,
14 416, 680 P.2d 770 (1984). Counsel fulfills that role by providing the defendant sufficient
15 information to make an informed decision on whether or not to plead guilty. *In re McCready*,
16 100 Wn. App. 259, 263, 996 P.2d 658 (2000). Competent performance does not turn on whether
17 a defendant entered a knowing and voluntary plea. *Cooper*, 132 S. Ct. at 1390.

18 Petitioner's dubious claim of deficient assistance grounded in a failure to apprise him of
19 the sentencing consequences of accepting the State's offer is directly refuted by the record. The
20 aggravating factors petitioner pleaded to were first brought to his attention at the arraignment.
21 Apx.R. The offer petitioner accepted recited the charged offenses with those aggravators, and
22 explained acceptance would require petitioner to "plead guilty as charged." It further explained
23 the "State w[ould] seek an exceptional sentence above the standard range...." Apx.T at 5.
24 Petitioner acknowledged receiving the Original Information and reviewing it with counsel in
25

1 both plea documents. Apx.U at 1; V at 1. Page 5 of the child rape plea repeated the State's
2 expressed intent to seek an "exceptional" sentence, and there was a check mark ostensibly
3 manifesting counsel's coverage of paragraph (6) (h) (iv), which states:

4 The judge may also impose an exceptional sentence above the standard range if
5 the State has given notice that it will seek an exceptional sentence, the notice
6 states aggravating circumstances upon which the requested sentence will be
7 based, and facts supporting an exceptional are proven beyond a reasonable
8 doubt ... by stipulated facts." Apx. U at 5.

9 Although paragraph (6) (h) (iv) was not similarly checked in the murder plea, a
10 subsequent paragraph alerting petitioner to his right to appeal an exceptional sentence was
11 checked in both pleas and the murder plea expressly communicated the State's intent to seek an
12 exceptional sentence. Apx.U at 5; V at 4-5. Page 8, paragraph 7 of both pleas again
13 acknowledged petitioner's receipt of the Original Information charging the aggravators he was
14 pleading guilty to and that he discussed the Original Information with counsel. *Id.* Petitioner
15 verbally assured the trial court he had gone over the pleas with his counsel, understood them
16 and did not have any questions about them. Pet.Apx.S at 5-7. Petitioner then acknowledged the
17 factual statement in each plea, which bore his initials and included the aggravating factors
18 charged in the Original Information. Apx.U at 8; V at 9; Pet.Apx.S at 7. Paragraph 12 of both
19 pleas averred:

20 "My lawyer has explained to me, and we have fully discussed, all of the above
21 paragraphs I understand them all. I have been given a copy of this
22 "Statement of Plea of Guilty." I have no further questions to ask the judge."

23 Both pleas also averred by checked boxes [a] and [b] petitioner:

24 "had previously read the entire statement above and that [he] understood it in full
25 ... [and] [petitioner's] lawyer had previously read to him ... the entire statement
26 above and that [petitioner] understood it in full...." *Id.*

1 Petitioner asks this Court to disregard these several unambiguous acknowledgments of counsel's
2 thoroughness in explaining the pleas to his satisfaction. He would then have the Court find
3 counsel was constitutionally deficient based on unsubstantiated, self-serving, post-sentence
4 accusations and the omission of one discretionary check mark from paragraph (6)(h)(iv), in one
5 of his two simultaneously executed pleas. These unsound proposals should be rejected.

6 Deficient performance must be proved by more than a petitioner's self-serving
7 allegations. See *Connick*, at 451; *Osborne*, 102 Wn.2d at 97. And petitioner has not shown the
8 omission of the check mark from paragraph (6)(h)(iv) in the murder plea to be anything more
9 than a clerical error to the extent it deviated from counsel's idiosyncratic practice of checking
10 covered paragraphs, assuming that is what each discretionary check mark signifies. A
11 comparative review of both pleas (where some of the standard paragraphs in murder plea are
12 offset by one page from the same paragraphs in the child rape plea) shows the check mark
13 accurately aligned with the stipulated facts for an exception sentence advisement in the child
14 rape plea is adjacent to the stipulated exceptional sentence advisement in the murder plea.
15 Apx.U at 5 (¶ (6)(h)(iv); V at 4 (¶ (6)(h)(iii). In other words, it appears counsel incorrectly
16 checked an adjoining paragraph also containing "stipulation" language while going through
17 both pleas. Applicable paragraph (6)(h)(iv) appears on page 5 with the other paragraph (h)
18 provisions in the child rape plea; the same paragraph is divorced from paragraph (h) provisions
19 (i)-(iii) in the murder plea. The visual effect of the relative placement makes (6)(h)(iv) in the
20 child rape plea and (6)(h)(iii) in the murder plea appear to be the last paragraph (h) provision on
21 page 4 of both pleas, until one turns to page 5 in the murder plea where (6)(h)(iv) is located.
22 Identifying an inherently ambiguous omission or misplacement of a discretionary check mark
23 does not overcome the factually supported presumption counsel competently advised petitioner
24
25

1 of the sentencing impact of stipulating to the aggravating circumstances charged in the Original
2 Information he pleaded guilty to, so he could take advantage of the State's offer.

3
4 Prejudicial error has not been shown.

5 Petitioner failed to prove his first degree murder plea was predicated on counsel's
6 alleged failure to explain the sentencing consequences of stipulating to the aggravating
7 circumstances included in his factual statement on plea of guilty. *See In re Cross*, 180 Wn.2d at
8 706. The paragraph explaining the sentencing effect of stipulating to the aggravating
9 circumstances was checked in the first degree child rape plea. Apx.U at 5 (¶ (6)(h)(iv)). That
10 offense carried a maximum sentence of life, which means the court could have achieved the
11 same 608 month exceptional sentence by imposing it on the child rape count. *Id.* at 2.

12 From a practical standpoint, petitioner's self-serving assertion he would not have entered
13 the pleas if he knew they freed the State from having to prove the aggravating factors is
14 ludicrous. Neither the particular vulnerability of the two year old boy he admitted to slamming
15 on the floor and anally raping with his finger nor the deliberate cruelty of those acts could be
16 credibly disputed once petitioner took responsibility for the base offenses given the physical
17 evidence of those crimes. And petitioner's *stated* purpose for entering the pleas was his desire to
18 spare the victim's family the additional hardship of a trial, to express his remorse, and to take
19 full responsibility for his crimes., *e.g.*:

21 **Petitioner's Mother:** Jake has talked to me about this every day for months ...
22 Jake is taking full responsibility for C[.C.]'s death. He is extremely remorseful
23 and saddened by his actions. Jake could have gone to trial and maybe gotten off
24 on a technicality ... but he didn't. He did not want any of us to go through the
25 pain that a trial would have caused all the families. *E.g.* Pet.Apx. ee at 41.

Petitioner: I know ... there is no possible way to take back my actions that day.
C[.C.] was an innocent life taken away ...I just want everyone to know how
truly sorry I am. ... I accept full responsibility for my actions There is so

1 much pain in my heart waking up and going through every day knowing what
2 happened. It seems like a nightmare that never ends, and I know it must be
worse for the family.... Pet. at 46-47.

3 Petitioner shared similar sentiments with the pre-sentence investigator:

4 [W]hen asked about the potentially long sentence he was facing, [petitioner]
5 said ... he feels like he wants to go in and take responsibility for it. He said ...
6 he hopes that will allow the victim's family the help they may need in the
7 situation ... He sees why [the sentence] is long, and he is sorry for what he did.
8 He said ... he thinks the sentence should be somewhere within the range, and
9 that everybody deserves a second chance, but he will let the judge do his best.
10 He thinks the exceptional sentence the prosecutor is proposing (between 40 and
60 years) is long and he is asking for a 300 month sentence. He said he thinks
that's still long, but he doesn't want to say this is a situation that isn't supposed
to be handled or punished. He said that when he has a chance to speak in Court
he wants to be able to show that he's very sorry and his sincerity about that as
well.

11 Apx.X at 13. There is consequently no credible reason to believe petitioner sought to pursue
12 those ostensibly noble ends by contesting the deliberate cruelty of his crimes, the excessiveness
13 of C.C.'s injuries or the toddler's particular vulnerability in open court before proceeding to
14 sentence. No evidence supports petitioner's present contention he was surprised by how the
15 sentencing proceeded because he was anticipating a bifurcated hearing where he was going to
16 subject the families he supposedly wanted to protect from trial through his pleas to a mini-trial
17 on the aggravating factors. Meanwhile, his statements throughout the plea and sentencing
18 process resoundingly betray a certain awareness of the sentencing consequences of his plea as
19 well as his strategy for obtaining a standard range sentence. Appellate courts wisely appreciate
20 "[i]t is all too tempting for a [petitioner] to second-guess counsel's assistance after [an] adverse
21 sentence...." *Strickland*, 446 U.S. at 689. Petitioner has plainly succumbed to that temptation in
22 this case, but failed to prove the requisite prejudice required to win the requested relief. The
23 petition should be dismissed.
24
25

1 f. Petitioner failed to prove the absence of a knowing and voluntary
2 plea.

3 Courts are empowered to impose an exceptional sentence based on aggravating factors if
4 the guilty plea contains a stipulation to the relevant facts. *See State v. Steele*, 134 Wn. App. 844,
5 851-52, 142 P.3d 649 (2006). A separate or distinct waiver is not required. *Id.* at 850-52 (citing
6 *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004). "There is a
7 strong public interest in the enforcement of plea agreements when they are voluntarily and
8 intelligently made." *State v. Codiga*, 162 Wn.2d 912, 922, 175 P.3d 1082 (2008). These
9 requirements are achieved when a trial court rationally determines a defendant has entered a
10 plea with an understanding of the charge(s) and the consequences of the plea. *Id.*; *Brach*, 129
11 Wn.2d at 642. A trial court can rely on the written plea agreement to make this determination
12 where, as here, the defendant tells the court he has read the agreement and the statements it
13 contains are truthful. *Codiga*, 162 Wn.2d at 923 (citing *In re Keene*, 95 Wn.2d 203, 204-09,
14 622 P.2d 360 (1980); *In re Stoudmire*, 145 Wn.2d 258, 266, 36 P.3d 1005 (2001)). The court
15 need not recite on the record the various elements or aggravating factors to which the defendant
16 is pleading. *See Id.* The burden of showing a manifest injustice sufficient to warrant the
17 extraordinary remedy of withdrawal rests with the defendant. *Id.*

18
19 The record fails to support petitioner's claim he did not understand the sentencing
20 impact of stipulating to the aggravating factors charged in the Original Information. As detailed
21 above, the trial court only accepted the guilty pleas upon petitioner's express assurances he
22 understood their terms. Petitioner admits counsel explained the operation of the rape plea's
23 aggravating factor stipulation, which by itself supported the exceptional sentence he received.
24 *See Pet.Apx.G* at 5. The alleged knowledge-vitiating confusion is attributed to the absence of
25 similar advise with respect to the murder plea, ostensibly evinced by the absence of a check
mark beside paragraph 6 (h)(iv). This claim of detrimental reliance on an omitted or misplaced

1 check mark is undermined by petitioner's unqualified representation he understood the entire
2 agreement, which explicitly incorporated the Original Information by reference.

3 The plea colloquy further refutes petitioner's claim his understanding of the pleas was
4 check-mark dependent. *E.g.*, Pet.S at 8-9. The trial court observed that, similar to the pleas'
5 discordant use of check marks in the exceptional sentence paragraphs, the "strike offense"
6 notice had been checked in the rape plea, but not checked in the murder plea. *Id.* Petitioner
7 nevertheless affirmed he understood both paragraphs applied to him with equal force, which is
8 consistent with his other representations of understanding the pleas and inconsistent with his
9 recent claim of confusion. The only difference between the two events is he admitted
10 understanding the pleas when he perceived them to be a means to a desired end rather than an
11 impediment to future plans. *E.g.* Apx.U at 1, 5; V at 1, 4-5; X at 13; Pet.Apx.G at 5; ee at 46-47.

12 More pointed evidence comes from his silence at sentencing when—prior to imposing
13 sentence—the court stated:

14 The defense has stipulated to those acts which constitute exceptional
15 circumstances and aggravating circumstances, which allows this court to make a
16 sentence beyond what is a standard range sentence for these offenses. That does
not mean that the court is required to do so. Pet.Apx. ee at 51.

17 If this statement was inconsistent with petitioner's understanding of the exposure attending his
18 pleas he had ample opportunity to make that fact known. Yet he remained silent, likely still
19 hoping he would receive the standard range sentence he desired.

20 There is no factually supported reason to doubt petitioner plainly understood his pleas
21 vested the court with discretion to impose the exceptional sentence he hoped to avoid by *posing*
22 as a repentant person capable of redemption. According to petitioner's own mother, he pleaded
23 guilty as charged knowing the State was free to ask for anything, but nevertheless proceeded,
24 hoping the court would impose a standard range sentence. Pet.Apx.E at 4. It is of no moment
25 the court proved less lenient than expected. When petitioner completed his written statements

1 on plea of guilty in compliance with CrR 4.2(g), acknowledged he read and understood them
2 while attesting to the truth of their content, they became *prima facie* evidence of their validity.
3 When the court went on to inquire orally of petitioner and satisfied itself the pleas were
4 knowingly and voluntarily entered, the presumption of their validity became "well nigh
5 irrefutable." See *Branch*, 129 Wn.2d at 642. Petitioner's factually unsupported petition should
6 be dismissed.

7
8 3. PETITIONER'S MERITLESS REQUEST FOR REINSTATEMENT
9 OF HIS DIRECT APPEAL IS BASED ON AN INACCURATE
10 CLAIM THAT HE WAS NEVER ADVISED OF THE RIGHT TO
11 APPEAL HIS EXCEPTIONAL SENTENCE.

12 Reinstatement of a direct appeal is not appropriate unless a personal restraint petitioner
13 proves by a preponderance of the evidence that he was substantially prejudiced through a
14 deprivation of the right to a direct appeal. *In re Frampton*, 45 Wn. App. 554, 558-59, 726 P.2d
15 486 (1986).

16 Petitioner failed to establish any entitlement to reinstatement of his direct appeal. He
17 incorrectly attempts to shift the burden of proof to the State in this collateral attack where the
18 burden of proof is exclusively his. He then erroneously maintains: "There is no written
19 advisement of appellate rights in the Superior Court file", despite the reference to the
20 advisement on page 2 of his appendix hh. Pet. at 24, Apx. hh. p.2 ("11/21/2013 ...
21 Notice/Advice of Collateral Attack). The advisement, which appears in its entirety in
22 Respondent's Appendix Z, is entitled "ADVICE OF RIGHT TO APPEAL," and informed
23 petitioner of his "right to appeal any sentence ... outside the standard range." Apx.Z at 1. An
24 explanation of the thirty day time limit to file notice of an appeal was also included in the
25

1 advisement. *Id.* A similar advisement was contained in two check mark bearing paragraphs in
2 his guilty pleas:

3 If the court imposes a standard range sentence, then no one may appeal the
4 sentence. If the court imposes an exceptional sentence after a hearing, either the
5 State or I can appeal the sentence. Apx.U at 5; V at 5.

6 Petitioner acknowledged informed understanding of this paragraph when he affirmed his
7 informed understanding of both plea agreements. Apx.U at 8; V at 9; Pet.Apx.S at 5-7.
8 Petitioner's right to file a direct appeal was irrevocably lost when he failed to exercise the rights
9 he was plainly made aware of on at least two occasions.

10 D. CONCLUSION

11 At sentencing, the court remarked upon petitioner's continued difficulty being honest
12 about the events that transpired in this case:

13 "I don't think [petitioner] was so out of touch with his senses that he doesn't know
14 what happened. He says he has no or little memory of this; yet, he was able to
15 give all kinds of explanations to police, which explanations were not substantially
16 accurate. I suspect [petitioner], indeed, has a pretty intact memory of what
17 happened here. I suspect that it is just not easy for him to deal with that."
18 Pet.Apx. ee at 52.

19 The court optimistically interpreted petitioner's dishonesty as "a sign of some conscience,"
20 which the court factored into the sentencing "consideration" it "g[a]ve ... [petitioner on account
21 of his] age and his lack of maturity and his substance abuse issues" *Id.* at 55. But time has
22 revealed it to be nothing more than a base attempt to avoid as much punishment as possible for
23 what the trial court very aptly characterized as "a singularly brutal and horrific crime."
24 Pet.Apx. ee at 51.

25 This Court should dismiss the petition because petitioner failed to adduce the evidence
required for review or to overcome the strong presumption of counsel's effectiveness and the
plea agreements' validity. If this Court were to grant the petition for reasons which have
escaped the State, the case should be remanded for the withdrawal of both pleas since the base

1 offenses and aggravating factors are part of an indivisible whole. See *Steele*, 134 Wn. App. at
2 852.

3
4 RESPECTFULLY SUBMITTED: May 26, 2015.

5 MARK LINDQUIST
6 Pierce County
7 Prosecuting Attorney

8 
9 JASON RUYF
10 Deputy Prosecuting Attorney
11 WSB #38725

12 Certificate of Service:

13 The undersigned certifies that on this day she delivered by ^{ufile} U-~~Small~~ mail
14 to petitioner true and correct copies of the document to which this
15 certificate is attached. This statement is certified to be true and
16 correct under penalty of perjury of the laws of the State of Washington.

17 Signed at Tacoma, Washington, on the date below.

18 
19 Date: 5/26/15 Signature

APPENDIX “A”

Affidavit of Deputy Prosecutor Jason Ruyf
RE: Appendix A-N, P-Q, and Redacted TPD 130890189.1
(Discovery 12-13)

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pertinent details about the case without inundating the Court with the entire discovery file. The selections are not intended to be representative of all the information contained in each document.

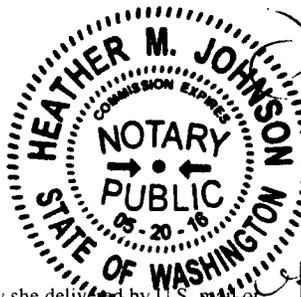
4. Appendix O is an index of the case discovery I created while reviewing the discovery in order to provide the Court a succinct overview of the investigation informing trial counsel's conduct since the only apparent alternative method of apprising the Court of this information was to attach the entire discovery file. The content provided under the "Subject" heading is only intended to be illustrative of pertinent details in each page range. Although the information provided is an accurate summary of the identified discovery to the best of my knowledge, information and belief, it is not intended to be a comprehensive summary of all the information contained in each report or to account for every conceivable interpretation of that information.

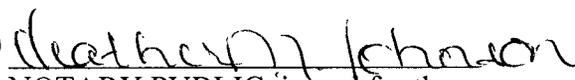
Further your affiant sayeth naught.



JASON RUYF
WSB No. 38725

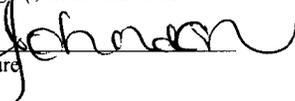
SUBSCRIBED AND SWORN to before me this 26th day of May, 2015.





NOTARY PUBLIC, in and for the
State of Washington, residing
at Coungton, WA
My Commission Expires: 5/20/16

Certificate of Service.
The undersigned certifies that on this day she delivered by first class
ABC-LMI delivery to the attorney of record for the appellant and appellant
c/o his or her attorney or to the attorney of record for the respondent and
respondent c/o his or her attorney true and correct copies of the document to
which this certificate is attached. This statement is certified to be true and
correct under penalty of perjury of the laws of the State of Washington. Signed
at Tacoma, Washington, on the date below.

5/26/15 
Date Signature

Vehicle Activity

Direction Vehicle Traveling:

Synopsis

Narrative

On 03/30/13 at approximately 0407 hours, PPO Hannity (364) and I were dispatched to 29 St Helen's Avenue (Commencement Terrace) at the request of Tacoma Fire Department Medics who had been summoned via a 911 call in reference to a report of a two year old boy (later identified as V/C [REDACTED] C [REDACTED]) with bruises all over his face who was having breathing difficulties and an alleged history of seizures. While en route to the complex, dispatch advised further that medics reported that CPR was in progress on V/C [REDACTED].

I arrived on scene at approximately 0413 hours and observed the medics loading V/C [REDACTED] into an aid unit on a gurney while continuing with chest compressions. I observed a subject sitting on a bench in front of the apartment complex who identified himself as W/Ricky SALDAVIA. As I approached him he informed me that he had been the one who called 911 to report the incident but did not know the involved. He stated that he was in front of the building when a frantic male ran into the lobby near the front doors while carrying a child in his arms.

PPO Hannity had arrived by this time and took over my conversation with W/SALDAVIA. I spoke briefly with the medics who told me that V/C [REDACTED] father O/Jake MUSGA was sitting in the passenger seat of the aid unit. Before contacting him I stepped into the back of the unit to check on V/C [REDACTED] and upon opening the back door I observed him to be lying on his back on a gurney clad only in a disposable diaper.

While the medics continued with CPR, I immediately noticed that the visible portions of V/C [REDACTED] forehead, face, chest, arms and legs were covered in so many bruises that I was not able to begin to count them. The color and condition of the bruises ranged from hues of brown, tan, blue and purple with varying appearances of age. They ranged in shape of the approximate circumference of a pencil top eraser through that of the series of U.S. coins that are in circulation.

V/C [REDACTED] forehead and face were covered in numerous bruises, so much so that they made a virtual "mask" over what would be his normal healthy skin. Before having to step out of the aid unit for departure to the hospital, I asked the medics if V/C [REDACTED] was breathing on his own or if his condition had improved and I was informed that neither had occurred as of yet.

At this point I stepped out of the aid unit and contacted O/MUSGA in the passenger seat. He was sobbing heavily and I asked him to accompany me into the apartment lobby. He continued to cry as we walked into the building and sat down on a chair within. I asked him if he lived in the building and he told me that he resided in unit 307 with his girlfriend O/Laura COLLEY who is V/C [REDACTED] mother.

I inquired if she was currently in their apartment and he stated that she was not and was visiting family in McCleary where she stayed overnight after her sister picked her up from home on 03/28/13 at approximately 1900 hours leaving V/C [REDACTED] in his care. During this portion of our informal conversation, O/MUSGA had stopped crying but dropped his shaking head into his hands several times.

I asked if he was doing ok and he made mention of V/C [REDACTED] bruises and how those might appear to others. I mentioned that I was not sure what he was referring to and O/MUSGA said that when the medics came into the lobby while he was holding V/C [REDACTED], one of them yelled at him to get away and that this reaction must have been because of the bruising.

I inquired of O/MUSGA how long he and O/L. COLLEY have been living at Commencement Terrace and he stated that they moved in approximately two months ago after she took a Craigslist posted job for a leasing manager position and he assumed the role of primary babysitter for V/C [REDACTED]. I asked how long he and O/L. COLLEY have been in a relationship and he replied approximately five months.

O/MUSGA then spoke again about V/C [REDACTED] bruising and said that he suspected that he could have some sort of medical problem that causes him to bruise more easily than others. I asked him if he was aware of any recent doctor visits or if V/C [REDACTED] had a doctor in Pierce County and he said that as far as he

is aware there have not been any appointments, a new pediatrician has not been chosen, he has never been diagnosed with any ailments and is not on any prescription medication.

I mentioned to O/MUSGA that I read in the call notes that there was mention that V/C [REDACTED] has a history of seizures. He stated that he told the medics that this was the case because during a tantrum that V/C [REDACTED] threw last night during his nighttime bath/tooth brushing routine, he thrashed about on the ground and intentionally struck his head several times on the bathroom wall and door during his fit.

I asked O/MUSGA what kind of a kid V/C [REDACTED] is and he told me that he is a good natured, energetic two year old boy and the two of them are close. I inquired if he considered V/C [REDACTED]'S demeanor as being normal today and after appearing to think for a few moments, O/MUSGA said that it was not. I asked him how it was different and he replied by stating that he appeared to be physically "off balance" and was "pretty quiet."

O/MUSGA provided me with V/C [REDACTED] time line from the point that his mother left to visit family out of town until this evening when he went to bed. He said that V/C [REDACTED] went to bed at approximately 2300 hours after his mother left, arose at approximately 0945 Friday morning and took a nap from approximately 1130 hours until 1200 hours.

After getting up, O/MUSGA told me that he observed that V/C [REDACTED] was somewhat quiet and did not seem to have much energy. He said that he assumed that he was sick and this was further proven to him when V/C [REDACTED] vomited on some blankets at the midpoint of the day. I asked O/MUSGA if V/C [REDACTED] ate anything today and he told me that he did but it was not very much.

O/MUSGA stated that during the later portion of the afternoon he took V/COLLEY across St. Helens Avenue to play on a grassy area. He said that they only stayed out for approximately a half of an hour because he appeared "off balance." After returning to the apartment, O/MUSGA told me that he and V/C [REDACTED] watched movies and laid down in the same bed together at approximately 0200 hours.

He stated that was awoken by a loud thud and discovered that V/C [REDACTED] had fallen out of the bed and onto the floor. O/MUSGA said that he immediately went to him, picked him up and laid him back down in the bed. After he got settled back in bed, he told me that he draped his arm around V/C [REDACTED] chest and discovered that he was not breathing. I asked if V/C [REDACTED] cried or reacted in any other way to indicate that he was startled and/or injured as a result of falling out of bed and he replied in the negative.

After trying and failing to wake him, O/MUSGA said that he picked V/C [REDACTED] up in a panic and proceeded to the apartment lobby where he encountered W/SALDAVIA who offered to call 911 using his (O/MUSGA'S) cell phone. While 911 was being called, O/MUSGA said that he attempted to perform CPR on V/C [REDACTED] and turned over the care to the medics once they arrived.

A few moments passed and I wondered out loud if V/C [REDACTED] might have consumed some medications, household cleaners or some other substance that would cause him health problems. At hearing this, O/MUSGA sat upright, raised his right index finger and stated, "Oh ya, he might have snuck a drink from my vodka and Coke that I had." He told me that he mixed a "50/50" combination of the beverages this evening in what he physically demonstrated with a hand measurement as being a large glass. O/MUSGA appeared as though he had just had a moment of epiphany while relating this.

As we remained in the lobby, O/MUSGA muttered, "I just can't figure it out" several times in between shaking his head and putting his hands up to his face. He then stated that O/L.COLLEY'S parents were going to be "pretty upset" with him. I asked him what he meant and he told me that this was the first time that he has cared for V/C [REDACTED] overnight and the result of this was him having to be taken to the hospital.

At this point Sgt Darland informed me that Detectives wished to have O/MUSGA transported to Headquarters so that they could speak with him further. I advised O/MUSGA of this and he walked with me to my patrol vehicle. I transported him to HQ and after speaking with Sgt. Durocher, O/MUSGA was transferred to the care of the Detectives.

Reviewed By

Reviewed Date

APPENDIX “B”

Redacted TPD 130890189.2 (Discovery 16-17)

Total No. of Units

Evidence Collected:

Entered:

Entrance

Compromised:

Entry Method:

Suspect Description:

Suspect Actions:

Notes:

Weapon 1: Personal Weapon (hands, fists, feet, etc.)

Offense:	0999 - Homicide (Other)	Serial No:	
Offender:		OAN:	
Weapon:	Personal Weapon (hands, fists, feet, etc.)	Automatic:	
Other Weapon:		Caliber:	
Action:		Gauge:	
Manufacturer:		Length:	
Make:		Finish:	
Importer:		Grips:	
Model:		Stock:	
Weapon Notes:			

Investigative Information

Means:

Motive:

Vehicle Activity:

Direction Vehicle Traveling:

Synopsis:

Narrative:

On 03-30-13 at approx 0407 hrs officers responded to the lobby of 29 St Helens (Commencement Terrace Apartments), for a report of a two year old male who was having difficulty breathing. The caller was reporting seeing bruises on the child's face. Tacoma Fire arrived on scene and advised that CPR was in progress on the child. The child was transport to Mary Bridge Children's Hospital by Tacoma Fire. PPO Kanschuh and PPO Hannity were on scene prior to the child being transported. See PPO Kanschuh's general report and supplementary report by PPO Hannity for further details.

Sgt Martin and PPO Halbert responded to Mary Bridge with the injured child. Sgt Martin was the supervisor in charge of the scene at the hospital. I responded to 29 St Helens as the scene supervisor. PPO Kanschuh determined during his interview of Musga that he lived in the building with the child and his girlfriend in apartment 307. He stated that there was no one currently in the apartment, his girlfriend was out of town at her parents' house. He further stated that no one should be in the apartment.

PPO Bartenetti responded to the scene to assist in securing apartment 307 as a potential crime scene. We located the apartment, I found the front door unlocked. I opened the door of the apartment and made an announcement, with no response from inside. I could see it was a small apartment, from the front door I could see in the bedroom, directly opposite the front door, there did not appear to be anyone inside, but I did not make entry at that time. PPO Bartenetti remained outside the apartment as scene security and completed the crime scene log.

Lt O'Dea arrived on scene, I spoke with him briefly and requested that PPO Kanschuh brief him on the information he had and the statements made by Musga. I entered the lobby of the building and stood by with Musga with Kanschuh briefed the Lieutenant.

I spoke with Musga briefly about the building he was living in and did not ask any questions about the incident. I advised him that the building used to be a senior living facility. He advised that there were some "sketchy" people living in the building and then stated that he sees the fire department at the building at least twice a week. Musga then stated "A life is a life, but it's sad that it is a two year old and not a ninety year old."

I believe he was referring to the death of the child that was left in his care, however at that time the child had not been pronounced deceased and he had not been given an update on the medical condition of the child. His demeanor at that time was calm and appeared almost casual during our conversation.

Lt O'Dea contacted Criminal investigations Division Sgt Durocher and briefed him about the incident. CID Responded to the scene for further investigation. I remained on scene until C.I.D. arrived. I advised Detective Yenne that entry had not been made into the apartment. He asked me to assist with a protective sweep of the apartment, confirming no other occupants were in the apartment. The sweep was conducted and I exited the apartment.

I remained on scene until relieved by Sgt Durocher. No further information at this time.
Sgt S. Darland S-160

Reviewed By

Reviewed Date.

APPENDIX “C”

Redacted TPD 130890189.3 (Discovery 20)

lobby, that I could see through the glass doors, and PPO KONSCHUH was with this subject. SALDAVIA pointed at the subject and told me that this subject with PPO KONSCHUH was the same person who brought the child into the lobby of the building. I asked SALDAVIA to be seated in my patrol car and he related the following:

He did drywall work by trade and had been working all night, downtown at 1003 Pacific Ave., on a remodel of what will be the new Chopstix Nightclub. He finished his shift at 0300 hrs. and walked to 29 St. Helens to visit a friend in #1512 whom he knows only by the nickname, "SCRUB," but whose actual first name he believed to be, "JOSH." He described SCRUB as a 28 year old w/m. He went to the call box of the secured building and dialed 320 which is the code for Apt. #1512 and the entry door was electronically unlocked to allow him entry to the building. He explained that SCRUB, upon getting the 320 notification, could unlock the common entry door by entering 6 with his cellular telephone, and this could be accomplished from any location via the cellular telephone.

He went up to #1512 and knocked, but no one answered the door. He tried repeatedly, then gave up and borrowed a telephone from another resident of the building to telephone his brother for a ride home. He was waiting for his ride in front of 29 St. Helens Ave. by the outside bench on the sidewalk, and pacing back and forth waiting, when he saw a male subject run across the lobby from the general direction of the elevators. The subject appeared to be bare-chested, wearing a thin black jacket and black shorts with some green on them. The subject was carrying what he believed to be a 2 year old boy and the boy was clad only in a diaper.

He saw the subject lay the child on the floor and begin to administer CPR to the child. He got back into the lobby and used the subject's cellular telephone to call 911 for medical aid. He estimated that he arrived at the building 30 minutes prior to his call to 911. [At 0404 hrs.] He relayed CPR instructions from the Fire Department to the subject, and then placed the subject's telephone into speaker mode so the instructions would be clearer to the subject. Prior to placing the telephone into speaker mode, one of the questions he relayed was regarding the child's seizure history. The subject advised him that the child had a seizure one week earlier.

He had never before seen the subject or the child, and at first he believed that the subject was the child's father. This changed when the subject described himself as the child's mother's boyfriend. He did not know if the child's mother resided in the building or not, everyone being strangers to him. He said that the subject appeared to be crying when he first entered the lobby carrying the child, but that the subject's demeanor changed. He was puzzled by the callousness of the subject because as soon as TFD transferred the child from the lobby to the medical aid unit parked out front, the subject nonchalantly remarked that it, "sucked," that it had to be a child and not an old person who died. He did not believe that the child was dead when attended by TFD.

SALDAVIA described the child as having lighter green bruises visible on both arms and both legs. He said that the child had darker bruises all over his face, and an approx. 1 inch diameter bruise with redness, "like a carpet burn," to the right center of the child's forehead. SALDAVIA then paused and said, "I think that little guy had been abused for a long time!" He said that the child appeared to be breathing as CPR was administered, but appeared to stop breathing every time there was a pause in the CPR.

SGT. S. DARLAND (S-160) and LT. D. O'DEA (L-9) responded to the scene. SGT. DARLAND directed me to transport SALDAVIA to TPD Headquarters, 3701 S. Pine St., and standby with him until relieved by detectives. I remained with SALDAVIA and introduced him to DET. L. NIST (D-241) and DET. B. VOLD (D-332) when they arrived. The detectives took SALDAVIA for interview, at which I was not present. At the conclusion of the interview, I transported SALDAVIA to his listed address. SALDAVIA had inadvertently retained the subject's telephone when TFD arrived and he gave it to me asking that I get it back to the subject. He did not know if the subject had used the telephone to request medical aid, but it was his impression that the subject had not done so. I never had contact with the subject, so I transferred custody of the subject's Motorola/Verizon cellular telephone, with purple cover, to DET. NIST. I returned to Operations and cleared the call to write this Supplementary Report at 0845 hrs..

See General Report and Supplementary Reports for additional information.

APPENDIX “D”

Redacted TPD 130890189.4 (Discovery 27-28)

interview SGT Martin was standing near room #15 which contained V/C [REDACTED]. Not until 0634 hrs when V/C [REDACTED] was transferred into "ICU" were we separated from being located near V/C [REDACTED].

TFD Ladder 1, Engine 4, and Medic Unit 4 responded to this call and provided medical aid. Engine 4 personnel left MBCH before I could interview each of them individually.

W/JAMIE M. ROBERTS of TFD Ladder 1 stated when they arrived at 29 St. Helens Av he could see into the lobby of the apartments. He saw what he thought was the father of a child doing "CPR" or "chest compressions". The person W/ROBERTS thought was the father of the child was later identified as S/JAKE J. MUSGA. S/MUSGA was reported to be the mother of the child, O/LAURA COLLEY'S boyfriend. The child was identified as V/C [REDACTED] as mentioned above.

W/ROBERTS went on to say that when he took over "CPR" for S/MUSGA, V/C [REDACTED]'s chest felt warm to the touch. W/ROBERTS said he was wearing medical exam gloves and the body was only clothed in a diaper, so the contact was exam gloves to bare skin. W/ROBERTS noticed S/MUSGA "was crying and emotional and seemed distraught." W/ROBERTS said he did not find a pulse on V/C [REDACTED].

I spoke with W/STEVEN W. CURRY who is also a member of TFD Ladder 1. W/CURRY said when he arrived on scene at 29 St. Helens Av, he noticed V/C [REDACTED] was "pale and a little bit green" in color. W/CURRY indicated to me that by the color of V/C [REDACTED] it appeared to him that V/C [REDACTED] had not been breathing for a period of time before they arrived on scene. W/CURRY said S/MUSGA told him V/C [REDACTED] "had a seizure yesterday" but the old and new bruises didn't match." When S/MUSGA said this, W/CURRY said he "got the boyfriend away from the child." W/CURRY said the "boyfriend" or S/MUSGA seemed "honestly distraught." W/CURRY then escorted S/MUSGA to the front passenger seat of the Medic 4 vehicle. W/CURRY said he had S/MUSGA sit in the front passenger seat until a TPD Officer arrived. S/MUSGA then went with the officers. W/CURRY said he did this because he did not want S/MUSGA to leave the scene based upon what he was seeing with V/C [REDACTED].

When asked about S/MUSGA attempt of helping V/C [REDACTED] W/CURRY said it "really looked like he was trying to do CPR." W/CURRY said he took S/MUSGA'S comment of V/CHASON having seizures as an explanation for the bruises that were seen on V/C [REDACTED].

I spoke with W/THEODORE S. WOLD, another member of TFD Ladder 1. W/WOLD said when he entered the lobby of 29 St. Helens Av, the male in his "late teens or early 20s" identified as W/RICKY J. SALDAVIA, said either "I didn't do anything" or "He didn't do anything." W/WOLD heard W/SALDAVIA say that "I was just passing by."

W/WOLD said about the marks on V/C [REDACTED] that they were "head and body; everywhere. My thought was 'He's been down for a while.' The marks look more than a simple seizure; looks suspicious." W/WOLD said V/C [REDACTED]'s hands were cold to the touch.

I spoke with Medic 4 Paramedic W/KURT B. GORDON. W/GORDON noticed bruising on V/CHASON'S back, face, chest, legs, and arms. W/GORDON reported that when he arrived and started to care for V/C [REDACTED], V/C [REDACTED]'s leg that he touched was cold to the touch. W/GORDON described V/CHASON as "super pale" and said "my outlook (for V/C [REDACTED]) was grim." W/GORDON said he "heard the guy in the front seat (of the Medic vehicle) sobbing and weeping."

I spoke with Medic 4 Paramedic W/ADAM D. CHAMBERLIN. W/CHAMBERLIN said that when he arrived he noticed V/C [REDACTED] head, back, abdomen, and all extremities had bruises on them. W/CHAMBERLIN said V/C [REDACTED]'s chest was warm to the touch. W/CHAMBERLIN explained "the first thing I was thinking was we are going to be a part of a crime scene." W/CHAMBERLIN said V/C [REDACTED] had "no heartbeat no breathing ever in our care." W/CHAMBERLIN explained to me that "children's hearts are very resilient. If a child's heart stops, it has been a while since (the child) stopped breathing."

Dr. Blake at MBCH was one of the doctors in care of V/C [REDACTED]. At 0557 hrs Dr. Blake informed that V/C [REDACTED] had "inner cranial bleeding." Just after 0700 hrs Dr. Blake informed that V/C [REDACTED] had "2 brain bleeds, multiple areas of lung collapse, in the belly large amounts of blood, damage to the pancreas."

He also informed V/C [REDACTED] had "bruising all over in different stages of healing." He said he could not determine that amount of time between each bruise but that they occurred at different times.

I gave a brief to Detective L. Nist (D241) at MBCH. At 0744 hrs, I was relieved at MBCH by Detective S. Yenne (D475). See the attached reports for further details.

I have nothing further at this time.

R. Halbert 250

Reviewed By

Reviewed Date

APPENDIX “E”

Redacted TPD 130890189.17 (Discovery 115-17)

blood stains found inside the garbage container between the sink and toilet. Those items were taken as evidence.

The bedroom is on the west side of the entry where the carpet begins for the small hallway towards the kitchen/living room area. On the hallway floor was a white towel (evidence marker 6) with possible blood stains on it that was taken as evidence. As you enter the bedroom a child's crib/bed was along the south wall and butted to the large bed along the west wall of the bedroom. A baby bottle (evidence marker 5) was in the crib bed and collected as evidence. The floor is carpet and possible blood stains (evidence marker 33 and 34) were found on the entry area of the bedroom floor. A small fan (evidence marker 24) was on the floor and had additional blood stains on it. A Samsung cell phone (evidence marker 4) was on the west wall window sill and also taken as evidence. The adult bed had four posts and narcotic paraphernalia baggie (evidence marker 23) was found inside the right foot post and taken as evidence. Two closets were on the north side of the bedroom. A baggie of Kirkland diapers were observed. A plastic bag of medication and identification (evidence marker 32) for Jake Joseph Musga was on the closet shelf and taken as evidence. On the east bedroom wall was a dresser with television. In front of the dresser were two smaller bookshelves. On top of the dresser were court papers for Laura Colley and a letter written by Laura Colley to Jake Musga professing their relationship. On the smaller bookshelf was a brown wallet (evidence marker 21) with Jake Musga identification and social security card inside. A birthday announcement picture of Chayson Colley (evidence marker 22) at age one was found on top of the other bookshelf. All those items were collected as evidence. The bedroom was filled with loose clothing and debris making it difficult to move inside.

The open kitchen, dining, and living area were to the south side of the apartment. The kitchen was vinyl floor and the lay out was along the east wall of the open area. It consisted of a dishwasher, sink, and refrigerator. Inside the sink was a glass "Seahawks" cup (evidence marker 7) with unknown liquid inside. A child's bottle (evidence marker 12) was on the counter next to the sink and another orange child's bottle (evidence marker 13) with unknown liquid inside was inside the sink next to the "Seahawks" glass. Medication (evidence marker 25) in the name Laura Colley was inside the kitchen cabinet above the sink. A large open bottle of "Burnetts' Vodka" (evidence marker 8) was found on top of the refrigerator. An open bottle of "Fuze Strawberry Lemonade" (evidence marker 18) was found in a black tote sitting on the floor in front of the refrigerator. Those items were collected as evidence.

The dining area consisted of a table with several chairs and a garbage can next to the table. The table and garbage can were along the south wall of the open area. On top of the table was a package of "Kirkland baby wipes" (evidence marker 16) with possible blood stain finger prints on it. Hanging on a dining chair was a white hooded child's blanket (evidence marker 17) with blood stains on it. Inside the garbage can was an empty "Cherry Coca Cola" container (evidence marker 20). Also in the can were numerous used baby wipes with possible blood stains on them. Also in the can were numerous soiled diapers (evidence marker 19) with heavy blood stains inside each. Those items were all taken as evidence. The dining and living areas were carpeted.

The living room area consisted of a couch along the south wall and a large bay of windows on the west wall. A television on a stand was near the center. A couple of chairs, bookcase, rocking chair, and child's toy were along the north wall of the living room area. Several pieces of clothing and a pink suitcase were thrown about the living room area. A marijuana smoking device (evidence marker 9) was on the window sill. Several possible blood stains (evidence marker 28, 29, and 30) were observed on the living room carpet in front of the couch and near the center of the room. There were possible blood stains on a white/green pillow (evidence marker 11) on the living room floor. A "Cherry Cocoa Cola" container (evidence marker 15) was under the rocking chair. An empty "Fanta" drink container (evidence marker 14) was inside the child's toy. All those items were also collected as evidence.

During the warrant service, Laura Colley and her mother arrived. They were upset asking for Chayson. Patrol officers were on scene for security and assisted with transport of Laura and her mother to the police station to be interviewed by Detectives Nist and Vold.

Kristie Hall a neighbor in apartment #310 came out and stated she is the cleaner of the apartment building. Kristie stated Laura Colley moved in a few months ago with her two year old child. She said Laura was the live in leasing agent for the building. Kristie said Laura was not home and left Friday to her parent's house for her own birthday party. Kristie said Laura had a live in boyfriend (Jake) who was taking care of the two year old while Laura was gone. Kristie said apartments #308 and #309 were empty.

Karen Howard from apartment #207 contacted R/D as we were taking evidence out of the building. Karen said she lives directly below apartment #307. Karen said last night around 0130 hours, she heard stomping and fighting from above. Karen said she could not hear voices only loud thumping noises. Karen said it was so loud she went upstairs (in her wheelchair) to complain. Karen said as she knocked on

the door of #307 she could hear a baby crying inside. Karen said no one would come to the door but the baby did stop crying after her knocks, so she left. Karen said the noise stopped so she didn't feel the need to call the police. Karen said she does not know the people who live in #307 but has heard the loud noises in the past.

After the evidence was collected, R/D left a copy of the warrant and return of service on the dining table. R/D locked the front door and left the apartment secured at approximately 2210 hours. R/D updated detective Nist about the scene and later placed the dominion papers into evidence and completed this report.

Reviewed By:

APPENDIX “F”

Redacted TPD 130890189.20 (Discovery 124-25)

Total No of Units Entered: Entrance Compromised Entry Method: Suspect Description: Suspect Actions: Notes:	Evidence Collected:
--	---------------------

Weapon 1: Personal Weapon (hands, fists, feet, etc.)

Offense	0999 - Homicide (Other)	Serial No.
Offender:		OAN.
Weapon:	Personal Weapon (hands, fists, feet, etc.)	Automatic:
Other Weapon		Caliber:
Action:		Gauge:
Manufacturer		Length:
Make:		Finish:
Importer:		Grips:
Model:		Stock:
Weapon Notes		

Investigative Information

Means:	Motive:
Vehicle Activity:	Direction Vehicle Traveling:

Synopsis:

Narrative

On 03/30/13 at about 0600 hours, Sgt. Durocher called me at my home and requested I respond to Mary Bridge Hospital. I learned that TPD and TFD responded to a child not breathing and that the child was transported to Mary Bridge. I also learned that the child was covered in bruises.

At about 0655 hours, I arrived at Mary Bridge and responded to the emergency room. Sgt. Durocher, Det. Vold and Det. Yenne were also on scene, along with Sgt. Darland, Sgt. Martin and PPO Halbert. During a briefing, I learned that the 911 call came in at 0404 hours from the lobby of 29 St. Helens. When TFD and TPD arrived, a male subject was in the lobby doing CPR on the child. A second male subject was identified as having made the call to 911. The child, later identified as Ch█████ C█████, was not breathing and there was no heartbeat. C█████ was transported to Mary Bridge and at about 0634 hours, he was admitted into the PICU.

We then spoke with Dr. Blake and learned that C█████ was intubated and had suffered a number of injuries as follows: C█████ had bruises from head to toe, front and back, and included bruises on the chest, behind the ears and on the rectum. C█████ suffered two brain bleeds, a collapsed lung, a damaged pancreas and there was a large amount of blood in the abdomen. There were no pelvic, spinal or skull fractures. C█████'s pupils were fixed and dilated. He was in major shock and receiving blood and fluids. The abdominal injuries were the most critical. We later learned that C█████ had a blood alcohol level of .124.

The two subjects who were with C█████ at the time police arrived were identified as Jake Musga and Ricky Saldavia. Musga told police he was the boyfriend of C█████'s mother, identified as Laura Colley, who was not home at the time of the incident. Musga had provided information that Laura was in McCleary, WA celebrating her birthday with her sister. C█████'s biological father was identified as Brannon Jones. Saldavia was a passerby who assisted Musga by calling 911. Both subjects were being transported to TPD to be interviewed.

I was assigned as lead detective and Det. Vold was assigned to assist me with interviews. Det. Yenne was assigned to obtain a search warrant for apartment #307 at 29 St. Helens, which was identified as the residence of C [redacted] C [redacted], Laura Colley and Jake Musga. Det. Yenne was assigned to investigate the crime scene with forensics.

At about 0727 hours, I cleared Mary Bridge and at about 0736 hours, I arrived at TPD Headquarters.

At about 0747 hours, Det. Vold and I interviewed Ricky Saldavia who provided a taped statement, which is documented in a separate supplemental report. Refer to that report for details.

At about 0803 hours, I received an email advising that C [redacted] was pronounced deceased at 0750 hours.

At about 0830 hours, Det. Vold and I interviewed Jake Musga, who provided a taped statement, which is documented in a separate supplemental report. Refer to that report and Det. Vold's supplemental report for details

At about 1357 hours Det. Vold and I responded to 29 St. Helens and arrived at about 1413 hours. We did a brief walk-through of the scene with Det. Yenne and Forensics. After clearing the apartment, we made contact with the apartment building manager and assistant manager, Jessica Burton and Dave Geiser, and security personnel, Ifona Mast. They all confirmed that Laura Colley was a leasing agent for the Commencement Terrace and other apartment buildings under the same ownership. They also confirmed that Laura Colley lived in apartment #307 with her son and boyfriend. We advised them that Det. Yenne and Forensics would be at the scene for several more hours. At about 1449 hours, we cleared the scene.

At about 1450 hours, I advised LESA Dispatch that Det. Vold and I were enroute to McCleary in an attempt to locate Laura Colley. At about 1714 hours, we arrived back at TPD Headquarters and made contact with Laura and Cathy Colley. This is documented in a separate Supplemental Report. Refer to that report for details.

At about 1824 hours, Det. Vold and I returned to 29 St. Helens arriving at about 1837 hours. Det. Yenne briefed us on their progress in processing the scene and on some of the items that had been located. Refer to Det. Yenne's Supplemental Report for details. At about 1854 hours, we cleared the scene.

At about 1855 hours, LESA Dispatch contacted me and advised that the paternal grandfather, Ron Jones, was asking for contact regarding the case. That contact is documented in a separate Supplemental Report. Refer to that report for details.

On 04/01/13, I attended the autopsy of C [redacted] C [redacted]. Refer to the Medical Examiner's report for details on C [redacted]'s injuries and his cause of death.

End of report.

Reviewed By:

Reviewed Date:

APPENDIX “G”

Redacted TPD 130890189.21 (Discovery 131-32)

Nist: Did he volunteer any information to you before Fire arrives?

Saldavia: No.

Nist: Did he volunteer any information?

Saldavia: No, not at all.

Nist: And then when Fire arrived, did you happen to hear anything that was said from him?

Saldavia: Not really. The, when they, when the Fire Department arrived, they had right (Unintelligible) made him get away from the kid and they made him turn around and sit down facing the wall. Because, as I said he, the, looked like the child had been abused; and so that's kinda what they were getting at too. And he was just pretty much, I'm trying to think, cause I know he was saying something. Um.....uh, I think he was, he wasn't saying please help him but he was kinda, I don't know if it was like a, I didn't do it statement or something along those lines like cause once he was getting made to like, once he was getting told to face the wall, he kinda knew what they were getting at. And so he was pretty much almost kinda defensive as if he didn't do it and this and that kind of thing.

Nist: And um, the friend that you were visiting what floor was he on?

Saldavia: Fifteenth.

Nist: Okay. Had you ever seen this gentleman before?

Saldavia: No.

Nist: Okay. Had you ever seen the child before?

Saldavia: No.

Nist: No.

Detective Vold?

Vold: A couple quick questions.

What did this gentleman look like? What race? How old?

Saldavia: He's white, probably mid twenties.

Vold: And what was he wearing?

Saldavia: He's wearing a pair of black shorts and like a zip-up sweatshirt.

Vold: Okay. Did he ever identify himself by name?

Saldavia: No.

Vold: Okay. And the little, the little toddler was a white male too?

Saldavia: Yeah White.

Vold: Umm-hmm.

Saldavia: He just turned two years old.

Vold: Okay. Uh, earlier before we went on tape, you made a comment as to what the, this white male said about something may have happened to the baby the night before. What was that?

Saldavia: He had a seizure. He said that, the dispatcher asked me if the kid had any, a seizure before; so I asked the gentleman and he said he had a seizure the night before. And then he said that the dispatcher asked if he had a seizure that night and he said he couldn't tell. He had walked in and the kid wasn't breathing. And where he had walked into I don't know. He didn't confirm that.

Vold: Okay. Did he give any other indication of what caused the baby to have this trauma or this health issue?

Saldavia: Not at all.

Vold: No comments whatsoever.

Saldavia: Not at all.

Vold: Okay. Um, describe his demeanor, considering the circumstances that this baby's in obvious health risk at that point?

Saldavia: He seemed, he seemed concerned but he seemed more so concerned as if uh, how do I explain it like, more so concerned as what was gonna happen that if somebody like the situation, he seemed more concerned that maybe uh, more really concerned that the kid was injured but more concerned that someone was gonna find out, you know, kinda how don't know really how to explain it.

Vold: So, I don't want to put words in your mouth.

Saldavia: Yes.

Vold: But was his focus on the baby?

Saldavia: Yes. His focus, his focus was on the child.

Vold: But well, was his concern, but you said that there's a deviation in his concern.

Saldavia: Um, kinda like a oh shit, I messed up.

Vold: Okay.

Saldavia: Demeanor is kinda almost a demeanor I was getting out of him.

Vold: What made you feel that way?

Saldavia: Just cause he was more scared than like you could tell he was more scared than oh my God, the child's dying, more scared than worried.

Vold: Okay

Saldavia: If that makes sense.

Vold: Scared for the baby or scared for himself?

Saldavia: Scared for himself almost.

Vold: Okay. Any clues or any, can you explain why you had that interpretation of his behavior?

Saldavia: Just judging character. I don't um, I don't know. I would, I would think if it was my child, pretty much I was looking at the situation if it was my child I would be a little bit more panicked than that, more, more so. First, I wouldn't have been dialing another number other than 911.

Vold: Right.

Saldavia: It, that was my first clue that I didn't really know. It didn't really seem normal. Maybe he could have been trying to dial the mom but I'm sorry, mom comes second to 911.

Vold: And when you first saw this individual with the baby, you were actually outside the glass doors of the lobby?

Saldavia: Yes, I was, I was outside.

Vold: And he was inside the lobby.

Saldavia: Yes.

Vold: And I think you said coming from the area of the elevator you said.

Saldavia: Yes.

Vold: And you said, to your words, he put the baby on the ground but he put the baby on the carpeting of the lobby?

Saldavia: Yes.

Vold: And is that when he started to dial the phone or?

Saldavia: Um, yeah. Well, he's kinda like when he set him down he was kinda pumping the baby's chest with one hand and then trying to dial the number. And so, that's like in the mean time of me running in there.

Vold: You got his attention and he, he got you in the door?

Saldavia: Yes.

Vold: Okay.

I have nothing further.

Nist: Um, you did say to Detective Vold that the child was two that he had just turned two.

Saldavia: Yes.

Nist: Did he say that to you?

Saldavia: Um, yes. Uh, the dispatcher had asked how old or if it was a baby or if he was a younger child; and he said that he had just turned two or...

Nist: I'm sorry. I didn't mean to interrupt.

Saldavia: ...he, I believe it was the dispatcher asked or he had said that as, as soon as the Fire Department came. And I believe the dispatcher asked though.

Nist: And did he indicate that there were any other children?

Saldavia: No.

Nist: Okay. Do you think you would recognize him if you saw him again?

Saldavia: Yes.

Nist: The subject?

Saldavia: Yes.

Nist: Okay.

That's all I have.

Vold: One other question.

Did the dispatcher ask you to ask him any other questions about the condition of the baby?

Saldavia: Umm.....not that I recollect.

Vold: Okay.

Nist: I have no other questions. Um, do you have any questions Ricky before we turn the tape off?

Saldavia: Um, ... not really.

Nist: Ricky, is this statement true and correct to the best of your knowledge?

Saldavia: Yes, ma'am.

Nist: Have any threats or promises been made or any duress used upon you?

Saldavia: No, ma'am.

Nist: The time,

APPENDIX “H”

Redacted Certificate of Death (Discovery 217)

STATE OF WASHINGTON
DEPARTMENT OF HEALTH

CERTIFICATE OF DEATH

CERTIFICATE NUMBER: 2013-005888

DATE ISSUED: 04/10/2013

FEE NUMBER: 000002781

GIVEN NAMES: [REDACTED]
LAST NAME: [REDACTED]

COUNTY OF DEATH: PIERCE
DATE OF DEATH: MARCH 30, 2013
HOUR OF DEATH: 07:50 A.M.
SEX: MALE
AGE: 2 YEARS

PLACE OF DEATH: OTHER PLACE
FACILITY OR ADDRESS: 29 ST. HELENS AVENUE
CITY, STATE, ZIP: TACOMA, WASHINGTON 98402

SOCIAL SECURITY NUMBER: [REDACTED]

RESIDENCE STREET: 50 LYNCH ROAD
CITY, STATE, ZIP: MCCLEARY, WASHINGTON 98557
INSIDE CITY LIMITS? NO
COUNTY: GRAYS HARBOR
TRIBAL RESERVATION: NOT APPLICABLE
LENGTH OF TIME AT RESIDENCE: 2 YEARS

HISPANIC ORIGIN: NO, NOT HISPANIC
RACE: WHITE

FATHER: BRANNON ISAIAH JONES
MOTHER: LAURA ELIZABETH COLLEY

BIRTHDATE: MARCH 05, 2011
BIRTHPLACE: ABERDEEN, GRAYS HARBOR CNTY, WASHINGTON

MARITAL STATUS: NEVER MARRIED
SPOUSE: NOT APPLICABLE

METHOD OF DISPOSITION: CREMATION
PLACE OF DISPOSITION: ABERDEEN CREMATORY
CITY, STATE: ABERDEEN, WA
DISPOSITION DATE: APRIL 04, 2013

OCCUPATION: NEVER WORKED
INDUSTRY: N/A
EDUCATION: NONE

US ARMED FORCES? NO

FUNERAL FACILITY: WHITESIDE FAMILY MORTUARIES
ADDRESS: 316 W YOUNG ST. PO BOX 3009
CITY, STATE, ZIP: ELMA WA 98541
FUNERAL DIRECTOR: DAVID B. SHARP, FUNERAL DIRECTOR

INFORMANT: BRANNON JONES
RELATIONSHIP: FATHER
ADDRESS: 524 CLOQUALLUM ROAD ELMA, WA 98541

CAUSE OF DEATH:
A. BLUNT FORCE INJURIES OF THE HEAD AND ABDOMEN
INTERVAL: -

B. INTERVAL:

C. INTERVAL:

D. INTERVAL:

OTHER CONDITIONS CONTRIBUTING TO DEATH:

DATE OF INJURY: MARCH 30, 2013
HOUR OF INJURY: UNKNOWN
INJURY AT WORK? NO
PLACE OF INJURY: RESIDENCE

MANNER OF DEATH: HOMICIDE
AUTOPSY: YES
AVAILABLE TO COMPLETE THE CAUSE OF DEATH? YES
DID TOBACCO USE CONTRIBUTE TO DEATH? NO
PREGNANCY STATUS, IF FEMALE: NOT APPLICABLE

LOCATION OF INJURY: 29 ST. HELENS AVENUE, #307
CITY, STATE, ZIP: TACOMA, WASHINGTON 984022615
COUNTY: PIERCE

ME/CORONER: JOHN M. LACY, MD
TITLE: MEDICAL EXAMINER
ME/CORONER
ADDRESS: 3619 PACIFIC AVENUE
CITY, STATE, ZIP: TACOMA WA 984187929
DATE SIGNED: APRIL 01, 2013

DESCRIBE HOW INJURY OCCURRED:
HOMICIDAL VIOLENCE.

STATUS OF DECEDENT, IF A TRANSPORTATION INJURY:
NOT APPLICABLE

CASE REFERRED TO ME/CORONER: NO
FILE NUMBER: 13-0508
ATTENDING PHYSICIAN:
NOT APPLICABLE

ITEM(S) AMENDED: NONE

LOCAL DEPUTY REGISTRAR:
DEBORAH PEDERSON
DATE RECEIVED: APRIL 02, 2013

NUMBER(S): NONE
DATE(S): NONE

DOH 01-003 (12/11)

APPENDIX “I”

Crime Scene Photographs (Discovery 222-40)

****WARNING: GRAPHIC PHOTOGRAPHS****



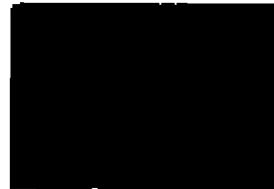
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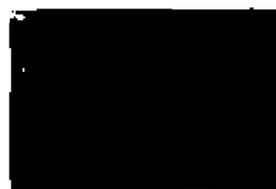
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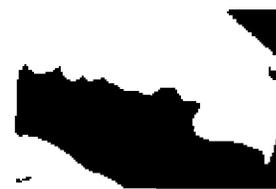
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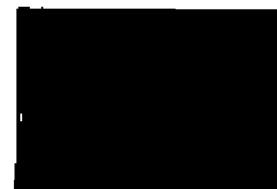
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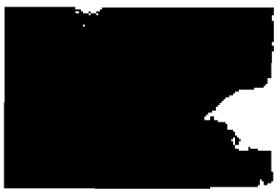
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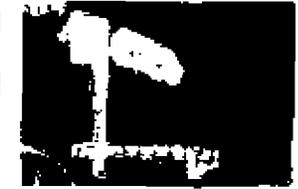
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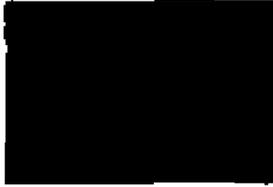
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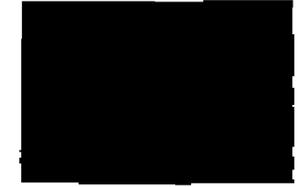
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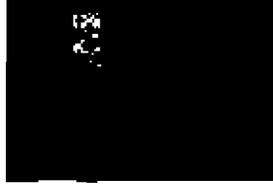
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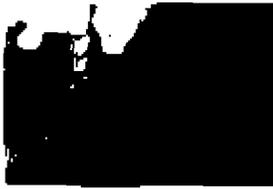
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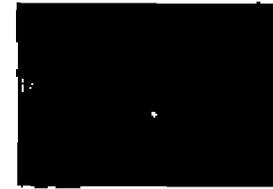
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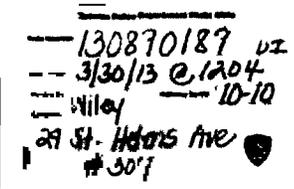
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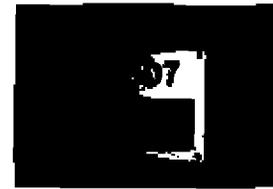
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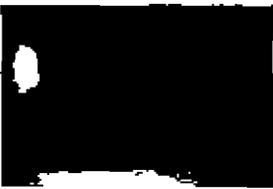
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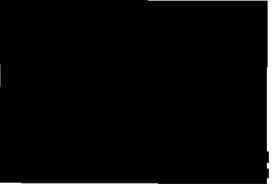
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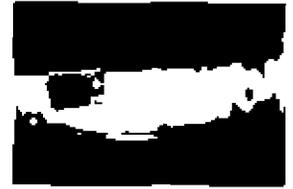
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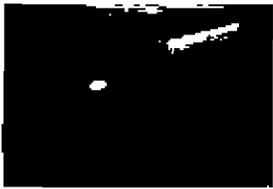
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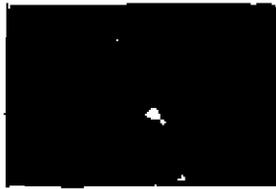
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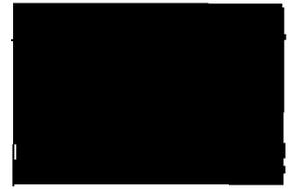
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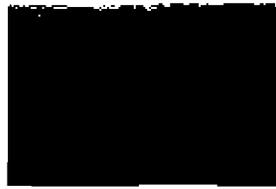
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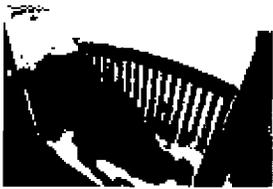
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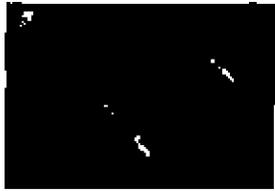
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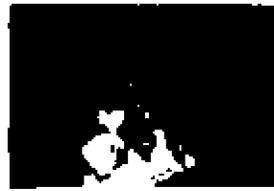
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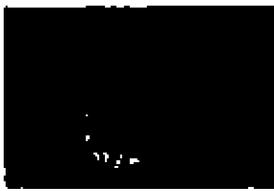
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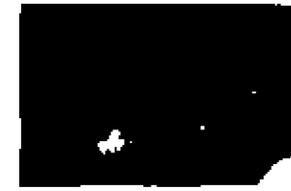
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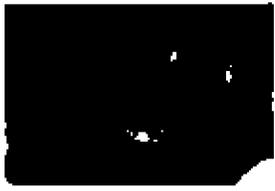
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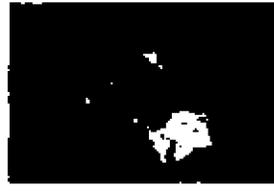
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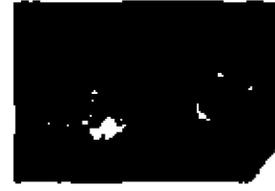
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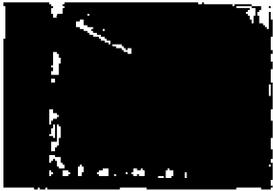
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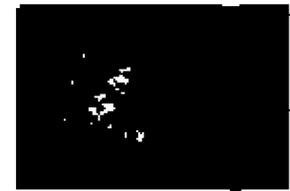
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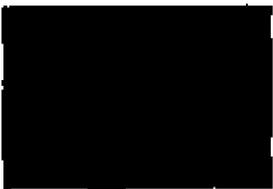
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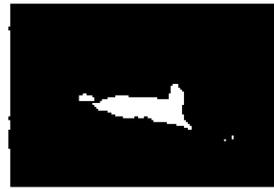
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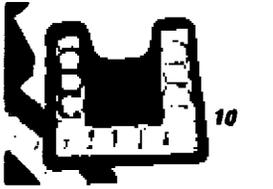
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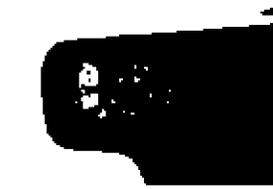
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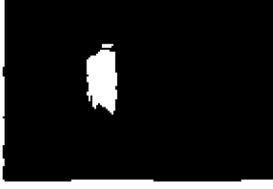
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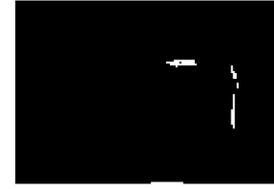
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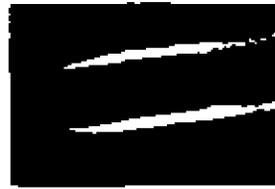
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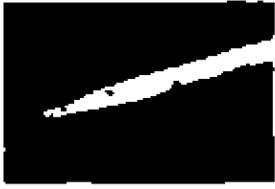
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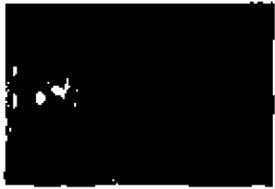
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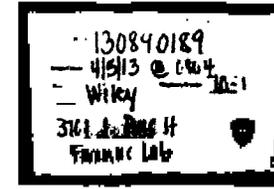
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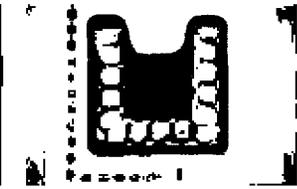
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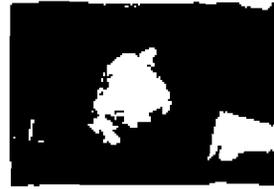
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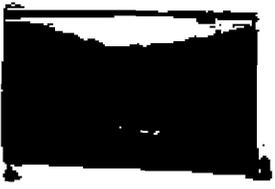
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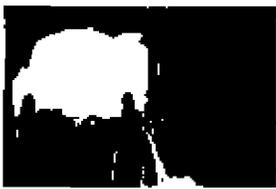
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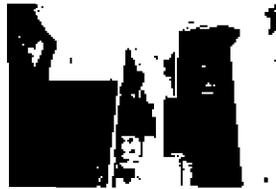
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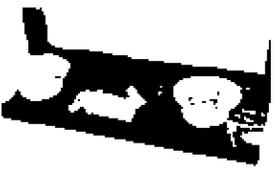
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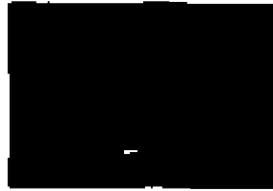
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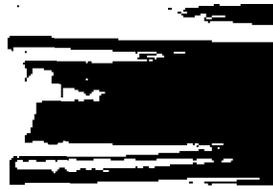
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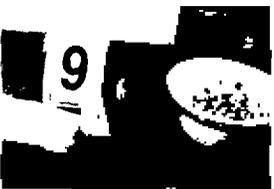
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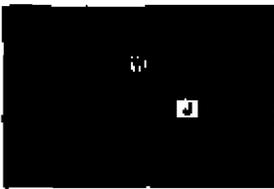
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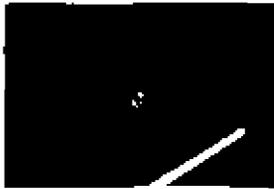
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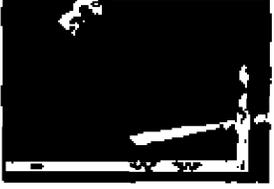
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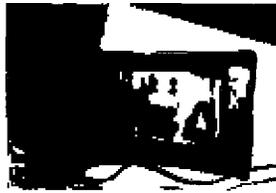
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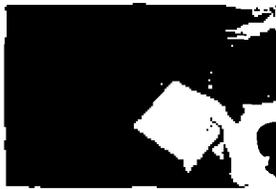
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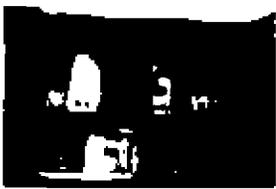
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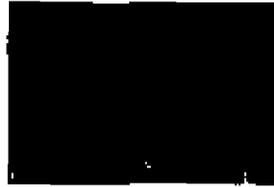
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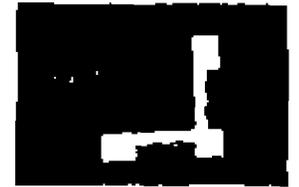
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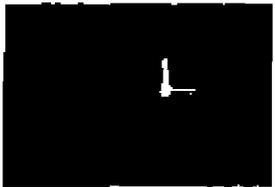
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APPENDIX “J”

Redacted TPD 130890189.36 (Discovery 289-92)

License Country: Vehicle Year: Make: Model: Vehicle Style: Primary Vehicle Color: Secondary Vehicle Color: VIN: Special Features:	Delinquent Payment: Victim Consent: Drivable: Estimated Damage: Damage: Damaged Area: Tow Company: Tow Consent: Hold Requested By:
Drug Information:	
Drug Type: Drug Quantity:	Drug Measure: Drug Measure Type:
Jewelry Information:	
Metal Color: Metal Type: Stone Color:	Total # of Stones: Inscription: Generally Worn By:
Firearm Information:	
Caliber: Gauge: Action: Importer:	Length: Finish: Grips: Stock:
Property Notes: CD of taped statement from Karen Howard	

Enter	Date	Time	WACIC	LESA	Initial	Release Info.	Date	Time	Release No.	Release Authority
Clear						Owner Notified				Operators Name

Investigative Information	
Means:	Motive:
Vehicle Activity:	Direction Vehicle Traveling:

Narrative:

Nist: This is Detective Louise Nist, ID #241; and I'm currently at 29 Saint Helens, Apartment 207; and I'm with Karen Howard.

We're going to do a taped statement regarding a homicide that occurred on March 30th at about 0404 hours at 29 Saint Helens in apartment 307.

The Tacoma Police Department Case Number is 13-089-0189.

Today's date is April 26th, 2013; and the time is currently 0918 hours.

Um Karen, are you aware this statement is being recorded and are you aware that I am a Police Officer?

Howard: Yes, I do.

Nist: And is this statement being recorded with your permission?

Howard: Yes.

Nist: Okay. Karen, so um on the date of the incident, which was Saturday, March 30th, you went upstairs and spoke with one of the detectives working at the scene.

Is that correct?

Howard: I think I talked to 'em down in the lobby.

Nist: Oh, okay. All right.

Howard: Just in lobby.

Nist: So it was one of the detectives that we had here.

Howard: Yes.

307. Nist: And at that time you provided some information about something that you heard in apartment

Howard: Yes.

Nist: And um your apartment is 207. And just confirm you're directly underneath 307?

Howard: Yes.

Nist: And the layouts of the apartment are identical?

Howard: Yes.

Nist: Um, and do you know that because you've seen the other apartment?

Howard: No. I just know because how they're, they, how each apartments are set up.

Nist: Oh, okay.

Howard: On each, on each floor.

Nist: Okay. All right. Um, and are you acquainted at all with the people that were living in apartment 307?

Howard: No.

Nist: Had you ever seen them before?

Howard: No.

Nist: Had you ever seen the child?

Howard: No.

Nist: Okay. Had you ever heard any rumors about the tenants at all from anybody in the apartments?

Howard: No.

Nist: Okay.

So um, you described to the other detective on that day that on the previous evening, which would have been, it was actually in the middle of, it was actually early morning the 30th, that you heard noises upstairs. So can you just describe to me what you heard?

Howard: I heard running and thunking. And it was like something was being dropped or bounced around. And it wasn't like a ball. It was a loud thump noise.

Nist: Okay.

Howard: And then that went on from like 11:30 to 1:30; so I went upstairs, knocked on the door at 307. They didn't answer. I knocked. I told 'em I'm, who I was, what apartment I lived in and they need to knock it off or I was gonna call the police. At that time, I could hear the baby screaming. And then after I said what I told them that no longer heard the baby crying.

Nist: Okay. (cough) Excuse me. So um the, the sounds that you're hearing you said that it sounded like somebody was dropping something?

Howard: Yes.

Nist: But you also heard running?

Howard: Yes.

Nist: And then in that initial statement to the other detective you, you said it sounded like they were fighting.

Howard: Yeah. It sounded like they were fighting because it's a lot of running around, you know, it sounded like people, adults running, adults running around upstairs. You can hear that in those apartments, apartment, and then hear thunking noises and everything else.

Nist: Okay. Did you say bunking?

Howard: Thunking.

Nist: Thunking.

Howard: Yeah.

Nist: Okay. Okay. And could you hear voices?

Howard: No ma'am.

Nist: From your apartment you couldn't hear voices?

Howard: No.

Nist: Could you hear any crying from your apartment?

Howard: No.

Nist: Okay. So it wasn't until you went upstairs that you heard what you thought was a child crying.

Howard: Yes.

Nist: Okay.

Howard: It wasn't thought. I know I heard, I know a child's cry.

Nist: Okay. Could you, did it sound like a small child or a baby?

Howard: This is a small child. I think under four.

Nist: Okay.
Howard: Three or four.
Nist: Okay. Um are you around kids occasionally that you would be familiar with um, with a toddler aged child crying?
Howard: Yes. Yes.
Nist: Okay.
Howard: I have grandchildren.
Nist: Okay. All right.
And you said that um that that on that evening it started at about 11:30; so you're saying 11:30 pm on Friday the 29th

Howard: Yes.
Nist: And then it went into about 1:30 Saturday morning.
Howard: Yes.
Nist: The 30th.
Howard: Yep.
Nist: Okay. Um, and you had to actually, you're wheelchair bound.
Correct?
Howard: Yes.
Nist: So you actually had to get in your wheelchair and go up the elevator?
Howard: Yes.
Nist: Um, and you said when you knocked on the door um, did you hear the crying at that point or was it after you started to speak that you heard the crying?
Howard: I heard the, after I knocked I heard the crying; so I heard the crying.
Nist: Okay. And what did you tell them again?
Howard: I told them that I, I live below them. I'm in 207. You need to knock off the noise or I was gonna call the police. And the next thing I know I didn't hear the baby crying no more.
Nist: Okay. Did you hear any other noises?
Howard: No.
Nist: Okay. And when you were getting out of the elevator, coming down the hallway, did you hear any crying or yelling at that point?
Howard: No. No.
Nist: Okay.
And then Karen, you indicated that this was not the first night that you'd heard anything.
Howard: That's right. Correct.
Nist: Can you tell me about that?
Howard: It'd been going on for about two weeks. It's in the evening, heard the noise up there but that night was worse than ever. You'd hear the running, the thunking but it was only a few times but it was enough, you know, they stops like 11:00 o'clock I didn't say so much about it. But it since it was 1:30 in the morning that was unusual to make that much noise.
Nist: Okay. So these previous events you said had been going on for a couple weeks. Um and about what time would, would that start?
Howard: It would start about 8:00 o'clock at night.
Nist: And go for how long?
Howard: It was about 11:30, 12:00. I just thought it was a toddler playing upstairs.
Nist: Okay.
Howard: But then I realized a toddler would not make that much noise either.
Nist: Okay.
Howard: So I don't know if there was a lot of people in the build, in the room, in the apartment or not.
Nist: Okay. And um, again, on those previous occasions you couldn't hear voices or crying?
Howard: No, I could not.
Nist: Okay. So, from your apartment um you're not able to hear um voices from other apartments?
Howard: No.
Nist: Okay. Just loud noises?
Howard: Loud noises.
Nist: Okay. And then um, the previous night, so that would have been Thursday night.
Howard: Umm-hmm.

Nist: Um, you had indicated to the officer, to the other detective, that you actually heard something that night?
Howard: Yeah. I heard loud, loud noises then.
Nist: Was it similar to Friday night or?
Howard: Yes.
Nist: Okay. Was it the same thumping, clunking noise?
Howard: Yes, but not as bad.
Nist: Okay. And um, running again or?
Howard: Yes.
Nist: Okay. And how long did it go on that night?
Howard: About two hours.
Nist: Okay. And again, you said that on Friday night into Saturday morning that you thought it sounded like fighting?
Howard: Yeah, cause the way the movement of the people running across the room sounded like they were fighting.
Nist: Okay. All right.
Uh Karen, do you have any other information regarding this incident?
Howard: No, I don't.
Nist: Okay.
And Karen, is this statement true and correct to the best of your knowledge?
Howard: Yes.
Nist: Have any threats been or promises been made or any duress used upon you?
Howard: No.
Nist: Okay.
The time is now 0925 hours; and this concludes the taped statement.
End of recording.
/jg

Reviewed By:

Reviewed Date:

APPENDIX “K”

Redacted TPD 130890189.38 (Discovery 315-37)

Nist: ... pretty much.

Colley: Yeah.

Nist: You got a new job.

Colley: Yeah.

Nist: You've moved out of your parent's home; so you don't have that support anymore and you got a two year old boy.

Colley: Right.

Nist: And I've been there.

Colley: Right. Yeah. Um well, this is the thing too is um you guys probably don't understand it but um it was one of those things where I just knew for sure that this was the guy for me. I was raised in a Christian home. I honestly thought God sent him to our family because I was like he's perfect. He doesn't care that I have a child. Actually, he, he talked about wanting to adopt C█████████. So we knew that he was going to be this father role in C█████████'s life. Um but he, when we lived in the apartment no, he didn't spank him, he didn't discipline him, um at all. Like C█████████, what we would do, we'd spank him on the hand when he'd get in trouble. Jake didn't do that though. That was, that's just my family's thing my mom thought of it. Spank him on the hand when he does something wrong instead of um spanking him in other places. We just would spank him on the hand.

Nist: But you guys didn't actually have any kind of discussion as to what was appropriate when it came to discipline?

Colley: Um, we had before that, before we moved into the apartment. Um, it was something that we laid down like okay, he's not gonna spank him because there was a time when we were trying to get, we were at my parent's home, when we were trying to teach C█████████ how to stay in his bed because we were gonna be moving into this apartment we didn't, he would crawl out of his crib. So we made it into a child's bed to try and convince him to sleep in his bed like oh, its cooler, it's different, it's a child's bed. Um, so we were trying to teach him how to do, how to stay in his bed and everything. And um, Jake and I were going back there every time, we'd stand outside his door and listen for him to get out. He'd always get out and he'd take stuff off the bookshelf and do all stuff like that; so then we'd go in there and um and spank his hands and stuff. And Jake did do that for a while and then it was no, like me and my family talks about him, we're like okay, you know, he shouldn't be spanking him at all.; so that's when it was said too okay, he's not gonna spank him at all.

So when we lived in the apartment, there was no discipline on Jake's behalf to C█████████ at all.

Nist: Okay. Okay.

Colley: Only when my parents were present that's the only time that, that Jake disciplined C█████████ was when my parents were around.

Nist: Okay. And that was the slap on the hand?

Colley: Yeah. And um, he did spank him on, over his diaper and everything on the butt and that was said we're not gonna do that. We're just gonna spank him on the hand and so then it went from, from there. And it seemed, it didn't seem like, you guys are probably thinking oh, that, you should have seen that as a sign like oh, he wants to spank this child. No. He was, he was so excited to show my family because he was so young. He was nineteen years old. He was excited showing my family that oh my gosh, he listens to me. They're seeing that I'm a good influence on him; and so it was one of those things that still okay, when he wouldn't listen we would get, cause I was a softy, I needed help. C█████████ wasn't listening to me and I was like, you know, how do I do this. He had been around children all his life. He had been good with children and everything; so he was like okay, um well why don't you try, you know, this, or this, you know, to discipline him. And so then he'd kinda be like okay, then you just spank him, blah-blah-blah and I'd, and then it, then it would become, became a bigger thing where we're like okay, let's not have him spank him at all. So it wasn't like something that was going on every day. No. It as something that, and then he completely, then we had a talk about it and he didn't spank him anymore at all....

Nist: Okay.

Colley: ...after that. About a week or two before we moved into, a week before we moved into the apartment.

Nist: Okay.

Colley: That was set up.

Nist: So you said on average Jake and C█████████ were home alone about three hours a day, on average.

Colley: Uh um, yeah, on average.

Nist: And then were there times when just you were home with C█████████?

Colley: Yeah.

Nist: On average how many hours a day do you think?
Colley: Um, well not many cause Jake wasn't working but when he went out to look for jobs and stuff that's when, that's when I would be there with C[REDACTED]; so it, it was mostly he would go um....after I got off work for a couple hours. So a couple hours a couple days a week maybe.
Nist: Okay.
Colley: Maybe once, you know, once, once a week to twice a week.
Nist: Okay.
Colley: But for the most part, we were all together pretty much all the time.
Nist: All the time.
Colley: Yeah.
Nist: Sure. Okay.
So that week before, let's say from the weekend before, Jake told us that he had a cold that weekend, the previous weekend.
Colley: Yeah.
Nist: Um, so did he go down and see his grandparents that weekend?
Colley: Uh, the week before,I'm, I'm not sure. I think that was the weekend my mom came up, cause my mom came up and stayed a weekend. I think that was the weekend my mom came up, I think. I'm sorry. It's hard for me to
Nist: No. It's okay. It's all right.
Colley: I mem, remember. My mom might remember better but her and I actually both have pretty bad memories. I, but I think it was that weekend that my mom came up.
Nist: Okay. So, during that, that whole week,....
Colley: Umm-hmm.
Nist: Um, was there any time during that week where you were home alone with C[REDACTED] for any extended period?
Colley: No.
Nist: No.
Colley: Not more, no. No. I don't think Jake went and looked for jobs that week, so no.
Nist: Okay. And was the amount of time that Jake was with C[REDACTED] alone any different than it had been? Was it any longer?
Colley: No. No.
Nist: So it's still about three hours a day.
Colley: No. Until that Friday,....
Nist: Right. No.
Colley: And so, yeah.
Nist: But we're talking, I'd just like....
Colley: Okay.
Nist: Just up until then. Sorry.
Colley: Sorry.
Nist: Okay. And then there was, was there anybody else in that week preceding that anybody else would have been at the apartment, possibly your mother the weekend before.
Colley: Yeah, possibly my mom the weekend before. Um,um, Kirstie, the cleaner girl for a minute when um I, I was out of cigarettes and we were waiting for our money to come in, so Jake's dad. Jake's dad was there um for maybe a half an hour and then him and Jake left to go get money out of the bank or something like that. Um,....
Nist: Do you remember when Jake's dad was there?
Colley: Oh shoot, IMonday or Tuesday maybe.
Nist: Was he left alone with C[REDACTED]?
Colley: No.
Nist: Were you there all the time?
Colley: Yes, I was there. Yeah.
Nist: Okay.
Colley: I was there the whole time. Yeah.
Nist: Okay.
Colley: And I think it was the last weekend or the last week that his dad came. It might have been the week before. I'm pretty sure it was that last week.
Nist: Okay.
Colley: I'm just, I didn't expect that I was gonna have to be remembering, you know.

Colley: Um, brushing his teeth. I, I, I'd try for a while then miss, you know, for usually a few minutes but I didn't like making him do things that I didn't want to do. So I'd usually give up; so probably that time I probably gave up after a couple minutes as usual.

Vold: Okay.

Uh, my partner, Detective Nist, brought up the diapers. When you changed his diapers and looked at his bottom did you ever see anything around his rectal area that concerned you? Any.....

Colley: No.

Vold:sign of irritation or damage or

Colley: No.

Vold:anything like that?

Colley: No.

Vold: Okay.

Colley: And not, yeah, not that, no not that I know of. No.

Vold: Can you explain how at the scene that the detective handling the scene found about ten different diapers that were pretty well loaded with blood?

Colley: No. I, No, that's, that was not there before. No. My sister was there. That was not there from before. She can verify that that was not there before.

Vold: Okay.

Colley: Was it blood from that area? What?

Imler: Let them just ask the questions. Okay.

Colley: Okay. Okay. Well, I'm, I'm (Unintelligible)

Vold: Well, it appeared to be rectal bleeding.

Colley: Okay. Plus I didn't know if it was from forehead that they, that was wiped off or something like that. Cause I noticed when I was, I, I went and saw him after he had passed, after they put the makeup on. I was kissing his cheeks a lot. And just going like this to his cheek I noticed a huge bruise on the side of his face that went up kinda like up here it appeared. But the, the cap was on; so I couldn't tell how far up it went; so that's what I was wondering is if....if it came from that.

Vold: Okay. But you pretty well acknowledge that Friday afternoon due to the amount of bruising you were, you were concerned that if you went to a medical clinic that somebody would ask questions about

.....

Colley: Yeah, but not enough to not take him.

Vold: Okay. So what really.....

Colley: I wasn't concerned about how, like how I would have to explain it. I was concerned about the fact that initially walking in they're gonna look at this child and automatically think, you know what I mean, like a first impression you can only get one. Automatically I walk in with a child that has bruises. They're first impression of me is gonna be oh geez, something is going on here, na-na-na, you know. Then my sister explained to me they'll be able to prove where they came from and then I was like okay, cool.

Vold: Okay.

Colley: Not a big deal.

Vold: Um, but your sister and your mom suggested, you know, some sort of I think Luke, you said Leukemia or some other blood disorder.

Colley: No. I had heard about child Leukemia before in my past. My dad's um, my dad's old co-worker, her son, I believe, had child Leukemia and one of the signs was bruises and things like that. And so that's what I was worried about. My mom and my sister said no, no, that's not what it is. He's fine.

Vold: Okay. In just your words and real simply why did you not take **██████████** to a clinic on Friday afternoon (Unintelligible) night?

Colley: Because I talked to mom. I talked to my sister. I sent them both pictures. Leah came up and checked him out. Um, lifted up his shirt, made sure there were no bruises anywhere else. And she, they didn't seem all too worried. They thought maybe he was just anemic like me and that he'd always kinda bruised easily; so they weren't worried about it. And so that's why I didn't, I didn't take him. I take their advice very strongly. I, I listen to my parents. My parents help raise him for two years with me. So I, their advice is what I take. And my sister was convincing me to go out and have a good time.

Vold: Okay.

Colley: And Jake was too. Jake was telling me everything would be fine and to have a good time and um that, that not to worry and....

Vold: Okay. In a separate photograph we showed you that was taken, likely on the 27th of March.

Nist: Seventeenth.

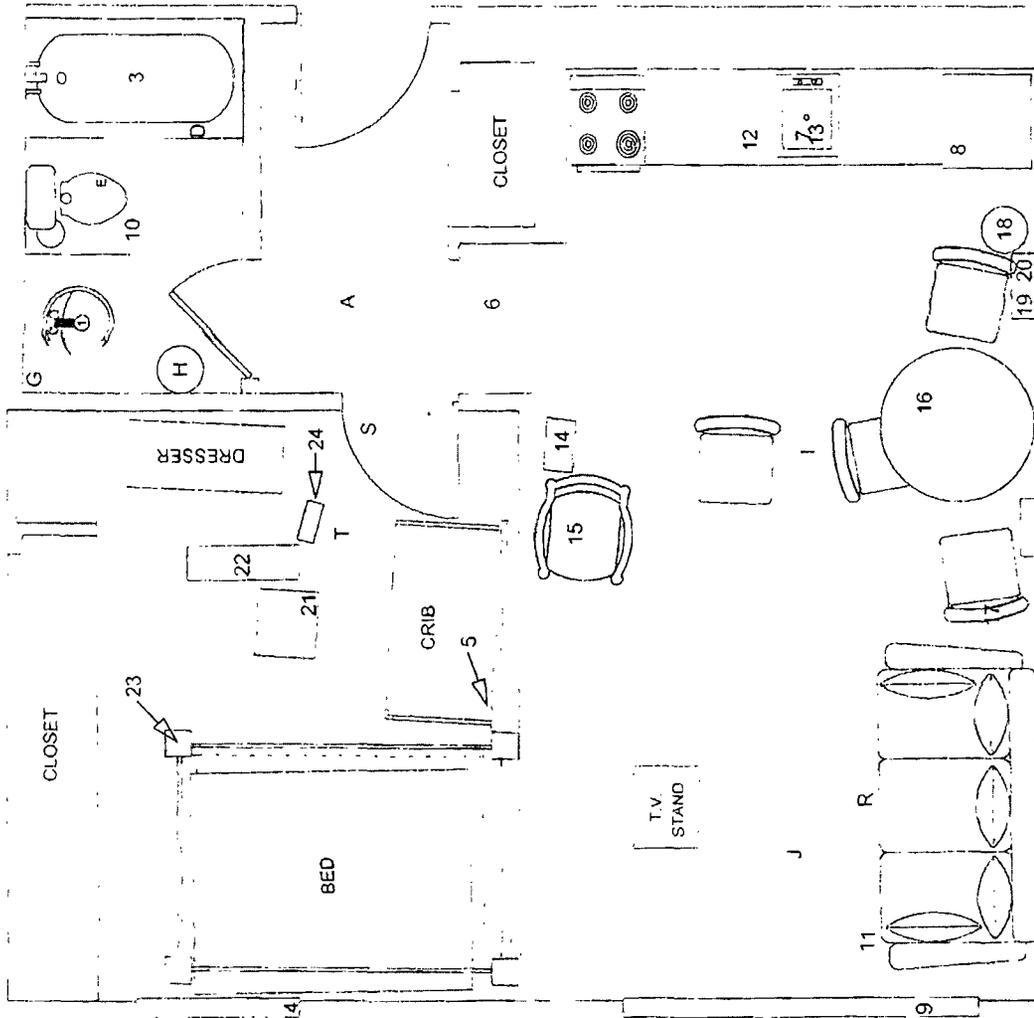
Vold: Excuse me. Seventeenth.

APPENDIX “L”

Crime Scene Diagrams

CASE NO. 130890189

TITLE DEATH INVESTIGATION



Legend

- 1.) Toothbrush
- 3.) Blanket
- 4.) Cellular Phone
- 5.) Baby Bottle
- 6.) Towel
- 7.) Drinking Glass
- 8.) Vodka Bottle
- 9.) Pipe
- 10.) Bathmat
- 11.) Pillow
- 12.) Baby Bottle
- 13.) Sip Cup/Bottle
- 14.) Plastic Soda Bottle
- 15.) Plastic Soda Bottle
- 16.) Package of Baby Wipes
- 17.) Blanket
- 18.) Plastic Juice Bottle
- 19.) Wipes, Diapers, & Sock
- 20.) Plastic Soda Bottle
- 21.) Wallet
- 22.) Birthday Announcement
- 23.) Suspected narcotics
- 24.) Electric Fan

- A.) Suspected Blood
- D.) Suspected Blood
- E.) Suspected Blood
- G.) Suspected Blood
- H.) Suspected Blood
- I.) Suspected Blood
- J.) Suspected Blood
- R.) Suspected Blood
- S.) Suspected Blood
- T.) Suspected Blood

- Top of Crib Mattress to Floor: 1.47'
- Top of Crib Front Rail to Floor: 1.94'
- Top of Bed Mattress to Floor: 2.23'
- Top of Box Spring to Floor: 1.42'
- Top of Bookshelves to Floor: 3'
- Top of Dresser to Floor: 4.47'

- Couch Back Height: 2.84'
- Couch Seat Height: 1.24'

- Dining Chair Back Height: 3.19'
- Dining Chair Seat Height: 1.42'

DRAWN BY

CST A. ASKINS #203430

FILE

130890189A.vcd

REFERENCE POINT

South wall and west wall of bedroom; south, west, east, and north walls of living room, bathroom, and entry hall.

DATE OF INCIDENT

MO 3 DAY 30 YR 2013

LOCATION

29 St. Helens Ave. #307



Scale in Feet

10

5

0

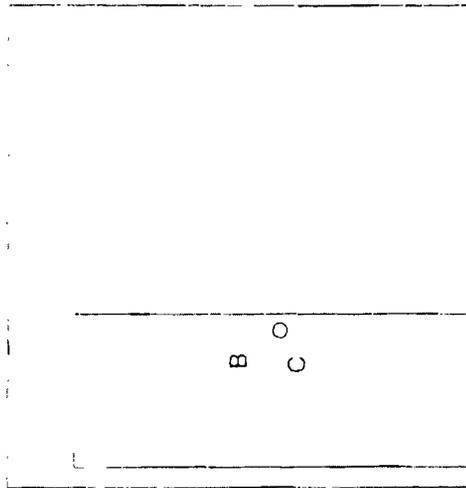
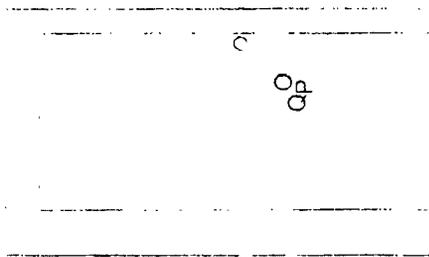
CASE NO. 130890189

TITLE DEATH INVESTIGATION

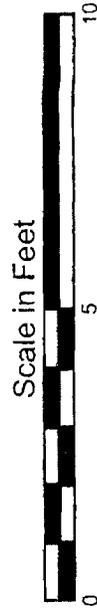


INTERIOR SIDE OF FRONT ENTRY DOOR

HALL SIDE OF BATHROOM DOOR



- B.) Suspected Blood
- C.) Suspected Blood
- O.) Suspected Blood
- P.) Suspected Blood
- Q.) Suspected Blood



DATE OF INCIDENT

MO. 3 DAY 30 YR 2013

LOCATION

29 St. Helens Ave. #307

REFERENCE POINT

East wall of entryway, north wall of entryway.

DRAWN BY

CST A. Askins #203430

FILE

130890189B.vcd

CASE NO. 130890189

TITLE DEATH INVESTIGATION

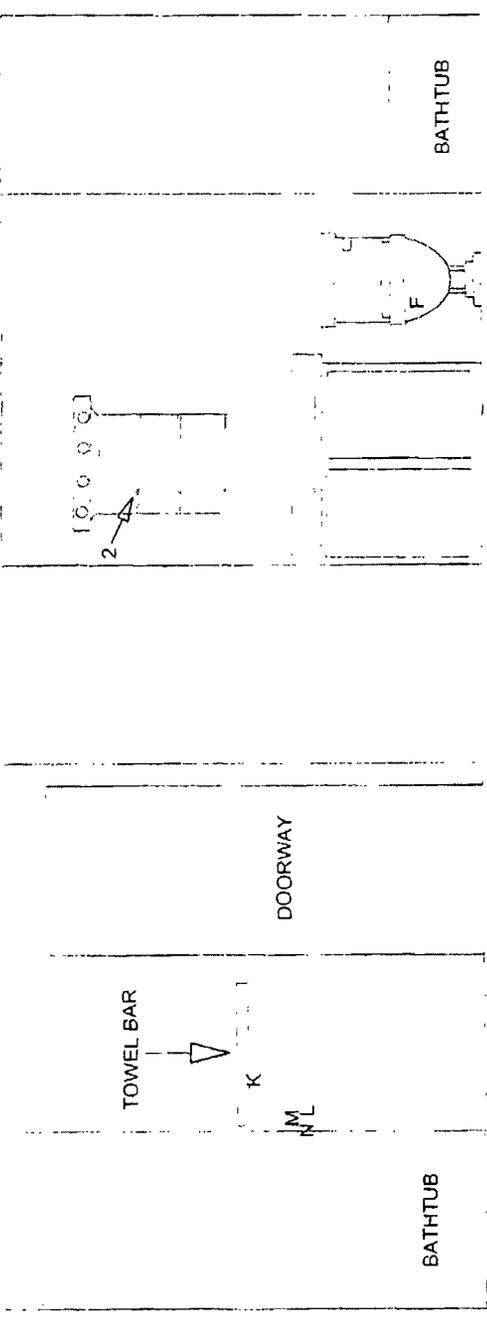


Legend

- 2.) Toothbrushes
- F.) Reddish-brown Substance
- K.) Suspected Blood
- L.) Suspected Blood
- M.) Suspected Blood
- N.) Suspected Blood

SOUTH WALL OF BATHROOM

NORTH WALL OF BATHROOM



Scale in Feet



DATE OF INCIDENT
 MO 3 DAY 30 VR 2013
 REFERENCE POINT
 North & south walls of bathroom.
 LOCATION
 29 St. Helens Ave. #307

DRAWN BY
 CST A. ASKINS #203430
 FILE
 130890189C.vcd



JAY INSLEE
Governor



JOHN R. BATISTE
Chief

STATE OF WASHINGTON
WASHINGTON STATE PATROL

2502 112th Street East, Rm 273 • Tacoma, WA 98445-5104 • (253) 538-3207 • www.wsp.wa.gov

CRIME LABORATORY REPORT

AGENCY: Tacoma Police Department
OFFICER: Det. Louise Nist
VICTIM: Colley, Chayson T.
SUSPECT: Musga, Jake Joseph

LABORATORY NO.: 313-000875
AGENCY NO.: 13-089-0189
REQUEST NO.: 0001, 0002

Items Examined

Item MC1: One diaper
Item MC4: One light blue knit blanket with stars
Item MC17: One "Kirkland" brand baby wipes container
Item MC20: A bag containing six diapers, 1 child's sock, and numerous wipes and napkins
Item MC28 - MC31: Sections of beige carpet
Item MC32: One pair of silver "Nike" basketball style shorts, size "XL"
Item MC41: One swab, reported to be sample from the "bathroom counter"
Item MC52: A reference sample reported to be from Chayson Colley
Item MC54: Two swabs reported to be an anal sample collected from Chayson Colley
Item MC55: Two swabs reported to be an oral sample collected from Chayson Colley
Item #56 was not examined for this report

Examination Procedures and Results

Item MC1: Red/brown staining observed on the inside of the diaper was tested with phenolphthalein (PHT), a chemical test for indications of blood, with a positive result. The interior surface of the diaper was tested for acid phosphatase (AP), a substance found in high amounts in semen and lower amounts in some other body fluids, with negative results. Portions of the red/brown stained areas were removed and examined for spermatozoa and p30 (a protein found in semen). No spermatozoa heads or p30 were detected. No further testing was performed on this item.

Item MC4: A forensic light source (FLS) was used to supplement visual examination of the blanket. FLS is an instrument which delivers a high intensity light of adjustable wavelength. Different types of physical evidence, such as semen or fibers, may fluoresce (glow) during exposure to this light. Areas of fluorescence were tested for AP, with negative results. Multiple brown, yellow, and red/brown stains were observed on the blanket. The largest red/brown stain was tested with PHT, with a positive result. A portion of this stain was removed and extracted for DNA content.

Item MC17: Red/brown stains observed on the top and bottom of the wipes container were tested with PHT, with positive results. A portion of one stain area from the exterior top of the container was removed and extracted for DNA content.

Item MC20: The diapers (quantity 6) from this item were arbitrarily labeled #1-6 for ease of examination. Light red staining observed on the exterior of diaper #1 was tested with PHT, with a positive result. A brown substance was observed on the inside of the diaper, but no blood-like staining was observed. No further testing was performed on this diaper.


Marion M. Clark, Forensic Scientist

10/1/13
Date

13-089-0189



AGENCY: Tacoma Police Department
OFFICER: Det. Louise Nist
VICTIM: Colley, Chayson T.
SUSPECT: Musga, Jake Joseph

LABORATORY NO.: 313-000875
AGENCY NO.: 13-089-0189
REQUEST NO.: 0001, 0002

13-089-0189

Red/brown staining was observed on the inside of diapers #2-5. Stains from each diaper were tested with PHT, with positive results. The interior of each diaper #2-5 was tested for AP, with negative results. No further testing was performed on these diapers.

Faint red staining observed on the inside of diaper #6 was tested with PHT, with a positive result. The inside of the diaper was tested for AP, with a weak positive result obtained from approximately the center of the absorbent area. A portion of the AP positive area was removed and examined for spermatozoa and p30. No spermatozoa heads or p30 were detected. No further testing was performed on this item.

Numerous stained wipes and napkins, and one stained child's sock were contained in item MC20. Red/brown stains from one napkin and the child's sock were tested with PHT, with positive results. No further testing was performed on these items.

Apparent hairs were collected from inside diapers #1, #3, and #4 and were repackaged with item MC20.

Items MC28-31: Red or Red/brown stains were observed on the carpet sections. At least one stain from each item was tested with PHT, with positive results. A portion of one stain from each carpet section was removed and extracted for DNA content.

Item MC32: Red/brown stains observed on the front waistband, front crotch area, and rear seat area were tested with PHT, with positive results. A faint brown stain on the interior rear seam was tested with PHT, with a negative result. A portion of the stain from the waistband was removed and extracted for DNA content. Additionally, the interior waistband and ties were swabbed in an attempt to collect cellular material from the wearer. This sample was also extracted for DNA content.

Item MC41: Red/brown staining on the swab was tested with PHT, with a positive result. A portion of this staining was removed and extracted for DNA content.

Item MC54: Red staining was observed on the anal swabs. One swab was tested with PHT, with a positive result. A portion of each swab was removed, combined, examined for spermatozoa and p30. No spermatozoa heads or p30 were detected. No further testing was performed on this item.

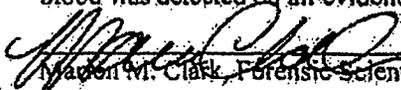
Item MC55: Light orange staining was observed on the oral swabs. One swab was tested with PHT, with a positive result. A portion of each swab was removed, combined, examined for spermatozoa and p30. No spermatozoa heads or p30 were detected. No further testing was performed on this item.

DNA was also extracted from the reference sample of Chayson Colley (MC52) for comparison purposes.

The extracted samples were quantified for human DNA levels. Samples were amplified by the PCR (polymerase chain reaction) process using the Applied Biosystems AmpFLSTR® Identifier® Plus amplification kit. The resulting amplified STR (short tandem repeat) DNA products were analyzed using an Applied Biosystems 3130 Genetic Analyzer.

Conclusions/Interpretations

No semen was detected on the anal swabs (MC54), oral swabs (MC55), or diapers (MC1 and MC20 #6). No indications of semen were detected on the blanket (MC4) or diapers (MC20 #1-5). Staining consistent with blood was detected on all evidence items examined for this report.


Madison M. Clark, Forensic Scientist

10/1/13
Date

AGENCY: Tacoma Police Department
OFFICER: Det. Louise Nist
VICTIM: Colley, Chayson T.
SUSPECT: Musga, Jake Joseph

LABORATORY NO.: 313-000875
AGENCY NO.: 13-089-0189
REQUEST NO.: 0001, 0002

13-089-0189

A partial male DNA typing profile matching that of Chayson Colley, at the sites examined, was obtained from the blanket (MC4). The estimated probability of selecting an unrelated individual at random from the U.S. population with a matching profile is 1 in 11 quadrillion.

Single source male DNA typing profiles matching that of Chayson Colley were obtained from the wipes container (MC17), carpet section MC28, carpet section MC29, the stain from the waistband of the shorts (MC32), and the bathroom counter swab (MC41). The estimated probability of selecting an unrelated individual at random from the U.S. population with a matching profile is 1 in 49 quintillion.

The DNA typing profiles obtained from carpet sections MC30 and MC31 are consistent with having originated from a major contributor matching that of Chayson Colley, and a trace contributor. The estimated probability of selecting an unrelated individual at random from the U.S. population with a matching profile (major contributor) is 1 in 49 quintillion. No comparisons can be made to the trace components of these mixtures.

The DNA typing profile obtained from the interior waistband/ties of the shorts (MC32) is a mixture consistent with having originated from at least three contributors, with a major female contributor, and at least two minor/trace contributors (with at least one male component). No interpretation or statistical analysis was attempted for this mixture at this time, but may be possible in the future if additional reference samples are provided.

Disposition

The DNA extract from the interior waistband/ties of the shorts (MC32) was consumed in this testing. Items MC4, 17, 28, 29, 30, 31, 32, and 41 contain DNA work product generated during this analysis. The evidence was returned to the evidence vault pending return to the submitting agency.

Remarks

1. AmpFISTR® Identifiler® Plus kit sites examined: D8S1179, D21S11, D7S820, CSF1PO, D3S1358, TH01, D13S317, D16S539, D2S1338, D19S433, vWA, TPOX, D18S51, Amelogenin (a sex determination site), D5S818 and FGA. A threshold of 150 Relative Fluorescence Units (RFU) and above is used for inclusionary purposes. Data at 35 RFU and above may be considered for exclusionary purposes.

2. Statistical calculations were computed by CODIS Popstats using frequency data compiled by the FBI and published in the *Journal of Forensic Sciences* 46 (3) (2001) 453-489 and *Forensic Science Communications* 3 (3) (2001) (for D2S1338 and D19S433).

3. Glossary of terms:

DNA (deoxyribonucleic acid): Genetic material found in all nucleated cells of the body.

PCR (polymerase chain reaction): A process used to make many copies of short target segments of DNA, which subsequently can be typed.

STR (short tandem repeat): Short segments of DNA, of a particular sequence, which are repeated a variable number of times. STR's are differentiated and categorized based on size.


Marion M. Clark, Forensic Scientist

10/1/13
Date

APPENDIX “M”

Redacted Postmortem Examination Report (Discovery 585-96)



Pierce County

Medical Examiner's Office
3619 Pacific Avenue
Tacoma, Washington 98418
(253) 798-6494 • FAX (253) 798-2893

THOMAS B. CLARK III, MD
Medical Examiner
J. MATTHEW LACY, MD
Associate Medical Examiner
SHARON R. JOHNSON
Program Manager

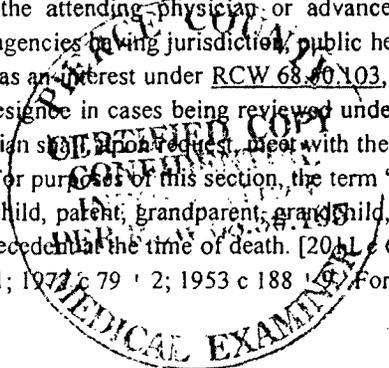
POSTMORTEM EXAMINATION REPORT

MEDICAL EXAMINER CASE #: 13-0508
NAME OF DECEASED: C [REDACTED] C [REDACTED]
DATE OF EXAMINATION: April 1, 2013
LAW ENFORCEMENT AGENCY AND CASE #: Tacoma Police Department 13-089-0189
CAUSE OF DEATH: Blunt force injuries of the head and abdomen
MANNER OF DEATH: Homicide

NOTICE: THIS REPORT IS CONFIDENTIAL

RCW 68.50.105 Autopsies, post mortems-Reports and records confidential-Exceptions.

Reports and records of autopsies or post mortems shall be confidential, except that the following persons may examine and obtain copies of any such report or record: The personal representative of the decedent as defined in RCW 11.02.005, any family member, the attending physician or advanced registered nurse practitioner, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, or to the department of labor and industries in cases in which it has an interest under RCW 68.00.103, or the secretary of the department of social and health services or his or her designee in cases being reviewed under RCW 74.13.640. The coroner, the medical examiner, or the attending physician shall, upon request, meet with the family of the decedent to discuss the findings of the autopsy or post mortem. For purposes of this section, the term "family" means the surviving spouse, state registered domestic partner, or any child, parent, grandparent, grandchild, brother, or sister of the decedent, or any person who was the guardian of the decedent at the time of death. [2011 c 61 § 1. Prior: 2007 c 439 § 1; 2007 c 156 § 23; 1987 c 331 § 58; 1985 c 300 § 1; 1977 c 79 § 2; 1953 c 188 § 1. Formerly RCW 68.08.105.]



FINAL DIAGNOSES:

1. Acute blunt injuries of the head.
 - A. Face and scalp bruises and abrasions.
 - B. Superior frenulum laceration.
 - C. Multiple subscalpular contusions.
 - D. Acute brain injuries.
 - i. Acute subdural hematomas.
 - ii. Acute subarachnoid hemorrhages.
 - iii. Focal traumatic axonal injury.
 - iv. Cerebral edema and early hypoxic ischemic damage.

2. Acute blunt injuries of the abdomen.
 - A. Torso bruises and abrasions.
 - B. Mesentery laceration with hemoperitoneum, 800 milliliters.

3. Acute anorectal lacerations consistent with sexual assault.
 - A. Full thickness anorectal mucosa tears.
 - B. Circumferential anal mucosal hematoma.
 - C. Deep perirectal hemorrhage.

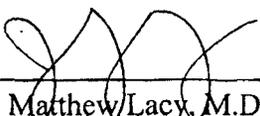
4. Acute ethanol intoxication (0.11 g/dL).

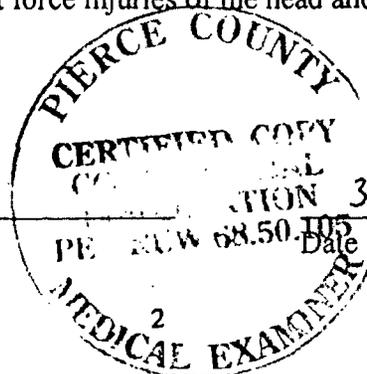
5. Old blunt head injury, small subdural neomembrane.

6. Old blunt abdominal injury, mesenteric granulation and fibrosis.

OPINION:

This two-year-old boy was pronounced dead at the hospital after being brought in for cardiac arrest. At autopsy, the child had bruises too numerous to count on all body surfaces. He had severe internal bleeding and traumatic brain injury. Anorectal trauma consistent with sexual assault was also present. Toxicological analysis of hospital admission blood demonstrated ethanol. The cause of death is blunt force injuries of the head and abdomen.


 J. Matthew Lacy, M.D.
 Associate Medical Examiner



External Examination:

The body is that of a normally developed and nourished boy, 39 inches long and weighing 36 pounds, whose appearance is consistent with the listed age of two years. The normocephalic head is covered by short straight light brown hair. The natural eyes have blue irides and clear corneas. The visible deciduous teeth are intact. There are linear caries along the gum lines of the central maxillary incisors. The neck and torso are normally formed and without palpable masses. The external genitalia are of a normal boy, with some erythema of the proximal margin of the dorsal glans. The testes are descended into the scrotum. The upper and lower extremities are normally formed. The fingernails are intact and without injury or grossly visible debris beneath them. The anus is abnormal and will be described below.

Postmortem changes include fully developed rigor mortis, fixed posteriorly distributed but faint livor mortis, and cool body temperature.

Evidence of Medical Therapy:

1. Hospital gown on body.
2. Diaper with bloodstaining on the inside.
3. Bloody gauze bandages over recent needle punctures in the right subclavian region, right groin, and bilateral anterior leg interosseous sites.
4. Band-aid, left third fingertip.
5. Hospital ID bracelets x 2, right wrist.

Injuries, External and Internal:

There are multiple injuries involving all body regions. Injuries will be numbered for descriptive purposes only; no sequence is implied.

Head:

1. Multiple violaceous to red forehead and scalp contusions extend from the brow ridge to the vertex of the scalp and along the temporal scalp posteriorly to the level of the ears. One of the contusions involves the helix of the right ear. Most of the contusions are ill-defined and become confluent on the forehead where they are most concentrated on the right side.
2. There are multiple dark red abrasions on the forehead. The largest is an abrasion on the forehead above the left eye measuring 1 x 1.5 inches.

3. Old yellow-orange contusions on the right and left sides of the face and temples, most concentrated on the right side. Additionally some of the discoloration results from drying artifact of perimortem abrasions.
4. Multiple facial contusions and abrasions. There are numerous violaceous to red contusions on the cheeks, bridge of nose, eyelids, lips, and the chin. They range from 0.25 to 1 inch in dimension and are most numerous on the right side of the face. Smaller dark red abrasions, less than 0.5 inches in average size are present in these areas. There is no palpable facial skeleton instability.
5. Superior frenulum laceration, 0.5 inches. There are no broken teeth.
6. Multiple subgaleal contusions. Extensive contusions extend from the frontal to occipital scalp bilaterally although the contusions are concentrated frontally.
7. Acute subdural hematomas. There is a thin layer of dark gelatinous blood in the right subdural space over the convexity and extending along the falx. A smaller quantity of similar appearing blood is in the left subdural space over the convexity. The aggregate volume of blood is approximately 15 milliliters. There is no appreciable cerebral compression.
8. Acute subarachnoid hemorrhages. Patches of subarachnoid hemorrhage up to 3 centimeters in greatest dimension are present over the bilateral frontoparietal convexities.
6. Mild cerebral edema with vascular congestion and dusky of the right inferior occipital lobe. There is no gross transtentorial or tonsillar herniation. There is widespread vascular axonal injury and patchy cortical ischemic changes.
7. Focal traumatic axonal injury of the corpus callosum.

Torso:

8. Multiple contusions and abrasions of the abdomen. There are at least thirteen (13) discrete violaceous to red contusions and red to red-yellow abrasions on the abdomen between the bottom of the ribcage and the waistline and concentrated on the right side of midline near the umbilicus. The contusions are generally 0.5 inches or less.
9. Mesentery and pancreas laceration with large hemoperitoneum. There is an approximately 2.0 centimeter oblique laceration of the mesenteric root overlying the pancreatic head. The laceration is just medial to the second part of the duodenum and extends superficially into the pancreatic head underneath. There is no gross sign of

pancreatitis nor is there an obvious intestinal laceration. There is a retroperitoneal and mesenteric root hematoma arising from the laceration. There is a hemoperitoneum, 800 milliliters, associated with this injury.

10. Multiple contusions and abrasions of the back and buttocks. There are numerous (>30 discrete lesions) violaceous to red contusions and red to yellow-red abrasions on the back usually 0.5 inches or smaller.

Anorectal Region:

11. Anorectal lacerations. Blood is present in the diaper and blood is oozing from the anus. The anal mucosa is lacerated anteriorly at the 12 o'clock position. The laceration is 1.0 centimeters in length, full-thickness through the mucosa into the underlying muscular layer, and extends from the anal verge to the pectinate line. Additionally there are multiple parallel stretch-type lacerations from 12-4 o'clock. These lacerations are mucosal only. There is circumferential contusion of the anal ring with associated swelling.
12. Perirectal hemorrhage. This hemorrhage surrounds the distal rectum, extending superiorly from the anal canal to the peritoneal reflection. No proximal rectal mucosal lacerations are identified.

Extremities:

13. Multiple violaceous to red contusions of the upper extremities on all surfaces and ranging from 0.5 – 2.0 inches in dimension.
14. Multiple violaceous to red contusions on the lower extremities on all surfaces and ranging from 0.5 – 1.0 inches in dimension.

Old Injuries:

15. Small subdural neomembrane, 6 x 4 millimeters, right occipital dura.
16. Retroperitoneal granulation and scarring consistent with old blunt abdominal trauma.

Internal Examination:

Body Cavities:

The organs are normally situated and the diaphragm is intact. The serosal surfaces are smooth and glistening. Each pleural space contains 25 milliliters of serous fluid.

Head:

The skull is intact, without fracture. The brain weighs 1280 grams (95th percentile for age). The brain is re-examined following formalin fixation. The dura has patent sinuses and no masses. There is a single small adherent neomembrane in the right inferior occipital region measure 6 x 4 millimeters. The leptomeninges are thin and transparent with the following abnormalities:

- Small patches of acute subarachnoid hemorrhages over the frontal convexities;
- Confluent subarachnoid hemorrhage on the inferior right occipital lobe with vascular congestion.

The cerebrum is normally formed with mild diffuse edema. There are no herniations. The unci are symmetrically 3 millimeters from the groove caused by the edge of the tentorium. Coronal sections of the cerebrum reveal an intact cortical gray stripe and symmetric white matter. The ventricular system is normal. The deep cerebral nuclei and hippocampi are normal. The following abnormalities are present:

- Punctate cortical hemorrhage within sulcus, right inferior posterior frontal lobe;
- Hazy red-brown discoloration of the central body of the corpus callosum extending posteriorly to the splenium, suggestive of hemorrhage.

The brainstem and cerebellum are unremarkable. The substantia nigra is normally pigmented. There are no visible hemorrhages in the cerebellar peduncles.

The ocular globes and optic nerves do not have any visible external abnormality or hemorrhage. Bisection in the pupillo-optic plane reveals normal appearing retinas without hemorrhage.

Neck:

The cervical vertebrae, hyoid bone, tracheal and laryngeal cartilages are without fracture, and the upper airway is not obstructed.

Cardiovascular System:

The heart weighs 75 grams and has normal size, shape, and configuration for age. The coronary arteries are unremarkable. The myocardium is red-brown and without evidence of abnormality. The four cardiac valves are likewise unremarkable. The aorta and great vessels are normally disposed and unremarkable. The pulmonary arteries and venae cavae are likewise unremarkable.

Respiratory System:

The right lung weighs 120 grams, and the left lung weighs 95 grams. Each lung has a smooth, shiny pleural surface and slightly congested subcrepitant parenchyma with posterior hypostasis. There is no evidence of focal consolidation, hemorrhage, mass, or cavitory lesion.

Liver, Gallbladder, Pancreas:

The liver weighs 560 grams and has an intact capsule and a smooth, soft brown parenchyma without masses. The biliary system is unremarkable. The pancreas, apart from the previously described injury, has normal parenchymal texture and color and no evidence of hemorrhage or fat necrosis.

Spleen and Lymph Nodes:

The spleen weighs 40 grams and has an intact capsule and unremarkable parenchyma. The lymph nodes are unremarkable.

Genitourinary System:

The right kidney weighs 50 grams, and the left kidney weighs 50 grams. Each kidney has a smooth red-brown cortical surface with retained fetal lobulations. The internal anatomy is unremarkable. The ureters are normal caliber. The urinary bladder is unremarkable, as is the prostate.

Endocrine System:

The thyroid and adrenal glands are unremarkable.

Digestive System:

The esophagus and gastric mucosa are unremarkable. The stomach contents consist of less than 20 cubic centimeters of bilious fluid. The small and large intestines, apart from the mesenteric hematoma, are externally unremarkable. The appendix is present.

Musculoskeletal System:

The surveyed skeletal elements, including the ribs, sternum, vertebrae, and pelvis, are without fracture. Full body radiographs performed prior to the autopsy demonstrate no obvious fracture. The muscles are unremarkable.

Histopathology: Sections are submitted for microscopic analysis according to the following slide list:

- A: left ventricle, right ventricle
- B: right upper lobe, left upper lobe (incised)
- C: thymus, liver, kidney

- D: superior aspect of mesenteric laceration
E: inferior aspect of mesenteric laceration
F: rectal laceration
G: perirectal hematoma
H: diaphragm hemorrhage, hematoma of transverse colon mesentery, hematoma of jejunal mesentery
I: Frontal lobe punctate hemorrhage
J: Corpus callosum discoloration, anterior
K: Corpus callosum discoloration, middle
L: Corpus callosum discoloration, posterior; longitudinal corpus callosum
M: Right hippocampus, left cerebellum
N: Right occipital dusky cortex
O: Superior cerebellar peduncle
P: Basis pontis
Q: Right superior frontal gyrus
R: Medulla, right internal capsule
S: Dura
-

Toxicology: Specimens are submitted for toxicologic analysis.

MICROSCOPIC EXAMINATION:

Heart: No diagnostic alterations.

Lung: Focal atelectasis, focal hemorrhage and possible early neutrophilic inflammation but not widespread; some amorphous variably pigmented debris within bronchioles with associated bacterial colonies but no inflammation consistent with perimortem influx of gastric contents.

Liver: No diagnostic alterations.

Kidney: No diagnostic alterations.

Thymus: Mild lymphodepletion and cortical macrophages consistent with early or mild stress-involution.

Mesenteric laceration: There is disruption of the retroperitoneal tissues overlying the pancreas with associated acute hemorrhage. Additionally the pre-pancreatic soft tissue at the site of disruption shows evidence of granulation, collagen deposition, iron deposition, and focal calcification consistent with old blunt injury with hemorrhage in this area. (*Iron and trichrome stains were used to evaluate these areas.*)

Rectal lacerations: There is acute hemorrhage, edema, and marked neutrophilic infiltrate extending from the mucosa through the external muscular layer (with disruption) to the base of the prostate gland.

Hemorrhage within mesentery and diaphragm: Acute hemorrhage in all areas with focal dissection into adipose and muscular tissue but without evidence of organization or acute inflammation. (*Iron and trichrome stains were used to evaluate these areas.*)

Brain: (*Immunohistochemistry for beta amyloid precursor protein (BAPP) was performed on representative sections; controls were appropriate.*)

Frontal cortex has a focus of acute perivascular and parenchymal hemorrhage in a sulcus without disruption of the surface layers; elsewhere there are early ischemic changes and acute subarachnoid hemorrhage.

Occipital cortex has vascular congestion and ischemic changes associated with acute subarachnoid hemorrhage.

Corpus callosum has multifocal microscopic foci of hemorrhage most prominently in the middle and posterior aspects and also involving the fornix. BAPP staining demonstrates a mixed vascular and trauma pattern of positivity.

Internal capsule is normal by H&E and BAPP staining shows focal mild staining in a nonspecific or vascular pattern.

Hippocampus has some early ischemic changes isolated to CA-I with acute subarachnoid hemorrhage.

Cerebellum has no diagnostic alterations.

Brainstem sections are normal by H&E and BAPP staining shows focal mild staining in a nonspecific or vascular pattern most prominently in the pontine tectum.

Dura has no diagnostic alterations.

JML:bh

Dictated: 04/01/13

Transcribed: 04/02/13

Finalized: 06/03/13

RETENTION:

Blood, body fluids, tissues, and physical/trace materials that may be collected (the exact samples vary by case) during the examination are routinely held for a two year period prior to biohazard disposal, unless transferred to a laboratory or other agency by the Medical Examiner's Office, or otherwise released by special arrangement.



TOXICOLOGY LABORATORY
 WASHINGTON STATE PATROL
 2203 Airport Way South Suite 360 Seattle, WA 98134
 (206) 262-6100 FAX No. (206) 262-6145

received
 4/24/13

TOXICOLOGY REPORT

Attention: Dr. John M. Lacy
 Agency: Pierce Co Medical Examiner
 Address: 3619 Pacific Ave
 Tacoma, WA 98418-7929

Tox Case #: ST-13-03036 Case Type: Death Investigation Report Date: 4/17/2013

Agency Case #: 130508 Subject Name: ██████████ ██████████

Evidence: The following evidence was submitted to the Laboratory by Jennifer Phillips of the Pierce Co Medical Examiner on 4/3/2013 via USPS-1st Class Mail:
 (1) ST-13-03036-A: SST, Serum - Hospital
 (2) ST-13-03036-B: PTube, Blood - Hospital

Volatile Analysis Results:

ST-13-03036-A: Serum - Hospital

ST-13-03036-A was tested by Headspace - Gas Chromatography for the presence of acetone, ethanol, isopropanol, and methanol on the date(s) indicated below. The following average result was obtained:

Ethanol	0.11 ± 0.0097 g/100mL (k=3, 99.7% confidence level)	04/09/13, 04/10/13
---------	---	--------------------

Drug Analysis Results:

ST-13-03036-A: Serum - Hospital

ST-13-03036-A was tested by Enzyme Multiplied Immunoassay Technique (EMIT) for the presence of amphetamines, barbiturates, benzodiazepines, cannabinoids, cocaine metabolite, methadone, opiates, phencyclidine (PCP), propoxyphene, and tricyclic antidepressants on 04/10/2013. The following result(s) was obtained:

None Detected

COMMENTS

All testing was performed by the Forensic Scientist listed below except as otherwise indicated. The Forensic Scientist has technically reviewed all relevant pages of testing documentation in the case record.

Examined by:

Reviewed by:

Justin L. Knoy, MS
 Forensic Scientist 3
 Date: 4/18/13

Reviewer
 Date: 4/18/13



PIERCE COUNTY MEDICAL EXAMINER'S OFFICE

CR _____
 CH _____
 CC _____
 HC 50.3 cm
 AC _____

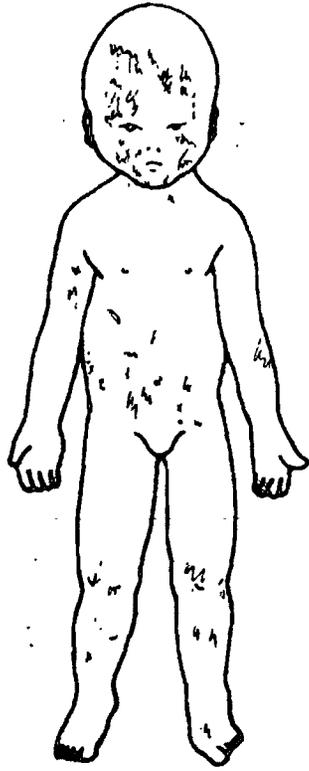
FILE NO: 130508
 AUTOPSY NO: _____
 NAME: C. [redacted]

Dr. LACY
 4-1-13

Thymus 11 SE.
 Heart 75
 Liver 560
 Lung(L) 95
 Lung(R) 120
 Kidney(L) 50
 Kidney(R) 50
 Spleen 40
 Brain 1280

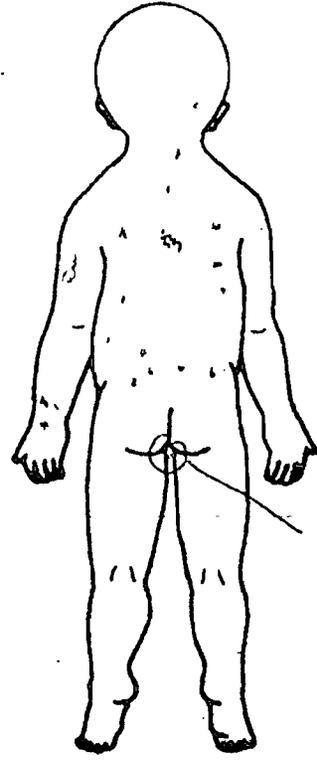
A+
 U○
 G ~ 20cc not retained

Extensive red bruising on all forehead of face = intermixed red-orange superficial abrasion.



At least 13 discrete bruises and abrasions on anterior abdomen

No patterned injuries seen.



Reddish-brown bruises 0.25-1.00"

Too numerous to count red bruises and abrasions on back, extremities

Anus-injury

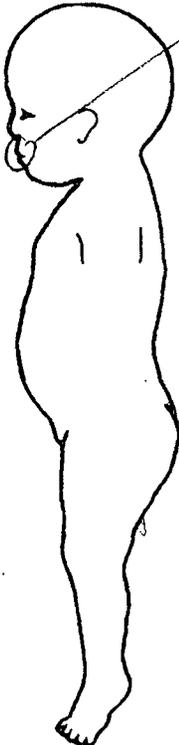


- 1cm full thickness lac @ 6 o'clock,
- parallel stretch type partial thickness lacs 6-9 o'clock up to 1cm
- Circumferential bruising ante to rectal mucosa

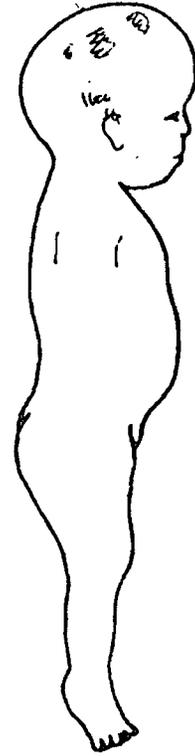
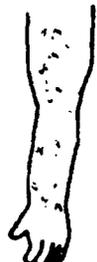
Brain - swollen,
 (B) SDH R > L ~ 15cc
 patchy (B) vertex SAH
 no mass effect, no herniation
 globes externally ul
 no fx

neck &
 chest/ribs & no fx
 Abd. 2cm oblique mesenteric
 tear & superficial pancreatic
 head lacer - pancreatic hemorrhage
 ~ 800 ml free blood/clot
 no bowel lacer.

tear/lac sup. frenulum



Relix perforated bony track, posterior to bladder



APPENDIX “N”

Redacted TPD 130890189.47 (Discovery 635-36)

Total No. of Units Entered:
Entrance Compromised:
Entry Method:
Suspect Description:
Suspect Actions:
Notes:

Evidence Collected:

Weapon 1: Personal Weapon (hands, fists, feet, etc.)

Offense: **0999 - Homicide (Other)** Serial No:
Offender: OAN:
Weapon: **Personal Weapon (hands, fists, feet, etc.)** Automatic.
Other Weapon: Caliber:
Action: Gauge:
Manufacturer: Length:
Make: Finish:
Importer: Grips:
Model: Stock:
Weapon Notes:

Other Entity O14: Herness, James M.

PDA:

Aliases:
DOB: ██████████ Age: **27** Sex: **Male** Race: **White** Ethnicity: **Non-Hispanic**
Height: ██████████ Weight: ██████████ Hair Color: ██████████ Eye Color: ██████████
Address: ██████████ County: ██████████ Phone: ██████████
City, State Zip: **Tacoma Wa., ██████████** Country: ██████████ Business Phone: ██████████
Other Address: ██████████ Other Phone: ██████████
Resident: **Part - Time Resident** Occupation/Grade: ██████████ Employer/School: ██████████
SSN: ██████████ Place Of Birth: ██████████
Driver License No: ██████████ Driver License State: ██████████ Driver License Country: ██████████
Attire: ██████████ Complexion: ██████████
SMT: ██████████ Facial Hair: ██████████
Entity Type: **Other Individual** Reporting Statement Obtained: ██████████ Facial Shape: ██████████
Entity Notes:

Investigative Information

Means: ██████████ Motive: ██████████
Vehicle Activity: ██████████ Direction Vehicle Traveling: ██████████
Synopsis: ██████████
Narrative

At 1309 hours on 7-23-13 I assisted DET. NIST with an interview of (O) JAMES HERNESS. The interview was conducted in an interview room located in the 4-E wing of the Pierce County Jail where he was being held on charges unrelated to this investigation.

(O) JAMES HERNESS stated that he has been in the 4-E wing since October of 2012 in a pod that contains 10 inmates at a time. He was briefly moved out of the pod on 4-26-13 and was returned on 5-1-13. Within a few days of his return (A) JAKE MUSGA, who also was an occupant of the same pod, began talking to him about why he (MUSGA) was in jail (O) JAMES HERNESS described these conversations as

"private" while other inmates were out of the pod and that initially the general topic was about legal processes and jail procedure. Over time the conversations turned to random comments about what led up to (A) JAKE MUSGA being arrested. He said that (A) JAKE MUSGA told him that one time he hit the victim in front of (O) CATHY COLLEY and that she "flipped out" so "he learned not to hit the kid in front of others." (A) JAKE MUSGA said that in the past he had "smacked" the victim and that his girlfriend, (W) LAURA COLLEY, became concerned about the victim's bruises so she began to take photographs of the victim. (A) JAKE MUSGA told him that on the night of the incident he was "alone (with the victim) between 7-9 hours" and that on the day of the incident he made a mixed vodka drink that he left within reach of the victim. He (MUSGA) believed the victim accessed the mixed drink when he had gone to the bathroom and that he thought the victim had vomited and then suffocated on the vomit. (O) JAKE MUSGA added that the victim had been given alcohol before by him and (W) LAURA COLLEY, but he didn't go into any details. (A) JAKE MUSGA denied raping the victim and he talked about a sex offender who lived in the same building as he had and that (W) LAURA COLLEY bought drugs from the sex offender. When asked about (A) JAKE MUSGA's concern for the victim (O) JAMES HERNES described it as "odd" but he was unable to elaborate. (A) JAKE MUSGA told him that upon seeing the legal paperwork on the case he noted that the police overlooked a meth pipe that was under his pillow. He said that (A) JAKE MUSGA was moved out of the pod about a week ago to make room for another inmate so he no longer is in contact with him.

The interview ended at 1324 hours.

Reviewed By

Reviewed Date:

APPENDIX “O”

Discovery Index with Subject Summary 1-814 (pg. 1-10)

State v. Jake Joseph Musga
Cause No. 13-1-01369-1
Discovery Index

Page #	Title	Author	Date	Subject
1	Criminal History Compilation	Jeanne Peter	4-4-13	Theft 3 (dispo other deferral cert to TU6) and viol of anti harassment order Marysville Muni Court
2-7	CAD		4-8-13	
8	TPD Crime Scene Log	Bartenetti	3-30-13	
9-14	130890189.1	Konschuh, Nathan	3-30-13	On 3-30-13 at approx 0407 hrs dispatched to St Helen's Ave Commencement Terrace at the request of TFD Medics who had been summoned via a 911 call in reference to a report of a two yr old boy with bruises all over his face who was having breathing difficulties and a alleged history of seizures. Observation of child and conversation with defendant abo victim condition described.
15-17	130890189 .2	Sean Darland	3-30-13	Overview of on police response scene activity. Contact with defendant. Child transported to Mary Bridge Children's Hospital by TFD.
18-21	130890189 .3	Robert Hannity	3-30-13	Contact with witness Ricky James Saldavia who witnessed defendant's activities with the victim in the apartment lobby and 911 call. Other first responder activity reported.
22-28	130890189 .4	Ronnie Halbert	3-30-13	Description of child and statements given by TFD responders. Dr. Blake of Mary Bridge Children's Hosp. reports victim had 2 brain bleeds, multiple areas of lung collapse, large amounts of abdominal bleeding, pancreas damage, bruising all over in various stages of healing. Occurred at different times but intervals unknown.

Page #	Title	Author	Date	Subject
29-30	130890189 .5	Kevin Bartenetti	3-30-13	Scene security and initiate the crime scene log. No undocumented people entered or exited defendant's apartment from 0432 to 1020 hrs when he was relieved by PPO Custis.
31-32	130890189 .6	Kelly Custis	3-30-13	No unrecorded personnel entered or exited the apartment. Scene processing began at approximately 1200hrs. Relieved by PPO Jahner at approximately 1340 hrs.
33-35	130890189 .7	Scott Yenne	3-30-13	Victim died of injuries at hospital. Diaper victim was wearing collected as evidence.
36-37	130890189 .8	Wendy Haddow	3-30-13	Scene security from security from 2123 hrs to 2151 when forensic processing was completed.
38-41	130890189 .9	Patricia Williams	4-1-13	Victim's aunt Jamie Wilson reports observing handprint on victim's thigh while changing diaper weekend of March 23 and March 24. Ron Jones took a photo of the hand print and has the photo. Victim also had a black eye two weeks ago. Victim's mother reportedly released from rehab one month prior to incident.
42-88	130890189 10	Shea Wiley	4-2-13	Property summary by evidence marker No. 1-34. No. 6 white towel with reddish stains from hallway floor; No. 8 Burnett's vodka container partially filed with clear liquid; No. 10 bathmat with reddish stain on underside; No. 11 decorative pillow with reddish stain on living room floor; No. 16 package of baby wipes with reddish stain on lid on dining table in dining/living room; No. 17 child blanket with reddish stains draped over dining chair in dining/living room; No. 19 multiple wipes, diapers, and child's sock with reddish stains removed from kitchen garbage container; No. 26 various paper tissues and diaper with reddish

Page #	Title	Author	Date	Subject
				<p>stains removed from bathroom garbage container; No. 27 piece of hallway carpet with reddish stains; No. 28 piece of dining/living room carpet with reddish stains; No. 29 piece of living room carpet with reddish stains; No. 30 piece of living room carpet with reddish stains; No. 31 athletic shorts with reddish stains on bathroom floor; No. 33 piece of bedroom carpet with reddish stains; No. 34 piece of bedroom carpet with reddish stains; Sticker B reddish stain swabbed from exterior bathroom door; Sticker C reddish stain swabbed from exterior bathroom door; Sticker D reddish stain swabbed from bathtub ledge; Sticker E reddish stain swabbed from toilet lid; Sticker G reddish stain swabbed from bathroom counter; Sticker H reddish stain swabbed from object behind bathroom door; Sticker K reddish stain swabbed from bathroom wall near towel rack; Sticker L reddish stain swabbed from bathroom wall near bathtub; Sticker M reddish stain swabbed from bathroom wall near bathtub; Sticker N reddish stain swabbed from bathroom wall near bathtub.</p>
89-95	130890189 .11	Kirstin Fahnoe	4-2-13	Prints and biological samples collected.
96-98	130890189 .12	Brian Vold	4-4-13	Interview with victim's uncle James Williams. Victim's caregiver history, behavior and history of injuries discussed.
99-101	130890189 .13	Brian Vold	4-5-13	Interview with victim's grandfather Ron Jones, discussed victim's biological parents and mother's substance abuse. Victim's behavior and history of injuries discussed.

Page #	Title	Author	Date	Subject
102-104	130890189 .14	Shea Wiley	4-5-13	Prescription medication bearing defendant's name collected.
105-107	130890189 .15	Brian Vold	4-9-13	Overview composite of several reports from first responders, medical personnel and witness contacts. Summary of defendant's interview.
108-110	130890189 .16	John Bair	4-9-13	Data search of Casio Model C751 described.
111-117	130890189 .17	Scott Yenne	4-10-13	Overview composite of several reports from first responders, medical personnel, scene processing, evidence collection, witness contacts.
118-120	130890189 .18	John Bair	4-10-13	Data search of Motorola MB810.
121-122	130890189 .19	Heath Holden	4-10-13	Search 1GB SD card revealed image of child with bruising on leg.
123-125	130890189 .20	Louise Nist	4-12-13	Lead detective assignment, composite overview of police, medical treatment, and medical examiner activities.
126-133	130890189 .21	Louise Nist	4-12-13	Transcribed interview of Ricky James Saldavia; the person who observed defendant with the victim in the apartment lobby and called 911. Witness described defendant as appearing more concerned for himself than the victim's wellbeing.
134-136	130890189 .22	Louise Nist	4-16-13	Documents contact with victim's mother, to include her reaction to learning about the incident.
137-139	130890189 .23	Louise Nist	4-16-13	Telephone contact with victim's paternal grandfather Ron Jones, described observing handprint bruise while changing victim prior to the incident.
140-143	130890189 .24	Louise Nist	4-16-13	Interview with victim's biological father Brannon Jones. Described relationship with victim's mother, substance abuse history, victim's prior black eye, reported incident-related conversations with victim's mother.
144-146	130890189 .25	Louise Nist	4-16-13	Interview of victim's aunt Jamie Wilson. Described observing handprint bruise on victim prior to the incident. Said she saw victim nearly every weekend

Page #	Title	Author	Date	Subject
147-149	130890189 .26	Louise Nist	4-17-13	and never noticed any previous injuries. Described negative relationship with victim's mother. Interview of victim's grandmother Bobbye Choate. Described victim as experience withdrawals at birth associated with mother's drug use. Described handprint injury observed on victim. Described victim's earlier black eye.
150-152	130890189 .27	Louise Nist	4-14-13	Entered defendant as arrestee with booking photo.
153-154	130890189 .28	Louise Nist	4-17-13	Report listed each witness by relationship to victim.
155-156	130890189 .29	Leslie Belford	4-17-13	Defendant's arrest. During arrest defendant took credit for calling 911.
157-160	130890189 30	Louise Nist	4-18-13	Transcend 1 GB SD card from digital camera entered into property room.
161-163	130890189 31	Louise Nist	4-18-13	Transcription of Saldavia's 911 call.
164-166	130890189 .32	Louise Nist	4-18-13	Attempt to obtain apartment complex security video. Apartment management reported the system had not been activated until after the incident.
167-182	Warrant and consent to search documents.			Search warrant documents for defendant's apartment. Consent to search documents Casio phone. Search warrant documents Motorola phone.
183-189	TFD			Reports for TFD t130890017 Re: response and treatment of victim.
190	Booking Photo			Jake Musga
191	Advisement of Rights	L. Nist	3-30-13	Jake Musga
192-204	Property Reports			
205-211	TPD Forensics Specialist Report			Description of: scene video documenting evidence by marker; photograph assignments; crime scene diagram assignments; crime scene photographs; victim hospital photographs. Some stains tested positive for suspected blood others were inconclusive.
212	TPD Forensic Report			Photographs of red-stained towel, mat, blanket, shorts.

Page #	Title	Author	Date	Subject
213-216	Gray Harbor County PA			DNA results identifying Brannon Jones as victim's biological father.
217-218	Death Certificate			Victim
219-221	Probable Cause			Jake Musga
222-240	Case Photos			
241-243	130890189 .33	L. Nist	4-23-13	Contact with Ron Jones and processing of Casio phone.
244-280	130890189 .34	L. Nist	4-24-13	Defendant's transcribed interview.
281-282	130890189 .35	L. Nist	4-25-13	Receipt of CPS case reported related to victim's mother.
283	Advisement of Rights	L. Nist	5-1-13	Laura Colley (victim's mother)
284-286	Crime Scene Diagram			
287-292	130890189 .36	L. Nist	5-2-13	Transcribed interview of defendant's neighbor Karen Howard. Described hearing running and "thumping" as if something was being dropped or bounced around in defendant's apartment morning of the incident. Heard a child's cry.
293-301	130890189 .37	Shea Wiley	5-9-13	Inventory of several pieces of evidence collected.
302	TPD Forensics Services Section Lab Repot	S. Wiley	5-9-13	Negative print report MC 13, 14. MC 6, 8, 13, 14 swabbed for DNA and submitted to property rm.
303-345	130890189 .38	Louise Nist	5-23-13	Transcribed interview of Laura Colley.
346-347	130890189 .39	Gary Roberts	5-24-13	Relieved PO Jahner from scene security, relieved by Officer Haddow minutes later.No unauthorized personnel entered or left the scene.
348-349	130890189 .40	Kenneth Gamble	5-24-13	Relieved and relieved by PO Jahner. Observed victim's mother contact with detective at apartment.
350-351	130890189 .41	Jesse Jahner	5-24-13	Scene security, transported victim's mother to TPD HQ. Returned to crime scene.
352	Latent Fingerprint Comparison Request	Toni Martin	5-27-13	No latent print of value identified.
353	TPD Forensic Section Lab Report	S. Wiley	5-9-13	Negative print report.

Page #	Title	Author	Date	Subject
354	TPD Forensic Section Lab Report	S. Wiley	4-11-13	Photographs of evidence described.
355-357	Diagram Maps			
358	WSP crime lab	L.Nist		Request for DNA processing.
359-360	Property Report			
361	Photo		3-29-13	Photo of living victim dated 3-29-13 several apparent bruises on face and torso.
362	Photo		3-29-13	Photo of living victim dated 3-29-13 several apparent bruises on face and torso.
363	Photo		3-29-13	Photo of living victim dated 3-29-13 several visible bruises on face.
364	Photo		3-17-13	Photo of victim's thigh dated 3-17-13 apparent bruise on thigh.
365	Property Report			65 cell phone with charger Casio model C751 cell phone belonging to and provided by Ron Jones
366	Property Report			66 Taped Statement Jake Musga
367	Property Report			67 Taped statement from Karen Howard
368	Consent to Search without Warrant		4-4-13	Casio Brand Phone Ron Jones
369	Consent to Search Without Warrant		4-4-13	Bobbye Choate 1GB Camera Disk Transcend
370	Advisement of Rights	L. Nist	5-1-13	Colley, Laura
371-372	CPS Case Notes		4-22-13	Green, Karen
373-427	City of Arlington			Police reports from Arlington PD on Jake Musga
428-431	130890189 .42	L. Nist	6-5-13	Acquisition of victim's medical records from Grays Harbor Pediatrics and MultiCare Health Sys (Mary Bridge Children's Hosp) pursuant to search warrant.
432	Property Report		5-9-13	68 - 75 Swabs
433	Property Reports		6-5-13	Medical records
434-439	Search Warrants			Medical Records
440	Return of Service		6-5-13	Medical records
441-446	Fax cover sheets			Search warrants

Page #	Title	Author	Date	Subject
447-485	Grays Harbor			Medical Records
486-580	Multicare Health System Mary Bridge Hospital			Medical Records
581-584	ME's Record #13-0508	Karen Barr	4-2-13	
585-593	Postmortem Exam	J. Matthew Lacey	6-3-13	Blunt force injures of the head and abdomen
594	Tox Lab Report WSP #ST-13-03036	Justin L. Knoy	4-18-13	Volatile Analysis Results- Ethanol Drug Analysis Results- None Detected
595-596	Pathologist's Notes	Lacey	4-1-13	
597-599	Postmortem Exam Photos and Evidence Images			
600	Brain and eyes images			
601-603	130890189 .43	Nist, Louise	6-19-13	Receipt and distribution of ME report.
604-605	Multicare Diagnostic Imaging Result Report	John Alan Paschall		MRN: 2908960 O XR Chest 1 View PA OR AP
606-607	Multicare Diagnostic Imaging Result Report	Jeffrey Blake		MRN: 2908960 O XR Chest 1 View- PA OR AP
608-609	Multicare Diagnostic Imaging Result Report	Jeffrey Blake		MRN: 2908960 O CT Chest Abdomen & Pelvis w/IV Contrast
610-611	Multicare Diagnostic Imaging Result Report	Jeffrey Blake		MRN: 2908960 O CT CSpine w/o Contrast
612-613	Multicare Diagnostic Imaging Result Report	Jeffrey Blake		MRN: 2908960 CT Head w/o Contrast
614-615	130890189 .44	Louise Nist	7-1-13	Receipt and distribution of victim's internal images from Multicare.
616-624	Search Warrant	Nist	4-12-13	Verizon records
625	Return of Service	Nist	6-18-13	Cellco Partnership Verizon Wireless
626	Property Report			81 Black Motorola MB810 Verizon Cell Phone
627-630	130890189 .45	Nist	7-24-13	Telephone conversation with victim's aunt Leah Jensen. Described seeing victim 3-29-13. Victim appeared victim was acting normally. Victim had a bruise on his forehead and chin, with some small

Page #	Title	Author	Date	Subject
631-633	130890189 .46	Nist	7-25-13	bruises on his face. Nothing unusual observed when victim's diaper changed. Saw small rash on back of victim's neck. No rash or bruising on torso. Left the apartment with victim's mother around 9pm. Went out to a restaurant and bar. Dropped victim's mother off at their parents house around 3am. Described apparently uneventful telephone contact between victim's mother and defendant throughout the evening.
634-636	130890189 .47	Vold	7-25-13	Transfer of Seahawk glass and child's bottle from property room to WSP. Both items tested positive for ethanol.
637-642	130890189 .48	Nist	8-2-13	Summary of interview with Pierce County Jail Inmate James Herness. Herness claimed he briefly occupied a jail pod with defendant. Herness reported defendant stated he learned not to hit the victim in front of others, admitted to striking the victim hard enough to cause bruising prior to the incident, was alone with victim for 7-9hrs on the day of incident, left a vodka drink within reach of the victim, but denied raping the victim.
643-645	130890189 .49	Nist	8-2-13	Summary of call/text records of Motorola phone owned by victim's mother but used by defendant.
646-647	WSP Tox Lab	Justin Knoy	6-26-13	Acquisition of Verizon records pursuant to warrant. WSP results referenced in Supp. 46 re: detection of Ethanol.
648	Property Report	Nist		Includes medical exam record, postmortem exam report and two discs containing photos
649-654	CDR DetailVerizon			Ron Jones
655-657	SMS Detail			Ron Jones
658-664	Photos			Living victim dated 3-29-15
665-668	130890189 .50	Bair	8-19-13	Warrant and Phone Analysis-Samsung SCH-U365.

Page #	Title	Author	Date	Subject
669	TPD Forencis Specialist Report	S. Wiley	8-8-13	Apartment building photographs.
670-699	SMS Messages Conversation with 2535082314			Text messages
700-749				Messages
750-762	Verizon Wireless			CDR (Laura Colley)
763-782	Verizon Wireless			SMS Detail (Laura Colley)
783-784	Verizon Wireess			MMS Detail (Laura Colley)
785-787	Photos	S. Wiley	8-8-13	Apartment building photograph
788-789	130890189 .51	Bair	8-22-13	Correction to Supp. 50, page 4 of 4, documenting return of archive disk to the property room, with the phone released to Det. Nist for property resubmitting.
790-793	130890189 .52	Bair	8-24-13	Prop Rm 84/1 CD Motorola MB810 case report
794-796	130890189 .53	Nist	8-27-13	Nist met with Forensic CST Wiley on 8-8-13 at the Commencement Terrace Apts to obtain additional photos of the location. Lobby furniture reconfigured since night of the incident.
797-798	130890189 .54	Nist	8-28-13	8-15-13 drafted a search warrant for analysis of Samsung SCH-U365 Motorola MB 810. Overview of chain of custody and processing.
799	Property Report	Bair	8-24-13	MC84 DVD Motorola Case Report
800-807	Search Warrant			Samsung & Motorola
808	Return of Service	Nist	8-27-13	
809-814	Certified Court Record(s)			Arlington Viol Anti-Harassment & Theft 3rd

APPENDIX “P”

*Selected Crime Scene Photographs
(Victim's Name Redacted)*

****WARNING: GRAPHIC PHOTOGRAPHS****

22

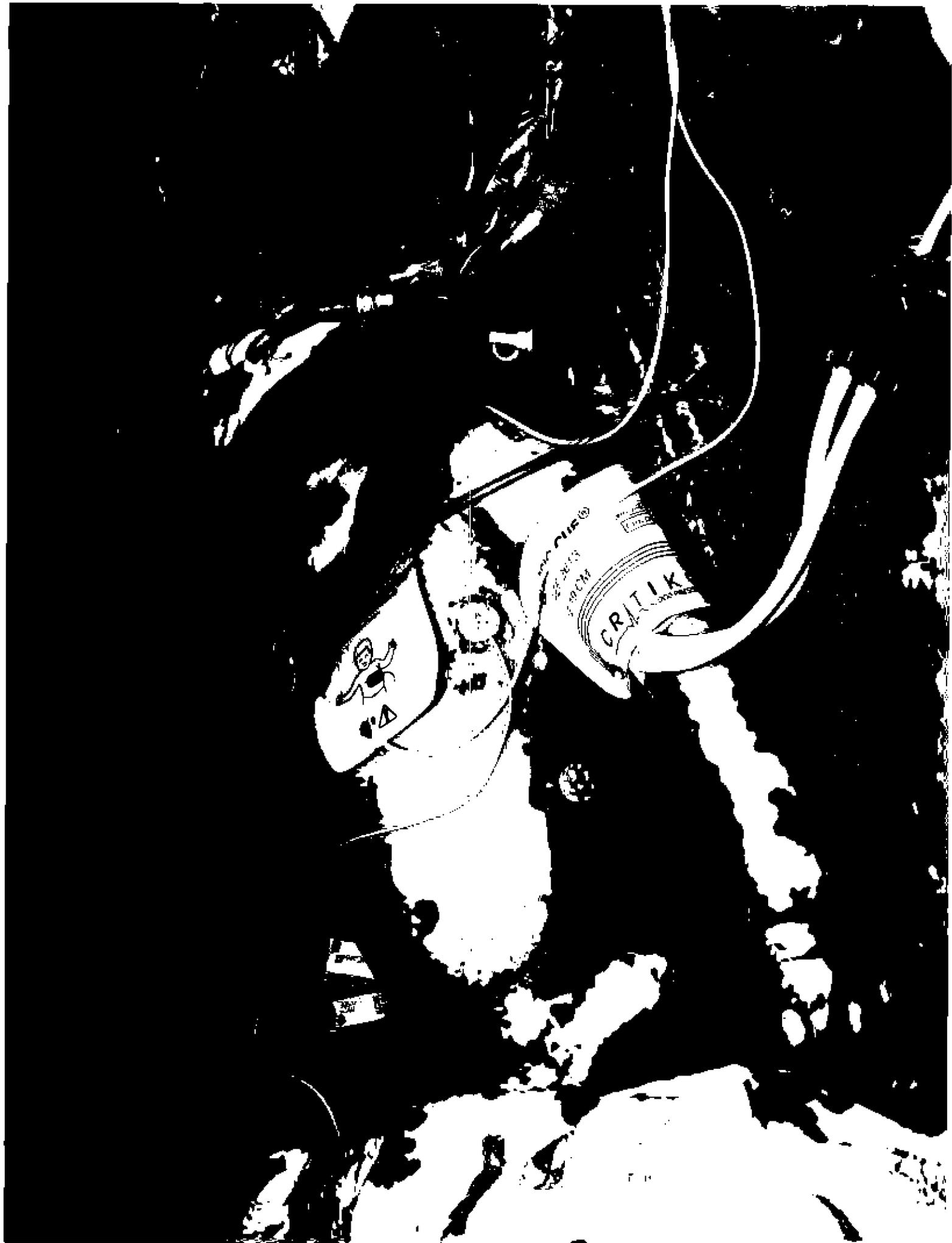
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9/5/52

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APPENDIX “Q”

Selected Photographs Obtained by TPD (Discovery 361-64)

****WARNING: GRAPHIC PHOTOGRAPHS****



29.13
13 0 -29-12-37-23-747- +harrington



12913

2013-08-19-12-00-00-464 - 1141616.1117

000362

1/20/13



24-15
-18-03-29-12 40-17-18 41-06-18



3.17-13

USA WASHINGTON

DRIVER LICENSE



4d LIC# MUSGA
3 DOB 03-05-1994
4 exp 01-26-2013
5 exp 03-05-2015
DONOR

Jake Musga

AGE 21 ON
03-05-2015

MUSGA
JAKE JOSEPH
120 N DUNHAM AVE
ARLINGTON WA 98223-1388

Sex M Hgt 5-02
Wgt 185 Hair GRN
Class Eyes NONE

Restrictions NONE

197 [redacted] Nov 06 15 0900

APPENDIX “R”

*Original Information
and
Declaration for Determination of Probable Cause*

April 03 2013 11:28 AM

KEVIN STOCK
COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 13-1-01369-1

vs.

JAKE JOSEPH MUSGA,

INFORMATION

Defendant.

DOB: 3/5/1994

SEX : MALE

RACE: WHITE

PCN#: 540948658

SID#: 26750183

DOL#: UNKNOWN

COUNT I

I, MARK LINDQUIST, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse JAKE JOSEPH MUSGA of the crime of MURDER IN THE FIRST DEGREE, committed as follows:

That JAKE JOSEPH MUSGA, in the State of Washington, on or about the 30th day of March, 2013, did unlawfully and feloniously, while committing or attempting to commit the crime of Rape of a Child in the First Degree, and in the course of or in furtherance of said crime or in immediate flight therefrom, the defendant caused the death of CC (DOB 3/5/11), a human being, not a participant in such crime, on or about the 30th day of March, 2013, contrary to RCW 9A.32.030(1)(c), and the crime was aggravated by the following circumstances: pursuant to RCW 9.94A.535(3)(b), the defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance, and/or pursuant to RCW 9.94A.535(3)(a), the defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim, and/or pursuant to RCW 9.94A.535(3)(y), the victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2), and/or pursuant to RCW 9.94A.535, the defendant's conduct during the commission of this offense RESULTED IN MULTIPLE INJURIES OR MORE SEVERE INJURIES THAT TYPICALLY ASSOCIATED WITH THE COMMISSION OF THIS OFFENSE, and/or pursuant to RCW 9.94A.535(2)(y), the victim's injuries substantially exceed the

INFORMATION- 1

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office (253) 798-7400

1 level of bodily harm necessary to satisfy the elements of the offense, and against the peace and dignity of
2 the State of Washington.

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COUNT II

And I, MARK LINDQUIST, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse JAKE JOSEPH MUSGA of the crime of RAPE OF A CHILD IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That JAKE JOSEPH MUSGA, in the State of Washington, during the period between the 29th day of March, 2013 and the 30th day of March, 2013, did unlawfully and feloniously being at least 24 months older than CC (DOB 3/5/11), engage in sexual intercourse with CC, who is less than 12 years old and not married to the defendant and not in a state registered domestic partnership with the defendant, contrary to RCW 9A.44.073, and the crime was aggravated by the following circumstances: pursuant to RCW 9.94A.535(3)(a), the defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim, and/or pursuant to RCW 9.94A.535(3)(b), the defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance, and against the peace and dignity of the State of Washington.

DATED this 3rd day of April, 2013.

TACOMA POLICE DEPARTMENT
WA02703

MARK LINDQUIST
Pierce County Prosecuting Attorney

pks

By: /s/ PHILIP K. SORENSEN
PHILIP K. SORENSEN
Deputy Prosecuting Attorney
WSB#: 16441

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 08 day of May, 2015



Kevin Stock, Pierce County Clerk

By /S/Kayley Pitzele, Deputy.

Dated: May 8, 2015 8:31 AM



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enter SerialID: 34272058-F20F-6452-D469713208225619.

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April 03 2013 11:28 AM

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

KEVIN STOCK
COUNTY CLERK

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 13-1-01369-1

vs.

JAKE JOSEPH MUSGA,

DECLARATION FOR DETERMINATION OF
PROBABLE CAUSE

Defendant.

PHILIP K. SORENSEN, declares under penalty of perjury:

That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police report and/or investigation conducted by the TACOMA POLICE DEPARTMENT, incident number 130890189;

That the police report and/or investigation provided me the following information;

That in Pierce County, Washington, on or about the 30th day of March, 2013, the defendant, JAKE JOSEPH MUSGA, did commit the crime of murder.

On the above date at 0407 hours Tacoma Police responded to the Commencement Terrace Apartment Complex at 29 St. Helens regarding a badly bruised two year old boy who was not breathing. When police arrived Fire Department medics were loading the child into an ambulance for transport to a trauma center. Police spoke with a witness who reported that he had just exited the locked apartment complex when he saw a frantic male, later identified as MUSGA, in the lobby holding a child and crying. MUSGA let the witness back into the lobby. The child's was covered with bruises. The witness called 911.

According to medical staff the child, identified as two year old CC, was intubated and in "major shock" when admitted to the hospital. CC's condition was "catastrophically bad" and he showed no significant sign of brain activity. CC was pronounced dead later that morning. Doctors noted CC was bruised from "head to toe," suffered bleeding in the brain and stomach, had a collapsed lung and bruising at the rectum. The child had a blood alcohol level of .12 at the time of admission to the hospital. Doctors indicated to detectives that there were clear signs that CC had been abused.

MUSGA was identified as the boyfriend of CC's mother, who was identified as Laura Colley. MUSGA was arrested. Laura Colley was not present at the scene and was apparently not with the child during the hours leading up to the 911 call.

Detectives interviewed MUSGA. MUSGA told detectives that he and Laura Colley met in rehab in December 2012. They had been dating for about two months and moved into the Commencement Terrace apartments about 5 weeks ago. Laura was employed as a leasing agent for the apartments. MUSGA was unemployed. MUSGA cared for CC when Laura was at work.

DECLARATION FOR DETERMINATION
OF PROBABLE CAUSE -1

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930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office (253) 798-7400

1 MUSGA told detectives that CC was a rambunctious child, fell a lot and bruised easily. MUSGA
2 said he and CC got along great but when Laura was home CC's attention was directed towards her. CC
3 was a good kid but would act out when he did not want to do something. Their usual method of
4 discipline was a light slap on the hand or time out.

5 On Thursday evening, March 28, MUSGA and Laura attempted to brush CC's teeth. CC flailed
6 and may have bumped his head on the counter. They took CC to the hallway and Laura "gently" laid him
7 on the floor. Laura then crouched with her knees holding CC while MUSGA brushed CC's teeth.
8 MUSGA said CC had enough room to lift his head up and bang his head on the floor.

9 On Friday, March 29, MUSGA noticed that CC "Had more bruises than normal." Over the course
10 of the day CC was quieter than normal, "acting shy" and "wasn't himself." He sat and watched television
11 for most of the day. MUSGA said CC did not complain about any pain and he did not appear sick. When
12 Laura came home from work they noticed that CC had some bruises that appeared to be getting worse.
13 MUSGA said they called the pediatrician and sent him a photo. They were told that if the bruises got
14 worse, they should take CC to the doctor. MUSGA said the photo was also sent to Laura's mom. They
15 had a discussion about taking him to a clinic but they decided that he (CC) "looked too bad" and asked
16 each other "Are they going to think we did this?" if they took him to the doctor. They decided to keep an
17 eye on him but not to take him to the doctor at that time.

18 On Friday afternoon, March 29, Laura went to McCleary to celebrate her birthday with her family
19 and left CC in the care of MUSGA. Laura's sister picked her up at about 6 p.m. CC and MUSGA left the
20 building at the same time and went to the park. They came back from the park and watched television
21 until about 10 pm when MUSGA got CC ready for bed. During the time they were watching television,
22 MUSGA poured himself a drink, cola and vodka. He estimated the glass was 16-20 ounces and that there
23 were three or four shots of vodka in the glass. He said the glass was on the window sill next to the couch
24 and that CC would have to stand on his "tippy toes" to reach it. While he saw no sign that CC had a drink
from the glass, he could only assume that he had. MUSGA said he only left the room during that time for
about 3 minutes.

MUSGA said he and CC took a shower together. While MUSGA was shampooing his own hair,
he heard a thump in the bathtub. CC had fallen and was crying but MUSGA did not find any bumps and
CC seemed fine. When CC went to bed, he kept talking to himself and MUSGA assumed that he was not
going to sleep so he got CC back up. They watched television for awhile longer then both went to bed
about midnight.

MUSGA said he put CC in bed with him. MUSGA was sleeping next to the wall and CC was in
the middle of the bed. A while later MUSGA heard a thump. He got up and found CC on the floor next
to the bed. He picked CC up and he seemed fine. MUSGA said he saw no sign of concussion and CC
was not crying. He said CC's eyes were open and he had a smile on his face and that the expression
never changed. He thought CC was fine so he put him back to bed. When he lay down next to CC, he
put his hand on CC's chest. It was at that point that he realized CC was not breathing. He grabbed CC
and his phone and ran down the stairs thinking there would be someone in the lobby area that could help.

Detectives served a search warrant at the apartment and found numerous used diapers and used
baby wipes that appeared to contain blood.

Laura Colley declined to make a statement.

An autopsy was performed. Dr. Lacy determined that while CC had suffered injuries too
numerous to count there were specific fatal blows to the head and torso. The injuries were inconsistent

DECLARATION FOR DETERMINATION
OF PROBABLE CAUSE -2

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office (253) 798-7400

1 with a child falling off a couch or inadvertently banging his head on a counter top. CC suffered
2 significant internal and external injuries to the rectum consistent with penetration by an object.

3 The investigation is ongoing. Additional or elevated charges may be forthcoming.

4 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF
5 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

6 DATED: April 3, 2013
7 PLACE: TACOMA, WA

8 /s/ PHILIP K. SORENSEN
9 PHILIP K. SORENSEN, WSB# 16441

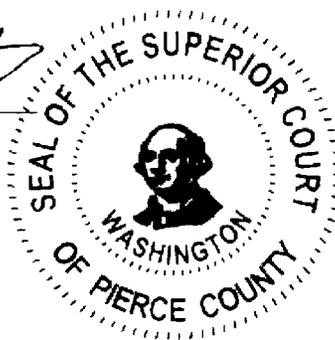
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 08 day of May, 2015



Kevin Stock, Pierce County Clerk

By /S/Kayley Pitzele, Deputy.

Dated: May 8, 2015 8:31 AM



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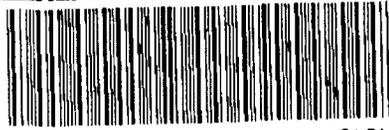
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APPENDIX “S”

Limited Notice of Appearance

&

*Notice of Appearance, Demand for Jury Trial, Demand for Discovery, Bill
of Particulars, and Omnibus Application*



13-1-01369-1 40288401 NTAPR 04-04-13



**PIERCE COUNTY SUPERIOR COURT
IN AND FOR THE STATE OF WASHINGTON**

STATE OF WASHINGTON,

Plaintiff,

v.

JAKE MUSGA,

Defendant.

NO. 13-1-01369-1

**LIMITED NOTICE OF APPEARANCE
FOR ARRAIGNMENT ONLY**

TO: Clerk of the Above-entitled Court; and
TO: Pierce County Prosecuting Attorney:

COMES NOW, KEITH R. HALL, and hereby enters his appearance on behalf of the
above named defendant for purposes of arraignment only.

DATED this 3rd day of April, 2013.

**KEITH R. HALL, WSBA # 35802
Attorney for Mr. Musga**

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State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 11 day of May, 2015



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: May 11, 2015 9:00 AM



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April 17 2013 2:51 PM

KEVIN STOCK
COUNTY CLERK
NO: 13-1-01369-1

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**PIERCE COUNTY SUPERIOR COURT
IN AND FOR THE STATE OF WASHINGTON**

STATE OF WASHINGTON,

Plaintiff,

v.

JAKE J. MUSGA,

Defendant.

NO. 13-1-01369-1

**NOTICE OF APPEARANCE,
DEMAND FOR JURY TRIAL,
DEMAND FOR DISCOVERY,
BILL OF PARTICULARS AND
OMNIBUS APPLICATION**

TO: Clerk of the Above-entitled Court; and
TO: Pierce County Prosecuting Attorney;

PLEASE TAKE NOTICE that the below-named attorney hereby enters his appearance on behalf of the DEFENDANT. THE DEFENDANT HEREBY ENTERS A PLEA OF NOT GUILTY, AND DEMANDS A JURY TRIAL.

FURTHER, PLEASE TAKE NOTICE that, pursuant to the authority of CrR 4.7, CrR 4.7, CrR 6.13(c) (2), ER 705, RCW 10.58.010, 10.37.050, it seq., 46.61.502, .504 and .506, 42.17.260, the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution, and Article 1, Sections 3, 7, 29, and 30, and the Tenth Amendment to the Washington State Constitution;

THE DEFENDANT HEREBY MAKES THE FOLLOWING DEMANDS, MOTIONS, AND REQUESTS FOR DISCOVERY IN THE MATTER(S) PENDING UNDER THIS cause number:

**NOTICE OF APPEARANCE, DEMAND FOR JURY TRIAL,
DEMAND FOR DISCOVERY, BILL OF PARTICULARS AND
OMNIBUS APPLICATION**

**JAMES V. NEWTON, ATTORNEY AT LAW, PLLC
428 W. HARRISON STREET
KENTI, WASHINGTON 98032
(253) 852-6600 - FAX (253) 852-6800**

1 1. Copies of any and all police or investigative reports and statement of claimed
2 experts made in connection with this particular case, including results of physical or mental
3 examinations and scientific test, experiments, or comparisons made in connection with the
4 defendant's arrest;

4 2 That any physical evidence in the custody of the State or its agents be tested for
5 any and al potential evidentiary value in a timely manner, and that all efforts be taken to
6 preserve that evidence from destruction;

6 3. The names and addresses of any and all persons whom the plaintiff intends to call
7 as witnesses at the hearing or trial, together with any and all written or recorded statements, and
8 the substance of any oral statements of such witnesses, together with a summary of the
9 expected testimony of any witness the plaintiff intends to call if the substance of the expected
10 testimony is not contained in the materials otherwise provided;

9 4. Copies of any written or recorded statements and the substance of any oral
10 statement made by the Defendant, and take notice that the Defendant hereby demands a hearing
11 pursuant to CrR 3 5 if the prosecution intends to offer any such statements in its case in chief;

11 5. A list of, copies of, and access to any books, papers, documents, photographs, or
12 tangible objects which the Prosecuting Attorney intends to use in the hearing or trial;

13 6. Any record or prior criminal conviction known to the Prosecuting Attorney of the
14 defendant;

15 7. Any material or information within the Prosecutor's knowledge which tends to
16 negate the defendant's guilt as to the offense charged;

16 8 Any expert witness whom the Prosecuting Attorney will or may call at the hearing
17 or trial, the subject of their testimony, and any reports they have submitted to the Prosecuting
18 Attorney;

18 9 A copy of any tape recording of radio or telephone communications made over or
19 through the '911' system and relating to the identity, investigation, detention, arrest and
20 booking or charging of the defendant;

21 10. Demands trial within the time period required by CrR 3.3, objects to any trial date
22 not so set and moves the court for an order setting a speedy trial date;

22 11. Defendant further objects to the failure of the prosecution to properly verify the
23 complaint herein, objects to the untimely filing of same and moves to dismiss all charges
24 ending herein
25

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 11 day of May, 2015



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: May 11, 2015 9:00 AM



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APPENDIX “T”

*Affidavit of Deputy Prosecutor Angelica Williams
RE: E-mail Correspondence Between the State and Petitioner’s Trial
Counsel, Including the State’s Accepted Offer*

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4. Petitioner's trial counsel alerted the State to their intent to retain medical and DNA experts to inform their preparation of petitioner's defense.

5. The emails in State's Appendix T are accurate copies of email correspondence with petitioner's trial counsel. The offer letter contained in Appendix T is an accurate copy of the offer letter transmitted to petitioner's counsel as an attachment to the August 15, 2013, email.

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6. Petitioner's trial counsel requested to meet in person to discuss the State's offer. During the approximately twenty five minute meeting that followed, petitioner's trial counsel urged the State to agree to a standard range sentence citing petitioner's youth, use of alcohol, life circumstances, points of law and alleged weaknesses in the State's case. The State made it clear to petitioner's trial counsel it would not agree to a standard range sentence and would pursue an aggravated murder charge if petitioner did not accept the State's offer. The State made it equally clear it would request an exceptional sentence above the standard range. The State would not express an opinion as to whether the death penalty would be pursued in the event an aggravated murder charge was filed in response to a rejection of the State's offer. The meeting concluded with petitioner's

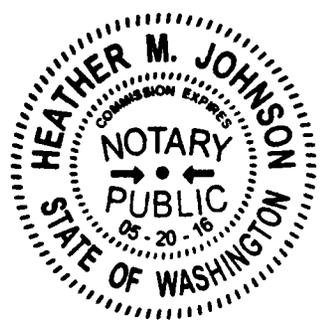
1 counsel stating they would further discuss the State's offer with petitioner and
2 communicate his decision to the State.

3 Further your affiant sayeth naught.

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5 _____
6 ANGELICA WILLIAMS
7 WSB No. 36673

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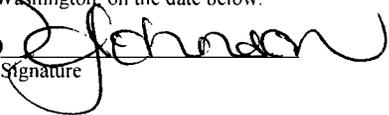
12 SUBSCRIBED AND SWORN to before me this 22nd day of May, 2015.



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14 
15 NOTARY PUBLIC, in and for the
16 State of Washington, residing
17 at Covington, WA
18 My Commission Expires: 5/20/16

19
20

21 Certificate of Service:
22 The undersigned certifies that on this day she delivered by U.S. mail or
23 ABC-LMI delivery to the attorney of record for the appellant and appellant
24 c/o his or her attorney or to the attorney of record for the respondent and
25 respondent c/o his or her attorney true and correct copies of the document to
which this certificate is attached. This statement is certified to be true and
correct under penalty of perjury of the laws of the State of Washington. Signed
at Tacoma, Washington, on the date below.

24 5/22/15 
Date Signature

Jared Ausserer

From: Jared Ausserer
Sent: Thursday, August 15, 2013 8:41 AM
To: 'richardwarnerlaw@gmail.com'; Keith Hall
Cc: Angelica Williams
Subject: Musga
Attachments: Letter.pdf

Tracking:	Recipient	Read
	'richardwarnerlaw@gmail.com'	
	Keith Hall	
	Angelica Williams	Read: 8/15/2013 9:03 AM

I am following up on our OH earlier this week. I have attached the written offer that was provided to Mr. Hall to ensure that everyone is on the same page and is fully informed. We have given Mr. Musga until August 30, accept the State's offer or we will be amending as indicated in the written offer. The amendment, should he choose not to plead guilty, would include a count of aggravated first degree murder. This would carry a lifetime sentence.

Should your client choose to exercise his right to trial we have a motion for pre-assignment set for September 9, along with an omnibus hearing. This was requested because I am planning on being on paternity leave from mid December to mid March. At this point, there does not appear to any reason that this case cannot be tried in mid November, as set.

Mr. Hall indicated that the defense has been in contact with an expert who has reviewed all the medical evidence provided. Once a determination has been made about whether or not you intend to endorse an expert please provide his information and any report he offers so that we can assess whether we need our own expert.

Finally, if the matter cannot be resolved we will need to know which witnesses you wish to interview so that we can arrange them. Let me know if there are any questions or concerns, thank you.



Pierce County

COPY

Office of the Prosecuting Attorney

MARK LINDQUIST
Prosecuting Attorney

REPLY TO:
CRIMINAL FELONY DIVISION
930 Tacoma Avenue South, Room 946
Tacoma, Washington 98402-2171
Victim-Witness Assistance: 798-7400
FAX: (253) 798-6636

Main Office: (253) 798-7400
(WA Only) 1-800-992-2456

August 13, 2013

Richard L. Warner
Keith Hall

Re: State of Washington vs. Jake Musga
Pierce County Superior Court Cause No. 13-1-01369-1

Dear Mr. Warner & Mr. Hall:

This letter is intended to convey the State's offer in this case. The defendant is currently charged with one count of first-degree felony murder and one count of first-degree rape of a child, along with two aggravating circumstances. With an offender score of two, the defendant's standard range is 261-347 months to life. The only offer the State will consider is for the defendant to plead guilty as charged without any agreed sentencing recommendation. The State will seek an exceptional sentence above the standard range and the defendant may request the low end of the standard range.

If the defendant does not want to accept responsibility, the State will file an amended information to include the following charges: (1) aggravated first degree murder predicated on RCW 10.95.020(9), that the defendant committed the murder to conceal the commission of Chayson's rape; (2) first-degree premeditated murder; (3) first-degree felony murder predicated on first-degree rape of a child; (4) second-degree intentional murder; and (5) second-degree felony murder predicated on assault. Each count will be aggravating with the following circumstances: (1) deliberate cruelty; (2) particularly vulnerable victim; (3) abuse of trust; (4) lack of remorse; and (5) domestic violence.

The facts of this case and the injuries sustained by the victim shock the conscience. Your client's best chance at receiving a standard range sentence, or an exceptional sentence that will allow him to re-enter society at a reasonable age, is to accept responsibility for his actions. This offer will remain open until Friday, August 30, 2013.





Richard L. Warner

August 13, 2013

Pg# 2

If you have any questions or wish to discuss the details of this offer, please feel free to contact either one of us at any time.

Very truly yours,

Jared Ausserer
Deputy Prosecuting Attorney

Angelica Williams
Deputy Prosecuting Attorney



Angelica Williams

From: Keith Hall [Keith@JimNewtonLaw.com]
Sent: Friday, August 23, 2013 1:08 PM
To: Angelica Williams; Jared Ausserer
Cc: richardwarnerlaw@gmail.com
Subject: RE: Jake Musga

Angelica & Jesse:

Richard and I would like to schedule a meeting to discuss this offer with you, on Thursday the 29th. Can we schedule a time to come down and discuss this at your office, sometime after 11:00 am?

Keith Hall
Attorney at Law

James Newton Attorney at Law, PLLC
610 Central Avenue South
Kent, WA 98032
253.852.6600 office
253.852.6800 fax
keith@jimnewtonlaw.com
www.jimnewtonlaw.com

-----Original Message-----

From: Angelica Williams [<mailto:awilli4@co.pierce.wa.us>]
Sent: Tuesday, August 20, 2013 9:32 AM
To: 'richardwarnerlaw@gmail.com'; Keith Hall
Subject: Jake Musga

Good Morning - Jared and I wanted to follow up regarding the State's offer in this case. Can you please confirm that you received the email that Jared sent last week on August 15 containing the State's offer?

Given the severity of the current charges as well as those proposed, we want to make sure that our communication is clear and there are no misunderstandings about the way in which the State intends to proceed should we not be able to resolve this case.

If you have any questions please do not hesitate to contact us.

Thank you,

Angelica Williams

Deputy Prosecuting Attorney
Pierce County Prosecutor's Office
930 Tacoma Avenue South, Rm. 946
Tacoma, WA 98406
253.798.6614

Angelica Williams

From: Keith Hall [Keith@JimNewtonLaw.com]
Sent: Thursday, August 29, 2013 3:36 PM
To: Angelica Williams; Jared Ausserer
Cc: richardwarnerlaw@gmail.com
Subject: RE: Jake Musga

Jared & Angelica:

There will be a plea, we talked to our client today and he is in agreement.

Let's try to get a plea date set up, sometime in the next couple of weeks. As we discussed, we can set out sentencing to allow for evaluations and preparation for our mitigation materials.

Keith Hall
Attorney at Law

James Newton Attorney at Law, PLLC
610 Central Avenue South
Kent, WA 98032
253.852.6600 office
253.852.6800 fax
keith@jimnewtonlaw.com
www.jimnewtonlaw.com

-----Original Message-----

From: Keith Hall
Sent: Friday, August 23, 2013 2:09 PM
To: 'Angelica Williams'; Jared Ausserer
Cc: richardwarnerlaw@gmail.com
Subject: RE: Jake Musga

Sounds good, see you then.

Keith Hall
Attorney at Law

James Newton Attorney at Law, PLLC
610 Central Avenue South
Kent, WA 98032
253.852.6600 office
253.852.6800 fax
keith@jimnewtonlaw.com
www.jimnewtonlaw.com

-----Original Message-----

From: Angelica Williams [<mailto:awilli4@co.pierce.wa.us>]
Sent: Friday, August 23, 2013 1:40 PM
To: Keith Hall; Jared Ausserer
Cc: richardwarnerlaw@gmail.com
Subject: RE: Jake Musga

Angelica Williams

From: richardwarnerlaw@gmail.com
Sent: Friday, October 18, 2013 7:49 AM
To: Jared Ausserer; Angelica Williams
Cc: Keith Hall; Angel Lombardo
Subject: Jake Musga

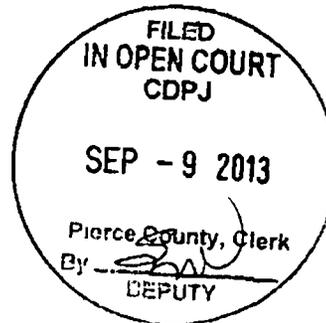
Good morning. Just to make sure our files are complete and nothing has been overlooked have you received any DNA results from the WSPCL? Thanks, RW

The Fine Print: Confidentiality. This email is covered by the Electronic Communications Privacy Act, 18 USC 2510-2521, and is legally privileged. This email and any attachments are confidential and may also be protected by attorney client privilege, the work product doctrine or other non-disclosure protection. If you believe that it has been sent to you in error, you may not read, print, disclose, copy, store or disseminate the email or attachments or any information in them. Please reply to the sender noting that you have received the message in error and then delete it. Thank you.

APPENDIX “U”

*Certified Rape 1 Guilty Plea (pg. 1-9)
With Sex Offender Attachment*

Case Number: 13-1-01369-1 Date: May 8, 2015
SerialID: 342720C5-F20F-6452-DF6A7C43A4B20EBB
Certified By: Kevin Stock Pierce County Clerk, Washington



**Superior Court of Washington
For Pierce County**

State of Washington
Plaintiff

vs

JAKE J. MUSGA
Defendant

No. 13-1-01369-1

Statement of Defendant on Plea of Guilty to Sex Offense (STTDFG)

1. My true name is: JAKE JOSEPH MUSGA

2. My age is: 19

3. The last level of education I completed was H.S.

4. I Have Been Informed and Fully Understand That:

(a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me My lawyer's names are: KEITH HALL AND RICHARD WARNER.

(b) I am charged with the crime(s) of RAPE OF A CHILD 1 (COUNT 2) as set out in the ORIGINAL Information, dated, APRIL 3, 2013 copy of which I hereby acknowledge previously receiving and reviewing with my lawyer JM (Defendant's initials)

The elements of this crime [] these crimes are as set out in the ORIGINAL Information, dated APRIL 3, 2013 copy of which I hereby acknowledge previously receiving and reviewing with my lawyer. JM (Defendant's initials)

_____ Additional counts are addressed in Attachment "B"

5. I Understand I Have the Following Important Rights, and I Give Them Up by Pleading Guilty

(a) The right to a speedy and public trial by an impartial jury in the county where the crime
Statement on Plea of Guilty to Sex Offense (STTDFG) - Page 1 of 9
CrR 4 2(g) (2/2012)

Case Number: 13-1-01369-1 Date: May 8, 2015
 SerialID: 342720C5-F20F-6452-DF6A7C43A4B20EBB
 Certified By: Kevin Stock Pierce County Clerk, Washington

- was allegedly committed;
- ✓ (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- ✓ (c) The right at trial to hear and question the witnesses who testify against me,
- ✓ (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me,
- ✓ (e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty,
- ✓ (f) The right to appeal a finding of guilt after a trial as well as other pre-trial motions such as time for trial challenges and suppression issues.

6. **In Considering the Consequences of My Guilty Plea, I Understand That:**

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a **Standard Sentence Range** as follows:

COUNT NO	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	TOTAL CONFINEMENT range (enhancement)	ACTUAL (standard including)	COMMUNITY CUSTODY (Only applicable for crimes committed on or after July 1, 2000 For crimes committed prior to July 1, 2000 see paragraph 6(f))	MAXIMUM TERM AND FINE	
1								
✓ 2	2	111 - 147 mos*	N/A	111 - 147 mos		LIFE	LIFE AND/OR \$50,000.	
3		* THIS IS AN INDETERMINATE SENTENCE WITH A MAXIMUM OF LIFE PURSUANT TO RCW 9.94A.535						

* Each sentencing enhancement will run consecutively to all other parts of my entire sentence, including other enhancements and other counts. The enhancement codes are (F) Firearm, RCW 9.94A 533, (D) Other deadly weapon, RCW 9.94A 533, (SM) Sexual Motivation, RCW 9.94A 533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A 533(9), (CSG) Criminal street gang involving minor, RCW 9.94A 533, (AE) Endangerment while attempting to elude, RCW 9.94A 533

- ✓ (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- ✓ (c) The prosecuting attorney's statement of my criminal history is attached to this statement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If the prosecutor and I disagree about the computation of the offender score, I understand that this dispute will be resolved by the court at sentencing. I waive any right to challenge the acceptance of my guilty plea on the grounds that my offender score or standard range is lower than what is listed in paragraph 6(a). If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- ✓ (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history

is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.

- ✓ (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment and any mandatory fines or penalties that apply to my case. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.
- (f) **For sex offenses committed prior to July 1, 2000:** In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is more than one year, the judge will order me to serve three years of community custody or up to the period of earned early release, whichever is longer. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.
- For sex offenses committed on or after July 1, 2000 but prior to September 1, 2001:** In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, the judge will sentence me to community custody for 36 months or up to the period of earned release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.
- ✓ **For sex offenses committed on or after September 1, 2001:** (i) Sentencing under RCW 9.94A.507: If this offense is any of the offenses listed in subsections (aa) or (bb), below, the judge will impose a maximum term of confinement consisting of the statutory maximum sentence of the offense and a minimum term of confinement either within the standard range for the offense or outside the standard range if an exceptional sentence is appropriate. The minimum term of confinement that is imposed may be increased by the Indeterminate Sentence Review Board if the Board determines by a preponderance of the evidence that it is more likely than not that I will commit sex offenses if released from custody. In addition to the period of confinement, I will be sentenced to community custody for any period of time I am released from total confinement before the expiration of the maximum sentence. During the period of community custody I will be under the supervision of the Department of Corrections and I will have restrictions and requirements placed upon me, which may include electronic monitoring, and I may be required to participate in rehabilitative programs.

(aa) If the current offense is any of these offenses or attempt to commit any of these offenses

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree committed when I was at least 18 years old	Rape of a child in the second degree committed when I was at least 18 years old
Child molestation in the first degree committed when I was at least 18 years old	Indecent liberties by forcible compulsion
Any of the following offenses with a finding of sexual motivation	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Kidnapping in the second degree	Assault in the first degree
Assault in the second degree	Assault of a child in the first degree
Assault of a child in the second degree	Burglary in the first degree

(bb) If the current offense is any sex offense and I have a prior conviction for any of these offenses or attempt to commit any of these offenses:

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree	Rape of a child in the second degree
Child molestation in the first degree	Indecent liberties by forcible compulsion
Any of the following offenses with a finding of sexual motivation:	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Kidnapping in the second degree	Assault in the first degree
Assault in the second degree	Assault of a child in the first degree
Assault of a child in the second degree	Burglary in the first degree

(ii) If this offense is a sex offense that is not listed in paragraph 6(f)(i), then in addition to sentencing me to a term of confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, or if my crime is failure to register as a sex offender, and this is my second or subsequent conviction of that crime, the judge will sentence me to community custody for 36 months or up to the period of earned release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me, which may include electronic monitoring.

For sex offenses committed on or after March 20, 2006 For the following offenses and special allegations, the minimum term shall be either the maximum of the standard sentence range for the offense or 25 years, whichever is greater

- 1) If the offense is rape of a child in the first degree, rape of a child in the second degree or child molestation in the first degree and the offense includes a special allegation that the offense was predatory.
- 2) If the offense is rape in the first degree, rape in the second degree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation and the offense includes special allegation that the victim of the offense was under 15 years of age at the time of the offense.
- 3) If the offense is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation and this offense includes a special allegation that the victim of the offense was, at the time of the offense, developmentally disabled, mentally disordered, or a

frail elder or vulnerable adult

Community Custody Violation: If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 60 days confinement per violation and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation

(g) The prosecuting attorney will make the following recommendation to the judge:
Open recommendation - State seeking exceptional

The prosecutor will recommend as stated in the plea agreement, which is incorporated by reference.

(h) **The judge does not have to follow anyone's recommendation as to sentence.** The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so (except as provided in paragraph 6(f)). I understand the following regarding exceptional sentences:

(i) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence

(ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.

(iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act

(iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts

If the court imposes a standard range sentence, then no one may appeal the sentence. If the court imposes an exceptional sentence after a hearing, either the State or I can appeal the sentence.

(i) **If I am not a citizen of the United States,** a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States

- ✓ (j) I understand that I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.
- ✓ (k) I understand that I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled Wash. Const. art. VI, § 3, RCW 29A.04 079, 29A.08 520.
- (l) Government assistance may be suspended during any period of confinement.
- ✓ (m) I will be required to register where I reside, study or work. The specific registration requirements are described in the "Offender Registration" Attachment.
- (n) I will be required to have a biological sample collected for purposes of DNA identification analysis, unless it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense. I will be required to pay a \$100.00 DNA collection fee.
- (o) I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.

Notification Relating to Specific Crimes: If any of the following paragraphs DO NOT APPLY, counsel and the defendant shall strike them out. The defendant and the judge shall initial all paragraphs that DO APPLY.

- _____ (p) ✓ This offense is a most serious offense or "strike" as defined by RCW 9 94A 030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the offense for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. In addition, if this offense is (i) rape in the first degree, rape of a child in the first degree, rape in the second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child molestation in the first degree, or (ii) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree, with a finding of sexual motivation, or (iii) any attempt to commit any of the offenses listed in this sentence and I have at least one prior conviction for one of these listed offenses in this state, in federal court, or elsewhere, the offense for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.

- JM (q) ~~Special sex offender sentencing alternative~~ In addition to other eligibility requirements under RCW 9.94A 670, to be eligible for the special sex offender sentencing alternative, I understand that I must voluntarily and affirmatively admit that I committed all of the elements of the crime(s) to which I am pleading guilty. I make my voluntary and affirmative admission in my statement in paragraph 11

For offenses committed before September 1, 2001 The judge may suspend execution of the standard range term of confinement under the special sex offender sentencing

alternative (SSOSA) if I qualify under former RCW 9.94A 120(8) (for offenses committed before July 1, 2001) or RCW 9.94A.670 (for offenses committed on or after July 1, 2001). If the judge suspends execution of the standard range term of confinement, I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater; I will be ordered to serve up to 180 days of total confinement; I will be ordered to participate in sex offender treatment, I will have restrictions and requirements placed upon me, and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

For offenses committed on or after September 1, 2001: The judge may suspend execution of the standard range term of confinement or the minimum term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.670. If the judge suspends execution of the standard range term of confinement for a sex offense that is not listed in paragraph 6(f)(i), I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater. If the judge suspends execution of the minimum term of confinement for a sex offense listed in paragraph 6(f)(i), I will be placed on community custody for the length of the statutory maximum sentence of the offense. In addition to the term of community custody, I will be ordered to serve up to 180 days of total confinement if I committed the crime prior to July 1, 2005, or up to 12 months with no early release if I committed the crime on or after July 1, 2005; I will be ordered to participate in sex offender treatment; I will have restrictions and requirements placed upon me, which may include electronic monitoring, and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

_____ (r) If this is a crime of domestic violence, the court may order me to pay a domestic violence assessment of up to \$100.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

_____ (s) If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.

JM (t) I understand that RCW 46.20 285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.

JM (u) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[p].

JM

(v) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.

JM

(w) The offense(s) I am pleading guilty to include(s) a deadly weapon, firearm or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.

JM

(x) For crimes committed on or after July 22, 2007: If I am pleading guilty to rape of a child in the first, second, or third degree or child molestation in the first, second or third degree, and I engaged, agreed or offered to engage the victim in sexual intercourse or sexual contact for a fee, or if I attempted, solicited another, or conspired to engage, agree or offer to engage the victim in sexual intercourse or sexual contact for a fee, then a one-year enhancement shall be added to the standard sentence range. If I am pleading guilty to more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement.

7. I plead guilty to: count(s) 2, as charged in the ORIGINAL Information, dated APRIL 3, 2013 I have received a copy of that Information and reviewed it with my lawyer.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement:

IN PIERCE COUNTY, WASHINGTON BETWEEN 3/29/13 AND 3/30/13 I WAS MORE THAN 24 YEARS OLDER THAN CC (DOB 3/5/11) WHEN I UNLAWFULLY AND FELONIOUSLY ENGAGED IN SEXUAL INTERCOURSE WITH CC, MY GIRLFRIEND'S SON, WHO WAS TWO YEARS OLD, NOT MARRIED TO ME OR IN A STATE REGISTERED DOMESTIC PARTNERSHIP WITH ME. I HAD BEEN DRINKING - A LOT - WHEN I LOST MY TEMPOR AFTER HE PEE'D ON ME WHEN I WAS CHANGING HIS DIAPER AND I PUT MY FINGER IN HIS RECTUM WHICH WAS DELIBERATELY CRUEL BECAUSE HE COULDN'T REGIST BECAUSE OF HIS AGE.

JM

[] Instead of making a statement, I agree that the court may review the police reports and/or a

statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

- 12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

[Signature]
 Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

[Signature] 21394
 Defendant's Lawyer

[Signature]
 Prosecuting Attorney

Angelica Williams 36673
 Print Name WSBA No.

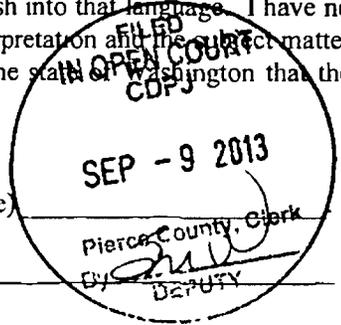
Defendant's Lawyer

RICHARD WITTEK 21394
 Print Name WSBA No.

The defendant signed the foregoing statement in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box].

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is attached.

Interpreter's Declaration: I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands. I have translated and interpreted this document for the defendant from English into that language. I have no reason to believe that the defendant does not fully understand both the interpretation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct



Signed at (city) _____, (state) _____, on (date) _____

Interpreter _____

Print Name _____

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated. Sept. 9, 2013

[Signature]
 Judge

Case Name Take MUSE Cause No. 13-1-01369-1

“Offender Registration” Attachment: sex offense, or kidnapping offense involving a minor as defined in RCW 9A.44.128. (If required, attach to Statement of Defendant on Plea of Guilty.)

1. General Applicability and Requirements Because this crime involves a sex offense, or a kidnapping offense involving a minor as defined in RCW 9A 44.128, I will be required to register

If I am a resident of Washington, I must register with the sheriff of the county of the state of Washington where I reside I must register within three business days of being sentenced unless I am in custody, in which case I must register at the time of my release with the person designated by the agency that has jurisdiction over me I must also register within three business days of my release with the sheriff of the county of the state of Washington where I will be residing.

If I am not a resident of Washington but I am a student in Washington or I am employed in Washington or I carry on a vocation in Washington, I must register with the sheriff of the county of my school, place of employment, or vocation I must register within three business days of being sentenced unless I am in custody, in which case I must register at the time of my release with the person designated by the agency that has jurisdiction over me. I must also register within three business days of my release with the sheriff of the county of my school, where I am employed, or where I carry on a vocation.

2. Offenders Who are New Residents or Returning Washington Residents If I move to Washington or if I leave this state following my sentencing or release from custody but later move back to Washington, I must register within three business days after moving to this state. If I leave this state following my sentencing or release from custody, but later while not a resident of Washington I become employed in Washington, carry on a vocation in Washington, or attend school in Washington, I must register within three business days after attending school in this state or becoming employed or carrying out a vocation in this state

3. Change of Residence Within State. If I change my residence within a county, I must provide, by certified mail, with return receipt requested or in person, signed written notice of my change of residence to the sheriff within three business days of moving If I change my residence to a new county within this state, I must register with the sheriff of the new county within three business days of moving. Also within three business days, I must provide, by certified mail, with return receipt requested or in person, signed written notice of my change of address to the sheriff of the county where I last registered

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

5. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12) I must give notice to the sheriff of the county where I am registered within three business days:

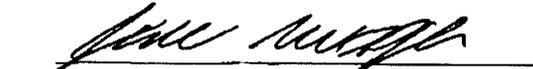
- i) before arriving at a school or institution of higher education to attend classes,
- ii) before starting work at an institution of higher education; or
- iii) After any termination of enrollment or employment at a school or institution of higher education

6. Registration by a Person Who Does Not Have a Fixed Residence Even if I do not have a fixed residence, I am required to register Registration must occur within three business days of release in the county where I am being supervised if I do not have a residence at the time of my release from custody Statement on Plea of Guilty (“Offender Reg ” Attachment) - Page 1 of 2

Within three business days after losing my fixed residence, I must send signed written notice to the sheriff of the county where I last registered. If I enter a different county and stay there for more than 24 hours, I will be required to register with the sheriff of the new county not more than three business days after entering the new county. I must also report in person to the sheriff of the county where I am registered on a weekly basis. The weekly report will be on a day specified by the county sheriff's office, and shall occur during normal business hours. I must keep an accurate accounting of where I stay during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level and shall make me subject to disclosure to the public at large pursuant to RCW 4.24.550.

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

Date: 9-6-13


Defendant's signature

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 08 day of May, 2015



Kevin Stock, Pierce County Clerk

By /S/Kayley Pitzele, Deputy.
Dated: May 8, 2015 8:31 AM



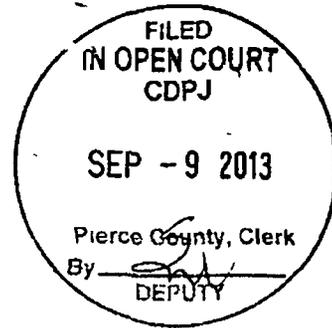
Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter SerialID: 342720C5-F20F-6452-DF6A7C43A4B20EBB.

This document contains 11 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “V”

Certified Murder 1 Guilty Plea (pg. 1-10)



**Superior Court of Washington
For Pierce County**

State of Washington
Plaintiff

vs.

JAKE J. MUSSA
Defendant

No. 13-1-01369-1

**Statement of Defendant on Plea of
Guilty to Non-Sex Offense
(STTDFG)**

1. My true name is: JAKE JOSEPH MUSSA
2. My age is: 19
3. The last level of education I completed was H.S.
4. **I Have Been Informed and Fully Understand That:**
 - (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's names are: KEITH HALL AND RICHARD WATKIN
 - (b) I am charged with the crime(s) of MURDER 1° (COUNT 1) as set out in the Original Information, dated, 4/13/13, a copy of which I hereby acknowledge previously receiving and reviewing with my lawyer JM
(Defendant's initials)

The elements of [] this crime [] these crimes are as set out in the _____ Information, dated _____ a copy of which I hereby acknowledge previously receiving and reviewing with my lawyer _____
(Defendant's initials)

_____ Additional counts are addressed in Attachment "B"

5. **I Understand I Have the Following Important Rights, and I Give Them Up by Pleading Guilty:**

- ✓ (a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly committed;
- ✓ (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- ✓ (c) The right at trial to hear and question the witnesses who testify against me;
- ✓ (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- ✓ (e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty;
- ✓ (f) The right to appeal a finding of guilt after a trial as well as other pretrial motions such as time for trial challenges and suppression issues.

6. **In Considering the Consequences of My Guilty Plea, I Understand That:**

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a **Standard Sentence Range** as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f).)	MAXIMUM TERM AND FINE
✓ 1	2	261 - 347 mos.	N/A	36 mos.	LIFE AND/OR \$50,000.
2					
3					

*Each sentencing enhancement will run consecutively to all other parts of my entire sentence, including other enhancements and other counts. The enhancement codes are: (F) Firearm, RCW 9 94A 533, (D) Other deadly weapon, RCW 9.94A 533, (V) VUCSA in protected zone, See RCW 69.50.435, RCW 9 94A 6533 (6), (VH) Veh Hom, see RCW 46 61.520, (JP) Juvenile present, See RCW 9 94A.605, (CSG) Criminal street gang involving minor, RCW 9.94A.533, (AE) Endangerment while attempting to elude. RCW 9 94A 533

- ✓ (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- ✓ (c) The prosecuting attorney's statement of my criminal history is attached to this statement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If the prosecutor and I disagree about the computation of the

offender score, I understand that this dispute will be resolved by the court at sentencing. I waive any right to challenge the acceptance of my guilty plea on the grounds that my offender score or standard range is lower than what is listed in paragraph 6(a). If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

- ✓ (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- ✓ (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment and any mandatory fines or penalties that apply to my case. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.
- (f) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the total period of confinement is more than 12 months, and if this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community custody. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community custody. The actual period of community custody may be longer than my earned early release period. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, under certain circumstances the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months, but only if the crime I have been convicted of falls into one of the offense types listed in the following chart. For the offense of failure to register as a sex offender, regardless of the length of confinement, the judge will sentence me for up to 12 months of community custody. If the total period of confinement ordered is more than 12 months, and if the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the term established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9 94A 728 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody term will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY TERM
Serious Violent Offenses as defined by RCW 9 94A 030(45)	36 months
Violent Offenses as defined by RCW 9.94A 030(54)	18 months
Crimes Against Persons as defined by RCW 9.94A.411(2)	12 months
Offenses under Chapter 69 50 or 69 52 RCW (not sentenced under RCW 9 94A.660)	12 months
Offenses involving the unlawful possession of a firearm where the offender is a criminal street gang member or associate	12 months

Certain sentencing alternatives may also include community custody.

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me, including additional conditions of community custody that may be imposed by the Department of Corrections. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 60 days confinement per violation and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

(g) The prosecuting attorney will make the following recommendation to the judge: _____
Open recommendation - State seeking exceptional

The prosecutor will recommend as stated in the plea agreement, which is incorporated by reference.

✓ (h) **The judge does not have to follow anyone's recommendation as to sentence.** The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so I understand the following regarding exceptional sentences:

- ✓ (i) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence
- (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine
- ✓ (iii) The judge may also impose an exceptional sentence above the standard range if

the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act

(iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

✓ I understand that if a standard range sentence is imposed upon an agreed offender score, the sentence cannot be appealed by anyone. If an exceptional sentence is imposed after a hearing, either the State or I can appeal the sentence.

✓ (i) **If I am not a citizen of the United States**, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

✓ (j) **I understand that I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition**, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.

✓ (k) **I understand that I will be ineligible to vote** until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A 04.079, 29A.08.520.

(l) **Government assistance may be suspended** during any period of confinement.

(m) **I understand that I will be required to have a biological sample collected** for purposes of DNA identification analysis. I will be required to pay a \$100.00 DNA collection fee

Notification Relating to Specific Crimes: If any of the following paragraphs DO NOT APPLY, counsel and the defendant shall strike them out The defendant and the judge shall initial all paragraphs that DO APPLY.

_____ (n) **This offense is a most serious offense or "strike"** as defined by RCW 9.94A 030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole

JM (o) ~~**The judge may sentence me as a first-time offender** instead of giving a sentence within the standard range if I qualify under RCW 9 94A 030. This sentence could include as much as 90 days' confinement and up to one year of community custody plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training~~

JM (p)

The judge may sentence me under the **Parenting Sentencing Alternative** if I qualify under RCW 9.94A.655. If I am eligible, the judge may order DOC to complete either a risk assessment report or a chemical dependency screening report, or both. If the judge decides to impose the **Parenting Sentencing Alternative**, the sentence will consist of 12 months of community custody and I will be required to comply with the conditions imposed by the court and by DOC. At any time during community custody, the court may schedule a hearing to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. The court may modify the conditions of community custody or impose sanctions. If the court finds I violated the conditions or requirements of the sentence or I failed to make satisfactory progress in treatment, the court may order me to serve a term of total confinement within the standard range for my offense.

JM (q)

If this crime involves **kidnapping involving a minor**, including unlawful imprisonment involving a minor who is not my child, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Offender Registration" Attachment. These requirements may change at a later date. I am responsible for learning about any changes in registration requirements and for complying with the new requirements.

JM (r)

If this is a **crime of domestic violence**, I may be ordered to pay a domestic violence assessment of up to \$100.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

JM (s)

If this crime involves **prostitution, or a drug offense associated with hypodermic needles**, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.

JM (t)

The judge may sentence me under the **drug offender sentencing alternative (DOSA)** if I qualify under RCW 9.94A.660. If I qualify and the judge is considering a residential chemical dependency treatment-based alternative, the judge may order that I be examined by DOC before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or a residential chemical dependency treatment-based alternative.

If the judge imposes the **prison-based alternative**, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12 months, whichever is greater. During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose a term of community custody of one-half of the midpoint of the standard range.

If the judge imposes the **residential chemical dependency treatment-based alternative**, the sentence will consist of a term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, and I will have to enter and remain in a certified residential chemical dependency treatment program for a period of *three to six months*, as set by the court.

As part of this sentencing alternative, the court is required to schedule a progress hearing during the period of residential chemical dependency treatment and a treatment termination hearing scheduled three months before the expiration of the term of community custody. At either hearing, based upon reports by my treatment provider and the department of

corrections on my compliance with treatment and monitoring requirements and recommendations regarding termination from treatment, the judge may modify the conditions of my community custody or order me to serve a term of total confinement equal to one-half of the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

During the term of community custody for either sentencing alternative, the judge could prohibit me from using alcohol or controlled substances, require me to submit to urinalysis or other testing to monitor that status, require me to devote time to a specific employment or training, stay out of certain areas, pay \$30.00 per month to offset the cost of monitoring and require other conditions, such as affirmative conditions, and the conditions described in paragraph 6(e). The judge, on his or her own initiative, may order me to appear in court at any time during the period of community custody to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. If the court finds that I have violated the conditions of the sentence or that I have failed to make satisfactory progress in treatment, the court may modify the terms of my community custody or order me to serve a term of total confinement within the standard range.

_____ (u) If I am subject to community custody and the judge finds that I have a **chemical dependency** that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.

JM (v) If this crime involves the **manufacture, delivery, or possession with the intent to deliver methamphetamine**, including its salts, isomers, and salts of isomers, or amphetamine, including its salts, isomers, and salts of isomers, and if a fine is imposed, \$3,000 of the fine may not be suspended. RCW 69 50.401(2)(b).

JM (w) If this crime involves a **violation of the state drug laws**, my eligibility for state and federal food stamps, welfare, and education benefits may be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 862a.

JM (x) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the judge finds **I used a motor vehicle in the commission of this felony**.

JM (y) If this crime involves the offense of **vehicular homicide** while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61 502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46 61.5055(14)

JM (z) If I am pleading guilty to **felony driving under the influence of intoxicating liquor or any drugs, or felony actual physical control** of a motor vehicle while under the influence of intoxicating liquor or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked or denied. Following the period of suspension, revocation or denial, I must comply with ignition interlock device requirements

- JM (aa) ~~The crime of _____ has a mandatory **minimum sentence** of at least _____ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of *juvenile court jurisdiction*. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[n].~~
- JM (bb) ~~I am being **sentenced for two or more serious violent offenses** arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.~~
- JM (cc) ~~I understand that the offense(s) I am pleading guilty to include(s) a **Violation of the Uniform Controlled Substances Act in a protected zone enhancement or manufacture of methamphetamine when a juvenile was present** in or upon the premises of manufacture enhancement. I understand these enhancements are mandatory and that they must run consecutively to all other sentencing provisions.~~
- JM (dd) ~~I understand that the offense(s) I am pleading guilty to include(s) a **deadly weapon, firearm, or sexual motivation enhancement**. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.~~
- JM (ee) ~~I understand that if I am pleading guilty to (1) **unlawful possession of a firearm(s) in the first or second degree** and (2) **felony theft of a firearm or possession of a stolen firearm**, I am required to serve the sentences for these crimes consecutively to one another. If I am pleading guilty to **unlawful possession of more than one firearm**, I must serve each of the sentences for unlawful possession consecutively to each other.~~
- JM (ff) ~~If I am pleading guilty to the crime of **unlawful practices in obtaining assistance** as defined in RCW 74.08.331, no assistance payment shall be made for at least six months if this is my first conviction and for at least 12 months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.~~
- JM (gg) ~~The judge may authorize **work ethic camp**. To qualify for work ethic authorization my term of total confinement must be more than twelve months and less than thirty-six months, I cannot currently be either pending prosecution or serving a sentence for violation of the uniform controlled substance act and I cannot have a current or prior conviction for a sex or violent offense. RCW 9 94A.690~~

- 7. I plead guilty to count(s) 1 as charged in the ORIGINAL Information, dated APRIL 3, 2013 I have received a copy of that Information and reviewed it with my lawyer.
- 8. I make this plea freely and voluntarily
- 9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
- 10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

FURTHERMORE, THE INJURIES SUFFERED BY C.C. SUBSTANTIALLY EXCEEDED THE LEVEL OF BODILY HARM NECESSARY TO PROVE THE ELEMENTS OF THIS OFFENSE AS C.C. HAD NUMEROUS INJURIES TO HIS HEAD, THROAT, RECTUM AND SEVERE BRUISING ALL OVER HIS BODY.

Case Number: 13-01369 Date: May 8, 2016
 Verified By: Kevin Sloger Pierce County Clerk, Washington

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement: IN PIERCE COUNTY, WASHINGTON BETWEEN 3/29/13 AND 3/30/13 I UNLAWFULLY AND FELONIOUSLY CAUSED THE DEATH OF C.C. (DOB. 3/5/11), A HUMAN BEING, WHO WAS NOT A PARTICIPANT IN SUCH CRIME. C.C. WAS PARTICULARLY VULNERABLE BECAUSE HE WAS ONLY TWO YEARS OLD AND INCAPABLE OF RESISTING AND MY CONDUCT WAS DELIBERATELY CRUEL. I HAD BEEN DRINKING - A LOT - AND LOST MY TEMPER AFTER HE PEE'D ALL OVER ME WHEN I WAS CHANGING HIS DIAPER SO I PICKED HIM UP AND SLAMMED HIM INTO THE FLOOR. WHEN HE WOULD NOT STOP CRYING I PUT MY FINGER INTO HIS RECTUM SO MY ACTS WERE DONE IN THE COURSE OF THE CRIME OF RAPE OF A CHILD IN THE FIRST DEGREE, RESULTING IN THE DEATH OF C.C.
- [] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.
12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment, if applicable. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

JM
 JM

[Signature]
 Defendant

I have read and discussed this statement with the defendant. I believe that the defendant is competent and fully understands the statement.

[Signature] 21399
 Defendant's Lawyer

[Signature]
 Prosecuting Attorney

Angelica Williams 36673
 Print Name WSBA No

RICHARD WARRICK 21399
 Print Name WSBA No.

The defendant signed the foregoing statement in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is included below

Interpreter's Declaration I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands. I have translated and interpreted this document for the defendant from English into that language. I have no reason to believe that the defendant does not fully understand both the interpretation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____, on (date) _____.

Interpreter

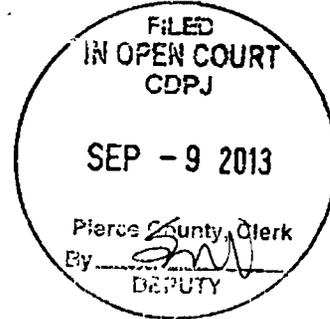
Print Name

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: _____

By: [Signature]

Judge



State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 08 day of May, 2015



Kevin Stock, Pierce County Clerk

By /S/Kayley Pitzele, Deputy.

Dated: May 8, 2015 8:31 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter SerialID: 342723C3-F20F-6452-D5D0E15972591824.

This document contains 10 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “W”

Certified Defense Sentencing Memorandum With Attachments (pg. 1-18)



Case Number: 13-1-01369-1 Date: May 11, 2015
SerialID: 4381C595-F20F-6452-D80F6710D60F2028
Certified By: Kevin Stoddard, Washington Superior Court Judge Chushcoff

13-1-01369-1 41604617 NOTE 11-22-13

ved By

DATE: November 21st, 2013

TIME: 1:30 pm

2

2013 NOV 19 PM 2:08

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Superior Court Administration

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IN THE SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

8

STATE OF WASHINGTON,

No. 13-1-01369-1

9

Plaintiff,

DEFENSE PRESENTENCING DOCUMENTS

10

vs.

11

JAKE JOSEPH MUSGA,

12

Defendant.

13

14

Sentencing Judge: Hon. Bryan Chushcoff
Sentencing Date: Thursday November 21, 2013 at 1:30 p.m.

15

16

CHARGES

17

Mr. Jake Musga was found guilty on September 9, 2013 after voluntarily and knowingly entering pleas of "guilty" to two counts, Count 1, Murder in the First Degree, RCW 9A.32.030(1)(c), with Aggravating Circumstances, RCW 9.94A.535(3)(b) and (c) and in Count 2 to Rape of a Child in the First Degree, RCW 9A.44.083. Mr. Musga has no prior adult felony convictions. Because each count adds two points against the other count, his Offender Score is "2".

23

On Count 1, the Murder in the First Degree count is a Level XV, Class A, Serious Violent felony with a maximum sentence of Life in prison and/or a \$50,000. fine. On this count the standard sentencing range for an individual with a score of "2" is 261-347 months in custody with 36 months of Community Custody.

24

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DEFENSE PRESENTENCING DOCUMENTS - 1

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1 On Count II, the Rape of a Child in the First Degree count is a Level XII, Class A,
2 Violent felony with a maximum sentence of Life in prison and/or a \$50,000.00 fine. On this
3 count the standard sentencing range for an individual with an offender score of "2" is 111 to
4 147 months in custody, however, it is an Indeterminate Sentence offense, pursuant to RCW
5 9.94A.712, where the minimum sentence is the standard sentence range of 111 to 147 months
6 and the maximum is the statutory maximum for the offense, in this case Life in prison. The
7 defendant will be on Lifetime Community Custody when, and if, he is released by the
8 Indeterminate Sentence Review Board.

9 STATE'S RECOMMENDATIONS

10 The State is recommending an exceptional sentence of 720 months to Life, \$500.00
11 CVPA, the \$200.00 filing, the \$100.00 DNA fee, and a restitution amount to be determined at a
12 later date.

13 DEFENSE RECOMMENDATIONS

14 Because he is subject to an Indeterminate Sentence on Count 2, the Defense is
15 recommending the Court sentence Mr. Musga to a mid-range standard range sentence of 300
16 months on Count 1, with credit for any time served, to be served concurrently with Count 2,
17 with credit for time already served, the mandatory \$500 CVPA, \$100 DNA fee, Restitution, if
18 any, to be determined, and Lifetime Community Custody.

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20 FACTUAL BASIS FOR DEFENSE RECOMMENDATIONS

21 The Court has had the opportunity to review both parties supporting documentation as well
22 as the Certification for Determination of Probable Cause and their respective arguments.

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Case Number: 13-1-01369-1 Date: May 11, 2015
SerialID: 4381C595-F20F-6452-D80F6710D60F2028
Certified By: Kevin Stock Pierce County Clerk, Washington

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CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court adopt the Defense Sentencing Recommendations.

Signed in Kent, Washington, this 18th day of November, 2013

/s/ Keith R. Hall
Keith R. Hall, WSBA #35802
Attorney for Defendant Jake Musga

Case Number: 13-1-01369-1 Date: May 11, 2015
SerialID: 4381C595-F20F-6452-D80F6710D60F2028
Certified By: Kevin Stock Pierce County Clerk, Washington

Honorable Judge: Bryan Chushcoff
Pierce County Superior Court Department 4
Tacoma, WA 98042

November 15, 2013

RE: Jake Musga
Case No. 13-1-01369-1

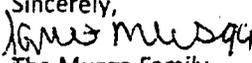
Your Honor,

I am Janet; Jake's Mother, I am here to speak for the Musga Family. Out of respect to Colley and Jones families we chose to have only Mike, Jake's dad, and myself here at the sentencing. But our entire family will always love and support Jake; now and forever.

We the Musga Family send our deepest sympathy and love to Laura, Brandon and both of your families, for the pain that will always be in your heart. To say we are sorry for your loss seems insignificant and wrong, for there is nothing we can say that will ease the pain and heart break you will always have. For this we are truly sorry. We know that if Jake could take your pain upon himself, he would.

This is one of the hardest letters we will ever have to write, for how do you ask for mercy & forgiveness for someone who held a dying child in their arms. As parents we are appalled, as Jake's family we are heartbroken, and as humans we want answers. We want to know why? How could this have happened? How could we have prevented this from happening? There is no answer. Jake has talked to me about this every day for months. And he too does not understand. But Jake is taking full responsibility for C█████'s death. He is extremely remorseful and saddened by his actions. Jake could have gone to trial and maybe gotten off on a technicality, or by a sympathetic jury. Maybe? But he didn't! He did not want any of us to go through the pain that a trial would have caused three families. This has affected us deeply because we are very close loving family. Jake has many older siblings, nieces, nephews, aunts, uncles & cousins that love him, and are also trying to understand what happened, and answer people's questions. Nothing like this has ever happened or should ever have happened to any of our families. We the Musga family would like to say we are extremely sorry; we would like to ask you for forgiveness & mercy for Jake's actions.

C█████'s death has been horrifically tragic for all three families. It has ripped us apart, yet brought us closer. We have been victimized over and over on social media, TV, the local newspapers and radio talk shows. C█████ is a happy little angel, and does not want to see his loved ones get swept up in the scandalized news reports. He wants his memory to be happy not sad. C█████ was a dear, sweet little boy who loved both families very much. May this day bring love, peace and forgiveness to your hearts? But most off all the Musga family prays that God blesses you and brings you some small measure of closure.

Sincerely,

The Musga Family.

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Honorable Judge: Bryan Chushcoff
Pierce County Superior Court Department 4
930 Tacoma Avenue S.
Tacoma, WA 98402

Re: Jake Musga

Dear Honorable Judge:

My name is Crystal Jenkin, I am writing this letter to you in order to plea for leniency in handing down Jake Musga's sentence on November 21, 2013. I have known Jake for three years. Jake dated my daughter, and I am also a friend of his mother Janet Musga. Jake and I had a rocky relationship while he dated my daughter over the years. There were times, when I would do everything motherly possible to separate those two, and other times when I have seen Jake at his best.

I feel like I have a pretty good insight, on the person Jake Musga really is. While interacting with Jake through turbulent times, I have witnessed him be a wonderful, generous, determined young man. Jake is very loyal and warm hearted, kind, ambitious and smart. Jake has always been patient and loving with my young son, who was always very excited to see and interact with Jake. I've seen Jake be charming and charismatic towards my daughter.

I have also witnessed Jake, be very devoted to his mother, who relied on him for regular assistance with household chores, yard work and errands. Jake would drop what he was doing to help others, without so much as a doubt, for his family, myself, friends and strangers. Jake has volunteered numerous times to help my father with hard physical work. Jake had changed his plans, to help me move for two days, in a one hundred degree weather, for nothing in return. Jake would always help anyone and never ask for anything in return.

I am absolutely heart broken, to hear about the heinous crime Jake has been convicted of. I'm sincerely truly saddened for all people affected by Jakes actions. I'm also relieved to know that Jake has had a spiritual awakening since his incarceration, and is standing up and owning the crime he has committed, the seriousness of his actions, and the behaviors and extreme hurt he has caused for all parties involved. I hope someday the victims and the Lord will forgive him for his sins. I fully realize and understand that Jake needs to, and will, pay the consequences for his crimes.

At the same time I feel like the odds of Jake reforming his life at his young age, with the right rehabilitation is very likely and high. I do not think society would benefit from sending Jake Musga to prison for the rest of his life. It would be detrimental to all concerned. I whole heartedly know Jake knows what he has done wrong, regrets doing what he did, and wants to go forward with his life. If granted the opportunity, I feel Jake will be a productive citizen in society, especially with support from family and friends.

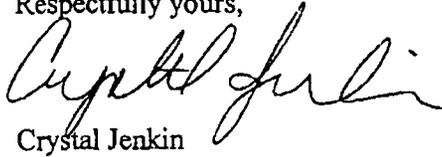
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I plea that you please take this letter into consideration, and into your heart. I beg that your ruling on this day, be merciful and not too punitive.

Respectfully yours,

A handwritten signature in cursive script, appearing to read 'Crystal Jenkin', written in black ink.

Crystal Jenkin

Case Number: 13-1-01369-1 Date: May 11, 2015
SerialID: 4381C595-F20F-6452-D80F6710D60F2028
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Kenneth Muscatel, Ph.D. tel/ fax: (206) 324-4443/e-mail: kmuscatel@msn.com
Clinical, Forensic and Neuropsychology 1001 Broadway, Suite 318
Seattle, Washington 98122-4304

Forensic Psychological Evaluation

NAME: Jake Musga
DATE OF BIRTH: 03-05-1994
AGE: 19
PSYCHOLOGICAL TESTS: Minnesota Multiphasic Personality Inventory-2 (MMPI-2)
MARITAL STATUS: Never married
EDUCATION: 11 plus years of high school, no special education, no degree or GED
OCCUPATION: Limited experience in construction, for approximately six months, last worked about a year ago
REFERRED BY: Richard Warner, attorney for Mr. Musga
DATE OF EXAMINATION: 09-19-2013
DATE OF REPORT: 11-8-2013
CAUSE NUMBER: 13-1-50500-0

REASON FOR REFERRAL:

Mr. Musga was referred for a psychological evaluation to determine his current mental state and his likely mental state at the time of the alleged offense. It is alleged that Mr. Musga on March 30, 2013, did commit murder in the first degree and rape of a child in the first degree, a child in his care at the time. The child was two years old at the time of this alleged incident.

PSYCHOLOGICAL TEST RESULTS:

The Minnesota Multiphasic Personality Inventory-2 (MMPI-2) was administered to Mr. Musga at the Pierce County Jail. The results of the tests were fairly remarkable for the lack of presentation of psychological symptoms and complaints. The Wiggins Social Desirability Scale was at 77, an elevated result that indicated Mr. Musga was attempting to portray himself in a socially appropriate and desirable manner, rather than trying to emphasize the presence of psychological problems and complaints. The validity scales on the MMPI-2 were all within normal limits, the only elevation being on scale K, which was at T-score 62, somewhat elevated but still within normal limits. The only near-elevation in the clinical scales was on scale 4, commonly seen in behavioral and characterological/personality disorders. A closer view of the elevation on scale 4 determined that he had a significant elevation on the subscale "Authority

Problems," at T-score 74, but none of the other scales demonstrated significant elevation. In fact, given the dire circumstances of Mr. Musga's current charges this MMPI-2 is all the more remarkable because there is no evidence of depression, subjective distress, social withdrawal, or feelings of isolation or alienation.

Based upon the clinical picture portrayed on this MMPI-2 appeared to be largely absent of serious psychopathology. Despite the current circumstances, Mr. Musga, is not depressed or even particularly anxious. Although he tends to be somewhat defended from a psychological standpoint, his capacity for insight and psychological sophistication appears to be adequate, certainly for the circumstances of this test. The only other element of note on the MMPI-2 responses was on the Content scales, in which there was a significant elevation on the "Anger" factor, at T-score 78. That is a significant elevation, but I noted it was not sustained across the wider range of responses on the clinical scales of the MMPI-2. Ego strength is well intact, and Mr. Musga does not appear overwhelmed or unduly distressed by his current circumstances, either anxiety or depression. The MacAndrew's Alcoholism Scale was a T-score 69, a mild elevation suggesting that he does in fact have problems in his use of alcohol (hardly surprising given the circumstances of the current charges). He also was elevated on the scale of "Addiction Potential" in which he had a T-score of 73, again not surprising given the information garnered in both the interview and in the police reports about his history and behavior. Otherwise, the MMPI-2 does not suggest the presence of a major mental disorder or even a major behavioral disturbance, including personality functions and the like.

BEHAVIORAL OBSERVATIONS AND INTERVIEW:

I interviewed Mr. Musga in an interview room at the Pierce County Jail. Mr. Musga was friendly and affable, and relatively relaxed, somewhat surprising given the circumstances in which the interview was conducted, as well as the charges that he faced.

Mr. Musga was fully aware of those charges and the potential penalty for this alleged offense, which would include several decades in prison.

Mr. Musga indicated that he was only out of high school for a couple years at the time of this incident, but had problems in the past with both heroin and to a lesser extent, alcohol. He had been through treatment twice at Olalla Treatment Centers, most recently in January 2013. It is there he met his girlfriend, the mother of the decedent child who was the victim in this crime. Mr. Musga indicated he has six months of work experience working in construction, his last work coming about a year ago. He worked on residential construction. I asked about how he supported himself since his last job and he said he had just moved

to Tacoma and his girlfriend was the leasing agent for an apartment building and they were living there for free. He said they had been there for only a month at the time of the alleged offense. He said he did not have any formal job during that period, and they survived through the proceeds of her job and food stamps. As noted, they met at the substance abuse treatment center (Olalla) around the end of December 2012. The incident occurred on March 29th and/or 30th, 2013.

Mr. Musga indicated he had been arrested in the past but had only been in jail for a week on the violation of a no-contact order. He also has a pending charge in Snohomish County for theft of a firearm, which currently is not adjudicated and which he is hoping to get dropped. He denied any juvenile institutional incarceration. I asked Mr. Musga about his pattern of alcohol and drug abuse. He insisted that he never was a big drinker, in part because when he drinks he does not remember anything. The treatment at Olalla was primarily for his heroin abuse. He was treated there twice, in July 2011 and in December 2012.

He indicated he started smoking marijuana and drinking in the seventh grade, at approximately 13 years of age. He said he just drank a little bit but by the eighth grade was starting to smoke OxyContin, an opiate pain medication, and noted that he was doing this activity with "an older crowd." He said he "mellowed out" for a couple years, playing football in his sophomore year but at that time started to get into Percocet abuse and then heroin. He indicated he never used heroin IV, only ingesting heroin by smoking it. He said he started using heroin when he was 17 years of age, the same year that he dropped out of high school. (He was a senior in high school at the time.) He said he generally drank alcohol only 10 times a year or so, either beer or hard liquor, estimating that he drank each about half the time. He did have blackouts in the past, noting this is what happened on the night of the current incident. Prior to that he said he only had blackouts two or three times, usually at parties. He would drink and then wake up in a room at the party, with no idea what happened. I asked if he drank and used heroin at the same time, he said only a few times, but mostly he would do just one or the other.

I asked Mr. Musga if he had any mental health history and he said he was "a little bipolar" and was given Wellbutrin when he was 16 years old, but only took it for about a month. Otherwise, he never took any mental health medications. I asked if he saw a mental health practitioner during that time or at any other time, and he said around that time he saw a woman but just talked to her twice and did not go back. Again, this was when he was 16 years old and still in high school. He denied any suicidal thoughts, feelings, intents, or plans, and denied that he ever tried to hurt himself.

I asked Mr. Musga about any history of violent behavior in the past. He said as a juvenile he had been arrested for assault in the fourth degree, but the charge was dropped after he attended a two-hour class in anger management. He was only 12 or 13 years old at the time. He denied any other violent behavior in the past, prior to this current period. Mr. Musga and I discussed his use of alcohol where he indicated that he has had hangovers in the past, particularly after he turned 18 years of age. I asked about alcohol-related blackouts, and he indicated that it depended on how much he drank, but these events would happen perhaps twice a year; however, nothing bizarre or truly unusual would occur during those events. He denied having a DUI in the past. He has attended AA while going to Olalla and, as previously noted, he has been treated twice at Olalla for substance abuse. He has been to NA outside of treatment but not AA outside of the treatment setting. When he went to NA, he said that he was sober for 130 days, from July 2011, after his first stint at Olalla, through the next four plus months. He indicated he was going to NA three times a week during that period.

With regard to his family history, Mr. Musga indicated his father had him and four other kids, but he is his mother's only child. His mother and father are no longer together, and he was 10 years old when they were divorced. I asked about violence in the household, and he said his parents would fight a lot, and sometimes his dad would throw things at his mother, largely because he was an alcoholic, but there was never any hitting. He denied any history of sexual, physical, or emotional abuse from his family, but noted in grade school he did not have a lot of friends because he was a "chunky kid" and was teased a lot. However, this changed in middle school when his body changed.

In the mental status examination, Mr. Musga denied auditory hallucinations, although he indicated that he sometimes heard a voice that was clearly his own thoughts at times. He indicated he did have visual hallucinations when he was drinking, but never when he was sober. He denied any paranoid or delusional thoughts or feelings. I asked about mood lability, and he indicated, "Yes, very much. If I'm happy, I'm really happy. If I'm sad, I'm really sad." He also indicated that he was prone to getting angry and irritated easily, and then also indicated that he got frustrated very easily, but it took a lot for him to act out on those feelings of frustration.

Mr. Musga played football in high school, playing on the defensive line and also played arena football as a linebacker. He said in football in his senior year, he had six personal fouls, but generally kept his temper under control during games. It is noted that Mr. Musga was kicked out of school his senior year and missed the last two games of the season. I asked Mr. Musga if he had taken steroids, and he indicated that he did try steroids during his junior year, and

taking two six-week cycles of steroids to build his body up. It is noted that he was at that time six foot two and weighed about 200 pounds.

I asked Mr. Musga if he was a patient individual, or if his irritability and tendency to get frustrated affected his tendency to get angry. He said it really depended, sometimes he has patience and sometimes he does not. He cited an example in jail where another inmate said that he wrote a "kite" and this got passed around, and he got upset. I asked if he had a lot of fights in the past, and he said he had a few fights when he was thirteen years old and in fact was stabbed once when he was at church. He said his frequency of fighting at school was only about once a year. In the stabbing, he was cut with a razor knife above the left eye. He was seventeen years old at the time.

I discussed with Mr. Musga the incident when he assaulted and actually stabbed above the eye when he was twelve years old. An email from Mr. Warner confirmed that Mr. Musga was assaulted at the age of twelve and spent several days in the hospital with a concussion. He said he was assaulted by a couple older boys, one who had brass knuckles and hit Jake over the eye. His head was backed up to a brick wall so that there was no room for his head to move, to better absorb the blows. Further documentation of this injury was not available, but it seems likely that he was in the hospital for a least a day or two due to a concussion. It is noted in this email that his mother and Jake both confirmed he began smoking pot and by the eighth grade was using heroin, although he smoked the heroin rather than engage in IV use.

I asked Mr. Musga if he had ever engaged in domestic violence, and he said, "Not at all." He said he had been around children many times and had babysat in the past.

I asked about the month of this incident, which was March, 2013. Mr. Musga said he used heroin when he got out of treatment, but only two times. He said this was his girlfriend's idea (the mother of the child), so they would both be getting high together. I asked about his use of alcohol during that period, and he said that they were drinking, noting that they bought a fifth of Burnett's (hard liquor). In fact, he said that he had finished the bottle off the night of the incident. With regard to his use of heroin, he said it was earlier in the month of March, and not near the night of the incident, which I have noted was March 30, 2013. He said he drank every once in a while, mostly every weekend, having a drink with Laura ("Lo"), the child's mother and his girlfriend. He said the night of the incident, the bottle was already two-thirds consumed, and he finished off the last third that night. With regard to the span of time in which he consumed the last third of the bottle (which I would estimate to be between eight and nine ounces of hard liquor) was probably four hours, by his estimate.

I asked Mr. Musga what was happening that day. Lo is five years older than Mr. Musga and her birthday was the next day. She went out with her sister to a bar in Elma, which Mr. Musga could not attend because he was not 21 years of age. He said Laura asked him to stay home and watch her son, Clayton. He was 2 years old at the time. Mr. Musga said earlier in the day he took Clayton to the park for a half hour, and then returned to the apartment to watch movies. While she was out, he said he called Laura a couple times to see how she was doing.

Mr. Musga indicated at 7 p.m. he started drinking the Burnett's liquor and some sort of soda, probably Pepsi. He said from that point on his memory of events became cloudier.

I asked what Mr. Musga did recall, and he said he remembered catching Clayton drinking out of his glass of alcohol. He said he went to the bathroom and saw him drinking out of his glass. He said "me being a drunken idiot," I gave him a little bit in a "sippy" cup and he drank some more. He said later that night Clayton threw up.

He said later on he remembered Clayton falling off the couch, indicating he fell straightforward onto his head. He said a little later the boy threw up and he took him into the shower to clean the child up.

He said a little later that night he called Laura, asking her how her night was going. This was around midnight. By that time, she had come back to her parents' home. She talked to her son briefly on the phone, he said.

He said he remembered trying to put Clayton to sleep later that night, but the boy would not fall asleep, so he let him stay up and watch movies with him (Mr. Musga) for a half hour and then put him back to bed.

Mr. Musga said the boy would not fall asleep, so he put the boy with him in the bed that he and Laura shared. He said he fell asleep until he heard a thud, and when he looked over he saw the boy was on the floor. He noted that the bed was high, about three feet off the ground. He said he picked up Clayton and put him on the bed, and he said the boy initially seemed fine; however, after 5 or 10 minutes, he realized the boy was not breathing. He took him out into the living room and tried to give him CPR, but Clayton still was not breathing, so he took him in his arms and ran down the stairs to the lobby of the apartment complex. He was trying to use the phone to call 911. Down in the lobby he saw a man and threw him the phone, telling him to call 911. They were on the phone, giving him instructions for CPR. He said about five minutes later the fire department

came and at that point took over the resuscitation efforts. The police arrived and took him to the station, where he said they interviewed him for eight hours.

I asked Mr. Musga how drunk he was at the time when he spoke to the police. He said he was still drunk, but the events that transpired were definitely "a sobering experience." He said the police never gave him a breathalyzer and never took a blood sample, even though he told them he had been drinking. He said they were very focused on ~~Clayson~~ and were not concerned about his under-age drinking. He was aware that the statement was being recorded. I asked Mr. Musga if the information that he provided to me was the same or different from what he told the police and he replied that it was about the same as far as he knew.

I asked Mr. Musga if he was fully aware of the allegations and he said that he was, but did not believe it at first and was going to fight it "for the longest time." I asked if this was hard for him to believe, and he said, "Yes, I've never been that kind of person in my entire life." He noted that, "Now, they're trying to give me 60 years."

REVIEW OF RECORDS:

In the Discovery, it was noted that Mr. Musga had called 911 at about four in the morning on 03-30-13 concerning a 2-year-old child who was having difficulty breathing. The child, ~~Clayson Colley~~, was not breathing and was transported to Mary Bridge Hospital. Mr. Musga was detained by police after being identified as the boyfriend of ~~Clayson~~'s mother, Laura Colley, who was not at the scene.

It is indicated that ~~Clayson~~ was in shock, and his condition was very bad. His condition was initially described as critical and stable, but he suffered a number of injuries, including visible bruises all over his body, including behind his ears, and there were two brain hemorrhages, rectal bleeding, a collapsed lung, and damage to the pancreas, and he was unresponsive. They also learned that ~~Clayson Colley~~ had a blood alcohol level of 0.124, and more than three hours later, he was declared deceased.

It is noted that a witness was outside the Commencement Terrace Apartments when he saw a man with a small child in the lobby of the building. The man, later identified as Jake Musga, and appeared to be performing CPR on the child. He also had a telephone in hand. This witness, Mr. Saldavia, signaled Mr. Musga to let him into the building, at which time Mr. Saldavia took the phone and called 911. He said that when he first saw Mr. Musga, it looked like he was trying to make a call. Mr. Saldavia said the child was wearing only a diaper, and he could see numerous bruises on the child.

In the preliminary statement by the arresting officer for probable cause dated 03-30-13, signed by Officer Nist, it was noted that the child was found to have bruises from head to toe, two brain bleeds, and abdominal bleeding. In addition, the child had an alcohol content of 0.124. It was indicated that Dr. Blake, the examining physician, believed there was a clear signs of abuse. It is noted in this document that Mr. Musga was interviewed and attributed the injuries to the child's behavior. Mr. Musga indicated the child was very rambunctious and fell a lot. Mr. Musga said the child had to be held down on Thursday evening, March 28th, in order to brush his teeth. During that time, the child fell, hitting his head on the floor. Mr. Musga also indicated on Friday evening, the night of the incident which extended into the early morning hours of March 30, the child fell in the shower.

I reviewed Mr. Musga's thirty seven page statement to the police following his arrest. He noted that he had made mistakes in his life, but he would never hit a child and said he had never even been in a fistfight. He said that playing football was the most contact he had ever had with another person. He also noted that he wanted to personally talk to the doctor to find out what the injuries really were (as if he didn't believe it), because he still did not understand what had happened. He indicated that the bruises to [REDACTED] were from hitting his head, although he also indicated that the alcohol would have had to been spoon fed to [REDACTED], which he did not do. He did note that he was careful about restricting access to his drink. He denied intentionally injuring [REDACTED] in any way. He also indicated he believed the bruises on his body were from past events, but the head injury occurred when he fell out of bed that night. He admitted that it was his fault the child had got a hold of the alcohol, and he took responsibility for leaving the alcohol open and available in his glass, unattended so [REDACTED] had access to it; however, he denied intentionally or willingly injuring the child. He reiterated that he was not a violent person and never touched or injured [REDACTED] inappropriately.

Review of records also confirmed that Laura Colley, mother of [REDACTED], had significant and serious drug abuse problems. Ms. Colley indicated that she got a call from Jake Musga around 3 a.m. on March 30, and Jake told her Chayson "still was not breathing very well." Laura said she told Jake she would be home in the morning to take [REDACTED] to the doctor. Laura said her parents did not wake her up and she slept until noon. The witness, Brandon Jones, indicated Laura did not go into any detail about [REDACTED]'s breathing. Brannon did indicate in a statement to the police that he believed Laura was capable of hurting [REDACTED], especially if she was high on drugs, noting she would get "pretty rowdy" and even saw her attack her sister once.

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In the medical records and in search warrant/affidavit, it was noted that C [REDACTED] had bruises all over his body. Alcohol, in particular vodka, was found in containers and cups. It was alleged objects were used to insert into the rectum and were tainted with blood and/or fecal matter on those objects. (Later lab results found no evidence of semen or the defendant's DNA). Narcotics were found at the scene, including opiates and methamphetamine. The documents quoted Dr. Blake, as indicated, that when the child arrived at the ER at Mary Bridge Hospital he was in critical condition with numerous old and new bruises all over his body. His eyes were fixed and dilated, and he was suffering from internal bleeding and a collapsed lung. He had rectal bleeding and an elevated level alcohol in his system. In search warrant/affidavit it was alleged the rectal bleeding was likely caused by physical abuse, and that the injuries were so severe the child would not likely survive. Dr. Blake ruled out the cause of injuries as non-accidental and raising substantial concerns about physical abuse.

As noted earlier, Mr. Musga indicated C [REDACTED] had fallen off the bed on several occasions, all of which were accidental. He indicated that vodka was present in the residence and used for personal consumption and he used a cup to drink, and it was possible C [REDACTED] got into that cup when he briefly left the room. He also indicated that Laura, the child's mother, noticed the bruises on C [REDACTED] in the past and had made statements that they should not take the child out into public because of those visible injuries, implying that the injuries were accidental and were the result of falling. Mr. Musga indicated that the drugs he and Lo used included opiates and methamphetamine (respectively), and he had met Ms. Colley at a drug treatment center where they were both recovering addicts.

I reviewed two documents from Olalla Recovery Center, the first document indicating Mr. Musga was admitted to the facility on 07-09-12 and discharged on 07-30-12. In the first inpatient treatment that he underwent, he was diagnosed with opioid dependence, cannabis dependence, cocaine dependence, and nicotine dependence. It was noted he willingly participated in treatment. He appeared to be engaged in the treatment process and open to both giving and receiving positive feedback during process groups. It was recommended that he have continuing care, including attendance with Narcotics Anonymous (NA).

In the clinical history, it was noted that Mr. Musga started using alcohol at age 13, when he was drinking up to 30 times a month, consuming a six-pack of beer per each use. Mr. Musga indicated at 15, he started drinking occasionally, consuming a half of a fifth of hard liquor per instance. He stated prior to entering treatment that his last use of alcohol was 06-10-12. He used sedatives such as benzodiazepines, and began using marijuana at age 13 and experimenting with heroin at age 17. The patient said he was smoking heroin daily, in the amount of one gram per use, and stated his last use of heroin was

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07-01-12, and it is noted this was only about a week before he entered treatment. He first used cocaine at age 16, indicating he was snorting and smoking it three times a week, about a gram per use, and last used cocaine in May 2012. His first use of crack/rock cocaine was at age 18, but said he only smoked it one time, but that was only a month before he entered treatment. He first used OxyContin when he was 15 years of age, smoking it daily, but had not used it since 2010. He also used hallucinogenics, and it was noted he started smoking cigarettes at age 13. The initial diagnostic assessment was alcohol dependence, sedative, hypnotic, anxiolytic abuse, amphetamine dependence, opioid dependence, cannabis dependence, hallucinogen abuse, and both nicotine dependence and caffeine intoxication.

His second stint at Olalla was from 12-29-12 through 01-16-13. The diagnoses remained the same. He was voluntarily admitted to the 28-day inpatient recovery program for chemical dependency and completed 18 of those days of residential inpatient treatment when he was involved in an argument with another male patient, and discharged from the facility for his own safety. It was indicated he would be allowed to readmit after 30 days, but this never occurred. The clinical history was the same as in the prior documented treatment course at Olalla (described above).

I was provided the Statement of Defendant on Plea of Guilty to Sex Offense, and Statement of Defendant on Plea of Guilty to Non-Sex Offense, both endorsed by Mr. Musga that include handwritten statements by him concerning the offense against C█████ that resulted in his assault and the death of the child. In the former statement he indicated he feloniously engaged in sexual intercourse with his girlfriend's son (C█████), indicated he had been drinking a lot, lost his temper after the boy urinated on him when he was changing the child's diaper and intentionally put her finger in the rectum of the child. He indicated he could not resist because of the child's age. In the latter statement, he endorsed losing his temper after heavy drinking and after the boy urinated on him while he was changing the child's diaper, so picked the boy up and "slammed him on the floor". When he did not stop crying he put his finger into the rectum of child. Both acts were conducted at the same time

CONCLUSIONS

In our interview Mr. Musga denied or said he had no recall of hurting this child, and found it upsetting to think the injuries to the child, including possible sexual injuries, were attributable to him. This is not what he endorsed on the statements of guilt to the non-sex and sex offenses, suggesting his actions were made out of frustration and impulsive anger.

In the statements of guilt and our interview he indicated he was highly intoxicated at the time of the incident, by his own admission and the evidence of the case, as well as the victim (aged only two), who was found to have a highly elevated blood alcohol level. The idea of putting alcohol in a "sippy cup" is remarkably bad but likely reflects his idiosyncratic thinking and immature, impulsive judgment.

Mr. Musga has been the subject of assault and attack himself, suffered when he was only twelve years of age. He has a lengthy history of heroin abuse, with alcohol a secondary drug but the primary drug of abuse in this incident. He had recently got out of treatment, where he met the child's mother, and was left to babysit a two year old while the mom was gone overnight, celebrating her birthday. Mr. Musga has had little in the way of a successful work history, his life as an adult barely started at the time of this incident.

There is no indication of major mental disorders, aside from chronic substance abuse and immature, distorted personal function. He has had problems in the past with figures of authority, and is not particularly anxious or depressed, remarkable given the very severe nature of the current charge and the likely incarceration he will face. In a very real sense, the full implication of the incident and the criminal justice consequences hasn't fully hit him.

Mr. Musga did express remorse and dismay at the allegations, but indicated he did not recall any of the alleged abuses the child must have suffered. This was likely due to his level of alcohol intoxication, but perhaps it is something he cannot face and blocked out of his memory. What he does recall is essentially incompetent child care, with the toddler falling off the bed and earlier, giving the child a little alcohol to drink after he said he caught him drinking out of a glass of alcohol Mr. Musga left unattended and then putting some in the child's cup. While this would make him criminal culpable to some degree, it is the alleged allegations of intentional abuse resulting in the death of the child that Mr. Musga faces. He asserted in the police interview and to me that he has no recall of doing that (aside from the alcohol). Thus, the alleged assault could not be explored by me in our examination, as he was not a witness to his own actions. If the child's injuries really were from accidental events, then Mr. Musga's lack of recollection would be expected. However, given his impaired mental state that night, with his lack of recall of events that are assumed to have been committed by him, he cannot tell this examiner anything about his thoughts, feelings, perceptions or decision-making when these putative events occurred.

The only likely explanation is that his substantial level of intoxication, immaturity, frustration and poor impulse control all contributed to the events that night. He may have mild post-traumatic stress symptoms and chronic mild

cognitive difficulties secondary to the assault when he was twelve. His lack of judgment is most notable; as it was evident he could not anticipate a common difficulty when it occurred (the child urinating on him during the diaper change) and lacked the coping skills to deal with sudden frustration when the little boy started to cry and would not stop. It appears the combination of the first incident (the urination) and the second incident, in which the child would not stop crying, resulted in the episode of impulsive, dyscontrolled violence. His underlying immaturity, ineffective internal controls, and poor judgment and emotional instability, combined with the effects of alcohol, are the reasons this tragedy ensued.

The years of opioid and alcohol abuse have likely impacted his thinking, judgment and emotional stability as well. He suggested he had bipolar symptoms, endorsing mood lability, easy irritability, and low frustration tolerance, all hallmarks of a mood disorder. The abuse of drugs and alcohol by someone with a Bipolar Illness is common, and Bipolar Illness may have played a significant role in his actions that night. Given his history and background this seems very likely, but his lack of recollection of specific acts that night, and the limited findings on the psychological testing, make Bipolar Disorder only a hypothesis to consider, but cannot be confirmed at this point.

Diagnosis (DSM-V)

Axis 1: Alcohol Dependence - moderate to severe (303.90)

Opioid Use Disorder - severe (304.00)

Axis 2: Personality Disorder, Unspecified (301.9)

Axis 3: History of concussion

Axis 4: Serious criminal justice stresses, unemployment stress, financial stresses

Axis 5: GAF scale- Moderate mental health symptoms (55)

Thank you for this referral.

Kenneth Muscatel, Ph.D.
Clinical, Forensic and
Neuropsychology

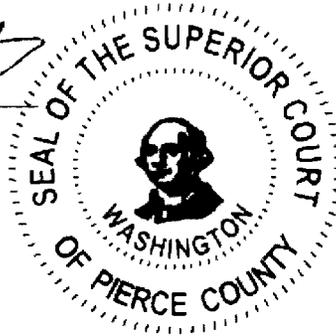
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 11 day of May, 2015



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: May 11, 2015 8:04 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

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enter SerialID: 4381C595-F20F-6452-D80F6710D60F2028.

This document contains 18 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “X”

*Certified DOC Pre-Sentence Investigation Report (pg. 1-15)
With Attachement*



13-1-01369-1 41589028 PSI 11-20-13

26229 11/21/2013 00003

Case Number: 13-1-01369-1 Date: May 8, 2015
SerialID: 342788C6-110A-9BE2-A9711780E47E392B
Certified By: Kevin Stock Pierce County Clerk, Washington

PSI

FILED
IN COUNTY CLERK'S OFFICE

AM NOV 20 2013 PM

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY  DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff ,

vs.

MUSGA, JAKE JOSEPH,

Defendant .

Cause No 13-1-01369-1

PRE-SENTENCE INVESTIGATION REPORT

RECEIVED
 PIERCE COUNTY SUPERIOR COURT
 NOV 19 2013



STATE OF WASHINGTON
 DEPARTMENT OF CORRECTIONS

PRE-SENTENCE INVESTIGATION (PSI)

TO:	The Honorable Bryan Chushcoff Pierce County Superior Court	DATE OF REPORT:	11/14/13
NAME:	Musga, Jake J.	DOC NUMBER:	368830
ALIAS(ES):	N/A	COUNTY:	Pierce
CRIMES:	Murder in the First Degree (Count I); Rape of a Child in the First Degree (Count II)	CAUSE #:	13-1-01369-1
DATES OF OFFENSES:	3/30/13 (Count I); Between 3/29/13 and 3/30/13 (Count II)	SENTENCING DATE:	11/21/13
PRESENT ADDRESS:	Pierce County Jail	DEFENSE ATTORNEY:	Keith R. Hall 428 W. Harrison St., Kent, WA 98032

I. OFFICIAL VERSION OF OFFENSE:

Pursuant to the Information filed on April 3rd, 2013 in Pierce County Court, the Pierce County Prosecuting Attorney's Office formally charged Mr. Musga with one Count of Murder in the First Degree (Count I), and one Count of Rape in the First Degree (Count II). On September 9th, 2013, Mr. Musga pled guilty to those charges. He is currently being held in custody in the Pierce County Jail, and is to be sentenced on November 21st, 2013 before the Honorable Bryan Chushcoff.

The following was extracted from the Declaration for Determination of Probable Cause filed by the Pierce County Prosecutor's Office on April 3rd, 2013. It was based on Tacoma Police Department reports for Incident Number 130890189:

That in Pierce County, Washington, on or about the 30th day of March, 2013, the defendant, JAKE JOSEPH MUSGA, did commit the crime of murder.

On the listed date at 0407 hours Tacoma Police responded to the Commencement Terrace Apartment Complex at 29 St. Helens regarding a badly bruised two year old boy who was not breathing. When police arrived Fire Department medics were loading the child into an ambulance for transport to a trauma center. Police spoke with a witness who reported that he had just exited the locked apartment complex when he saw a frantic male, later identified as MUSGA, in the lobby holding a child and crying. MUSGA let the witness back into the lobby. The child's body was covered with bruises; the witness called 911.

According to medical staff the child, identified as two year old CC, was intubated and in "major shock" when admitted to the hospital. CC's condition was "catastrophically bad" and he showed no significant sign of brain activity. CC was pronounced dead later that morning. Doctors noted CC was bruised from "head to toe," suffered bleeding in the brain and stomach, had a collapsed lung and bruising at the rectum. The child had a blood alcohol level of .12 at the time of admission to the hospital. Doctors indicated to detectives that there were clear signs that CC had been abused.

MUSGA was identified as the boyfriend of CC's mother, who was identified as Laura Colley. MUSGA was arrested. Laura Colley was not present at the scene and was apparently not with the child during the hours leading up to the 911 call.

Detectives interviewed MUSGA. MUSGA told detectives that he and Laura Colley met in rehab in December 2012. They had been dating for about two months and moved into the Commencement Terrace apartments about 5 weeks ago. Laura was employed as a leasing agent for the apartments. MUSGA was unemployed. MUSGA cared for CC when Laura was at work.

MUSGA told detectives that CC was a rambunctious child, fell a lot and bruised easily. MUSGA said he and CC got along great but when Laura was home CC's attention was directed towards her. CC was a good kid but would act out when he did not want to do something. Their usual method of discipline was a light slap on the hand or a time out.

On Thursday evening, March 28, MUSGA and Laura attempted to brush CC's teeth. CC flailed and may have bumped his head on the counter. They took CC to the hallway and Laura "gently" laid him on the floor. Laura then crouched with her knees holding CC while MUSGA brushed CC's teeth. MUSGA said CC had enough room to lift his head up and bang his head on the floor.

On Friday, March 29, MUSGA noticed that CC "had more bruises than normal." Over the course of the day CC was quieter than normal, "acting shy" and "wasn't himself." He sat and watched television for most of the day. MUSGA said CC didn't complain about any pain and he didn't appear sick. When Laura came home from work they saw that CC had some bruises that seemed to be getting worse.

MUSGA said they called the pediatrician and sent him a photo. They were told that if the bruises got worse, they should take CC to the doctor. MUSGA said the photo was also sent to Laura's mom. They had a discussion about taking him to a clinic but they decided that he (CC) "looked too bad" and asked each other "Are they going to think we did this?" if they took him to the doctor. They decided to keep an eye on him but not to take him to the doctor at that time.

On Friday afternoon, March 29, Laura went to McCleary to celebrate her birthday with her family and left CC in the care of MUSGA. Laura's sister picked her up at about 6 PM. CC and MUSGA left the building at the same time and went to the park. They came back from the park and watched television until about 10 PM when MUSGA got CC ready for bed. During the time they were watching television, MUSGA poured himself a drink, cola and vodka. He estimated the glass was 16-20 ounces and that there were three or four shots of vodka in the glass. He said the glass was on the window sill next to the couch and that CC would have to stand on his "tippy toes" to reach it. While he saw no sign that CC had a drink from the glass, he could only assume that he had. MUSGA said he only left the room during that time for about 3 minutes.

MUSGA said he and CC took a shower together. While MUSGA was shampooing his own hair, he heard a thump in the bathtub. CC had fallen and was crying but MUSGA did not find any bumps and CC seemed fine. When CC went to bed, he kept talking to himself and MUSGA assumed that he was not going to sleep so he got CC back up. They watched television for a while longer then both went to bed about midnight.

MUSGA said he put CC in bed with him. MUSGA was sleeping next to the wall and CC was in the middle of the bed. A while later MUSGA heard a thump. He got up and found CC on the floor next to the bed. He picked CC up and he seemed fine. MUSGA said he saw no sign of concussion and CC was not crying. He said CC's eyes were open and he had a smile on his face and that the expression never changed. He thought CC was fine so he put him back to bed. When he lay down next to CC, he put his hand on CC's chest. It was at that point that he realized CC was not breathing. He grabbed CC and his phone and ran down the stairs thinking there would be someone in the lobby area that could help.

Detectives served a search warrant at the apartment and found numerous used diapers and used baby wipes that appeared to contain blood. Laura Colley declined to make a statement.

An autopsy was performed. Dr. Lacy determined that while CC had suffered injuries too numerous to count. There were specific fatal blows to the head and torso. The injuries were inconsistent with a child falling off a couch or inadvertently banging his head on a counter top. CC suffered significant internal and external injuries to the rectum consistent with penetration by an object.

II. VICTIM/WITNESS CONCERNS(SH, CJ, KH, BJ, LC, AC, SC):

On 11/18/13, I telephonically interviewed witness SH, who was an inmate at the Pierce County Jail at the same time Mr. Musga was. They in fact were in the same cell (pod) together for a period of time, and had conversations together when other inmates were not in the pod. On 7/25/13, Detectives Vold and Nist interviewed SH, and per Detective Vold's report on the same date, SH disclosed the gist of several conversations he had with Mr. Musga. SH stated to the Detectives that Mr. Musga told him that one time he had hit his victim (CC) in front of LC's (his ex-girlfriend and the victim's mother) mother and she "flipped out, so he learned not to hit the kid in front of others". SH ascertained to me that Mr. Musga had in fact told him that.

SH told Dets. Vold and Nist that Mr. Musga said that "in the past he had smacked the victim"; SH reiterated to me that Mr. Musga had indeed told him that. SH also verified that Mr. Musga told him that he, as well as CC's mother, had given CC alcohol in the past, which is what SH also told the Detectives during their interview. He also told them that Mr. Musga had thought that CC had gotten into his drink of vodka and Pepsi when he went to the bathroom on 3/29/13, and that had made CC vomit which subsequently suffocated him. SH also told me that CC would "get into things" per Mr. Musga; he would go into his mother's purse, and CC also found a "Meth pipe" at one point that Mr. Musga had evidently left under his pillow. SH lastly told me that during all the discussions they had, Mr. Musga had never at any time indicated any remorse for what he had done to CC.

On 11/18/13, I telephonically interviewed CJ, who is the mother of Mr. Musga's ex-girlfriend KR. My intent was to interview KR, but she is still of minor age. CJ told me that there is "a lot more to this story that has to do with drugs, that being Heroin". She explained that when Mr. Musga was 17 he began dating KR, who at that time was 14. CJ said that she didn't like the age difference between them, and so KR and Mr. Musga "had to sneak around" to date and see each other. CJ disclosed that KR in fact "had run away from home many times" to be with Mr. Musga, so much so that CJ had to file a request to the Court for an ARY (At-Risk Youth) petition.

CJ told me that Mr. Musga changed for the better after he got out of rehab the first time. She said that he "was an evil person when he used, when you looked into his eyes there was no soul there. He had no boundaries of right and wrong when he used". She said that he was smart, popular, sweet, and a football star before he began abusing Heroin, and he was fun to be around when he was sober. She stated that she never saw him when he was violent, but "it was a 180-degree Jekyll and Hyde change when he used".

CJ said that the Anti-Harassment Order that she applied for to restrain Mr. Musga from contact with her and KR was not due to Mr. Musga having been violent or assaultive towards her or KR.

She applied for it two days before KR (who per CJ had substance abuse issues as well) got out of rehab because she didn't want Mr. Musga to potentially influence KR to relapse. CJ stated that the dating relationship between KR and Mr. Musga was "rocky on and off" until he went to rehab his second time, where he met LC whom he subsequently started dating; thereafter he and KR finally stopped seeing each other.

CJ elaborated on the last time KR saw Mr. Musga, which was the night before he was arrested for an incident in Snohomish County. CJ said that they "quit sneaking around" (meaning that they broke up) that night, which would have been about December 7th, 2012. CJ told me that Mr. Musga had been living with his mother but she kicked him out because he was using. His friend DJ at that time was living with an Uncle of his, and they allowed Mr. Musga to stay with them. CJ stated that Mr. Musga and another friend of his allegedly stole a gun from DJ's Uncle, and Mr. Musga was arrested for it. He apparently tried to put the blame for it toward the other friend, but he evidently got off whereas Mr. Musga didn't. CJ said that his father then bailed him out of Jail, and Mr. Musga at that point went to In-patient Substance Abuse treatment for the second time.

CJ said that she and KR "overcame a lot over the last year". She said that she at first was very angry with Mr. Musga over what he did to CC, and she said that his actions were horrific. She opined, however, that at his age a life sentence for him would not be right. She said that his using drugs was not an excuse, and he needs a substantial prison sentence to pay for what he did, but she believed that he could be rehabilitated if given a chance. She based this opinion on what a good person he was when he wasn't using drugs, and she felt that if he could permanently stay off them he could be restored to the former Jake.

On 11/18/13, I telephonically interviewed KH, who is the downstairs neighbor of the apartment where Mr. Musga used to live; KH lives in apartment # 207, and Mr. Musga used to live in apartment # 307. When Detective Yenne was taking evidence out of the apartment building on 3/30/13, KH approached him and told him that she heard "fighting and stomping from above"; and she "could not hear voices, only loud thumping noises" per Detective Yenne's report from 4/10/13. KH verified that this was true of that night as she had told Detective Yenne of it. She also told me that the noise started at about 11 PM on the night of 3/29/13, and went on until around 1:30 AM on 3/30/13. KH said, as was noted in the police report, that it was so loud at that time that she went up to # 307 to complain. She is wheelchair-bound, and when she got up to Mr. Musga's former apartment she heard a baby inside crying as she knocked on the door. KH told me that despite knocking and saying that she'd call the police if the noise went on, no one came to the door; however, the baby did stop crying after her having knocked on the door, so she left. She went back down to her apartment, and she didn't hear any more noise for the rest of the night. KH stated that after getting back into her own place and going back to bed, the time was about 2 AM.

I attempted to telephonically contact BJ, father of Mr. Musga's victim CC, on 11/14/13. When I dialed the number I was provided, I got a voice mail prompt, and I left a message asking that he return my call. As of the date this report was filed, I have not heard back from him.

I attempted to telephonically contact LC, mother of Mr. Musga's victim CC, on 11/14/13. When I dialed the number I was provided, I got a recorded message saying that the number was disconnected and was no longer in service.

I attempted to telephonically contact AC, who was noted as a witness in this matter, on 11/15/13. When I dialed the number I was provided, I got a voice mail prompt, and I left a message asking that he return my call. As of the date this report was filed, I have not heard back from him.

I attempted to telephonically contact SC, who was noted as a witness in this matter, on 11/15/13. When I dialed the number I was provided, I got a voice mail prompt, and I left a message asking that he return my call. As of the date this report was filed, I have not heard back from him.

III. MR. MUSGA'S STATEMENT REGARDING OFFENSE:

I met with Mr. Musga at the Pierce County Jail on the afternoon of November 8, 2013 to interview him for this PSI; he was dressed in regular Jail clothing and appeared to be lucid. Also present was his attorney Keith Hall. Mr. Musga admitted to having committed these crimes that he had already pled guilty to; he said that "it was his choice to drink, and it had a huge effect on what happened". He said that "without the alcohol things wouldn't have happened as they did". He said that he "is taking full responsibility" and reiterated that it was his choice to drink in that situation. He said that the "ordeal hurt a lot of people and to make up for it, he chooses to admit to it, and to serve the time" in prison for it.

IV. CRIMINAL HISTORY:

SOURCES:

1. National Crime Information Center (NCIC) and Washington Crime Information Center (WASCIC).
2. Washington State Department of Corrections Offender Database.
3. Superior Court Operations Management Information System (SCOMIS).
4. Law Enforcement Support Agency (LESA).
5. District Court Information System (DISCIS).

Juvenile Felonies:

None documented or found.

Case Number: 13-1-01369-1 Date: May 8, 2015
 SerialID: 342788C6-110A-9BE2-A9711780E47E392B
 Certified By: Kevin Stock Pierce County Clerk, Washington

Adult Felony:		
Date of Offense:	Count I: 3/30/13; Count II: Between 3/29/13 and 3/30/13	
Crime:	Count I: Murder in the First Degree Count II: Rape of a Child in the First Degree	
County / Cause:	Pierce / 13-1-01369-1	
Date of Sentence:	11/18/13 (Pending)	
Disposition:	Pled Guilty/awaiting Sentencing	Score: 2 (both)

Misdemeanor(s): Misdemeanors do not affect the offender score but do reflect the offender's view of societal values and should be acknowledged by the Court.

Juvenile Misdemeanors: *None documented or found.*

Adult Misdemeanor:	
Date of Offense:	6/25/12
Crime:	Violation Of Anti-Harassment Order
Court/Cause No.:	Marysville Municipal Court/ C14443A
Date of Sentence:	8/31/12
Disposition:	364 days jail/362 days susp/2 yrs. Bench probation

V. SCORING:			
	SERIOUSNESS LEVEL	OFFENDER SCORE	STANDARD RANGE
Count I	XV	2	From 111-147 months, up to life
Count II	XII	2	From 261-347 months, up to life

VI. COMMUNITY CUSTODY:			
	SERIOUSNESS LEVEL	OFFENDER SCORE	STANDARD RANGE
Count I	XV	2	36 months
Count II	XII	2	Lifetime

VII. RISK / NEEDS ASSESSMENT:

A risk / needs assessment interview was completed with the offender. The following risk / needs area(s) and strengths have implications for potential risk, supervision, and interventions. Unless otherwise noted, the following information was provided by the offender and has not been verified.

Criminal History:

See Section IV above. It is to be noted that there is an active Bench Warrant for Mr. Musga's arrest, which was issued from the Snohomish County Superior Court on 5/15/13. It was ordered for his failing to appear there for a Motion Hearing on 5/14/13 for Cause 13-1-00854-2, wherein the charge is Theft of a Firearm. Mr. Musga was at that time in custody in the Pierce County Jail for his current charges.

Mr. Musga also stated that as a juvenile, he did three days' Anger Management classes for having committed an assault at about age 12. As well, he had a Theft case in which he stole a candy bar from a Safeway store when he was 17; he believed the charges were dropped for that incident.

Education / Employment:

Employment is a primary socialization structure in our culture. Lack of consistent employment reflects a higher risk for, or return to criminal behavior. A history of poor job performance and attitude signifies disregard for pro-social reinforcement. Overall academic achievement is related to stability and a crime-free lifestyle.

Mr. Musga went as far as part of the 12th grade in school at Arlington High School in Arlington, Washington. He started there in 2008 and was there until late 2011 or early 2012. He did not graduate as he was suspended for "having a paint ball gun in his car, as well as drug paraphernalia to include tinfoil". He said that after he was suspended he went to work and thereafter went back to school at Arlington High School, but was told that he could graduate from there. He then went to Weston Alternative High School in Arlington for two weeks, then left there and went to the Youth Build Program to get a diploma, and also to get some job experience in the construction field. He said he couldn't go back there after being incarcerated for the Snohomish County issue, and as such, he and his mother decided that it would be better for him to go to treatment than to return to school there. Beyond Arlington and Weston high schools and the Youth Build Program, he has pursued no other formal education.

Mr. Musga's last and only job was at "Housing Hope" in Monroe, Washington. He said he started there in about September of 2012, and it was part of the Youth Build Program. He was making minimum wage and working part-time. He was there until about December 2012 or January of 2013. He left because of his situation with his aforementioned legal problem in Snohomish County, and has not worked anywhere else since. He has never been a member of the United States Armed Forces in any branch or capacity

Financial:

Financial stability and self-sufficiency are pro-social. Financial problems are considered stressors, which may be indicative of anti-social attitudes or precipitators of inappropriate ways to get money.

Mr. Musga currently possesses no assets, does not own a vehicle or property, and has no bank accounts or any source income at this time. He said that he currently has no debts, such as credit card bills or anything of that nature, except for his legal financial obligations for his previous criminal convictions, and fines for traffic infractions. He said that before being taken into custody, he had an EBT card which he used, and he was getting between \$180.00 and \$200.00 a month on it for his use. He was unable to bail out of the Pierce County Jail on this cause, and he's being legally represented by Mr. Hall in this matter, who is a private attorney; his services are being paid for by Mr. Musga's family.

Family / Marital:

A satisfying family or marital situation indicates pro-social relationships and ties that are negatively correlated with criminal risk. Uncaring, negative or hostile relationships with relatives who have frequent contact indicate poor social and problem-solving skills and a lack of pro-social modeling. Parental influence is a behavioral control that inhibits anti-social behavior and is a source of pro-social modeling.

Mr. Musga said that his parents were married for 10 years and divorced in about 2004 amicably; his father's name is Michael Musga, and he is 67 years old currently. He lives in Maple Valley, Washington, and is employed as a truck driver for High-Tech Finishes in Renton, Washington. He was present in Mr. Musga's life until he was about 10 years old, and after that Mr. Musga has seen him only about two or three times a year. He had been previously married before his marriage to Mr. Musga's mother. Mr. Musga stated that his father and he never had any major problems, and he "will love him until he dies". He "just wasn't there" after Mr. Musga was 10 years old. He added that Michael is "his own man and does his own thing." Mr. Musga also said that Michael never went to any of his football games, though he was supportive. It "just wasn't his thing." When asked how Michael would discipline him when he was a child, Mr. Musga said that his father left that to his mother, and he didn't discipline Mr. Musga at all. Michael was "the ask your mother kind of dad". Mr. Musga said that the most memorable event he had with his father was when he took him hunting; they had gone together every year at this time with their family to hunt in the mountains, and it "was bonding time" for them. Mr. Musga last saw Michael when he visited him in the Jail about a month and half ago, and to his knowledge Michael has no criminal history that he was aware of.

Mr. Musga said that neither of his parents has remarried after their divorce; his mother's name is Janet Musga and she is 53 years old. She currently lives in Arlington and works there at the AMT machine shop.

She was present throughout his entire childhood and upbringing, and mainly raised Mr. Musga herself. He considered her to be one of his best friends and gets along better with her than his father. She was always active in his life, where his father wasn't, and she went to all of his ball games. She has always been more supportive of him than his father was. When asked how Janet would discipline him when he was growing up, he said that she would put him in timeouts and never spanked or physically punished him at all. He said the most memorable event he had with her was that she "was always a team mom" for his football activities; all of his friends call him their second mom, and she was always there for all of his games. Mr. Musga said that he had just talked with his mother last night (November 7, 2013) on the phone and she visited him last weekend. She's visited him four times since he's been in the Pierce County Jail, and to his knowledge she has no criminal history that he was aware of.

Mr. Musga has two half-brothers and two half-sisters. He is his mother's only son, and all of his half siblings and he have the same father (Michael). Mr. Musga is the youngest of them all at age 19. His two brothers are Rich Musga and Chris Musga; they are 42 and 40 years old respectively. His sisters are Sarah Geigos, who is about 38 years old and Michelle Lamberton, who is 46. All of them have children who are Mr. Musga's age, except for Rich. Mr. Musga didn't grow up with them because of their age difference, but he always had lots of friends and "was mostly out with the neighbor kids"; he spent lots of time outside his home. His parents fought a lot, and after the move to Arlington when he was 11, Mr. Musga "walked all over his mother because there was no father figure in the home". Mr. Musga has never been married. He had a girlfriend for about a year named KR, who had a No Contact Order against him, and his last girlfriend was LC, mother of Mr. Musga's victim CC; he has no children of his own.

Accommodation:

A stable residence shows some ties to a neighborhood. Many changes in residence reflect insufficient neighborhood ties and could mean more exposure to or influence of pro-criminal attitudes. In a high-crime neighborhood there may be more opportunities for pro-criminal modeling and rewards for anti-social behaviors and attitudes.

Mr. Musga told me that he lived in four different residences from birth until he turned 18. The first was in Maple Valley, Washington where he lived until he was 10 years old. He said it was a decent area, but there was methamphetamine, and drug users present, and police were in the area a lot. The second, which he lived in for a year, was in Kent, Washington, in which he said there was noticeable gang activity. He and his mother then moved to Arlington, Washington, and he lived in two different residences there, which were nothing like the neighborhoods in Kent and Maple Valley and were much better localities.

After he turned 18 and went to and completed treatment, he lived with his father for about a month and then moved in with his now ex-girlfriend LC; they lived together at the Commencement Terrace Apartments in Tacoma, Washington, and he moved in there in about February of 2013. He said there was some violence going on in the area, but he stayed in the apartment and didn't go out a lot. He said he was only there for a total of five weeks or so. He said that he has never been evicted from any residence nor asked to leave one while an eviction process was ongoing.

Leisure and Recreation:

An excess of idle or discretionary time presents an added dimension of risk. Recent, regular involvement with a group of pro-social individuals is an indicator of attachment and bonds that would tend to constrain criminal activities.

As Mr. Musga claimed to have not been working prior to being arrested for this matter, he would have had a greater amount of free time as compared to another person working a full time job. He said that in his spare time he enjoys mostly sports, such as basketball and football, playing the drums, and being with people.

Companions:

The presence of criminal acquaintances and/or friends is associated with an opportunity for pro-criminal modeling, which is considered a major risk factor. A lack of pro-social companions means a diminished opportunity to observe pro-social models and no reinforcement for pro-social behaviors.

When asked how many friendships he has had over his life so far, Mr. Musga said a lot, at least 15 really close friends. He specified that it basically was his high school football team because "they were super close together". He said that his best friend is named Damon Rogers, who also goes by DJ. Mr. Musga met him when he was 12, and DJ later moved in with Mr. Musga and his mother; he lived with them until Mr. Musga turned 18. DJ evidently had a bad childhood and still lives in Arlington, and he came and visited Mr. Musga about two months ago at the Jail. Mr. Musga said that he and DJ used illegal drugs frequently when they were together. He said "they got controlled substances from all over", and DJ's mother was in fact a drug user; they obtained some other controlled substances from her. Additionally, Mr. Musga stated that the entire football team (all of whom he said he was close friends with) was into using heroin.

Alcohol / Drug Use:

A history of substance abuse is a risk factor for criminal behavior. Substance abuse erodes significant pro-social bonds that contribute to increased criminal risk. Substance misuse may facilitate or instigate criminal behavior.

Mr. Musga stated that he first tried alcohol when he was about 12 years old. He said when he was between 15 and 16 years old (in the ninth grade), he would have about three beers a week. He said that he currently only drinks alcohol five or six times a year, but when he does drink "it's a lot". He gave an example of that as being either a 12 pack of beer or a half to a fifth bottle of vodka. He said that he doesn't drink as much now, and not very often, but he reiterated that it is on the heavier side when he does drink. He said that it's a habit for him from high school to not drink as much, but "to do it big when he does". He said that he first tried marijuana when he was 13, and then at 17 he began using heroin. He used marijuana three or four times a week until the 11th grade, and that was when he began using heroin and he got away from marijuana. He smoked heroin daily, and claimed that he never used needles. He said that he last used it the night before treatment, which was in January of this year or so. He said that between using marijuana and heroin, he also use painkillers not prescribed to him, such as Percocet and Vicodin, which he got from DJ's mom as she was prescribed those. He said that he took those for about two years, but not very regularly. He claimed that when he was 18, he tried methamphetamine six times or so. Mr. Musga stated that he has been in two substance abuse treatment programs. The first one was in July of 2012 at the Olalla treatment center, it was an inpatient, twenty-one day program. The second time was for twenty-eight days and that was from December of 2012 until January of 2013 or so and was also an inpatient program. Mr. Musga claimed that he successfully completed both and in fact received certificates for them. He claimed that his father is an alcoholic and his brother Chris also is in the early stages of alcoholism. He said that his mother had "diet pill problems" when she was in her 20s and her father had alcohol problems also, from what Mr. Musga could recall.

Emotional / Personal:

Mild anxiety and depression, as well as severe emotional and cognitive problems can interfere with an individual's ability to respond to occupational, social and psychological stressors. Coping deficiencies may increase the risk of criminal behavior.

Mr. Musga said that other than concussions from playing football, he has had no other significant physical problems nor has he had any serious illnesses or injuries in the past. He said that he has never had any mental or emotional health issues diagnosed for himself. He said that he has never attempted or had ideations of suicide, but has been really sad since coming into the Pierce County Jail. He, however, has not been given any prescription for it or been diagnosed with any mental health issues about it either. He said when he was 13 or 14, he was given a prescription for Wellbutrin; this resulted from his seeing a psychiatrist because his mother thought he was depressed and he took that medication for a month and then quit taking it.

He said that at that time there was no diagnosis for any mental health issue or him, either, and that was the only time he was never treated by a mental health professional in his life. Mr. Musga said that to his knowledge, no members of his immediate family have ever been diagnosed with any mental health or emotional issues, nor have they ever had any treatment for such.

Mr. Musga said that the most significant event in his life is his current legal issue, because he has never been in this much trouble before his life. He said that he was never sexually abused by anyone in his life at all. When he was in grade school, he was teased by other children for being fat, but he grew out of being overweight in middle school. He said that when he was 13, he was hit by a guy with a "fist pack", which had a razor blade or sharp end that extended through his fingers, because he kissed the guy's girlfriend. He said he got about 6 stitches over his left eye from it, but beyond that he has never been abused in any other way, form, or fashion in his life. Mr. Musga said that his religious preference is that of being Christian. He said he has been leading the Bible studies in his cell for the last two months. He said this was new to him since coming to the Pierce County Jail. He said when he was very young, from ages five through nine, he went to a church which he thought was Christian/Baptist, but after he moved to Arlington he got away from that. He described himself as "a people person who has had few enemies in his life". He avoids problems with people, and gets along with mostly everyone. He has always played sports, and considers himself "semi-athletic".

Attitude / Orientation:

A criminal value orientation is strongly associated with future criminal behavior, anti-social personality disorder and psychopathic tendencies. Poor attitudes and sentiments about the conviction, sentence and/or supervision tend to indicate anti-social values. Lifestyle, predicated on sensation seeking, and general acceptance of criminal orientation, is associated with poor informal social controls.

Mr. Musga, when asked about the potentially long sentence he was facing, said that he feels like he wants to go in and take responsibility for it. He said that he hopes that will allow the victim's family the help they may need in the situation. He said he thinks it's a really long time, and he sees others with similar charges with less time, but it's due to the sensitive nature of his charges. He sees why it's that long, and he is sorry for what he did. He said that he thinks his sentence should be somewhere within the range, and that everybody deserves a second chance, but he will let the judge do what he does best. He thinks the exceptional sentence the prosecutor is proposing (between 40 and 60 years) is long and he is asking for a 300 month-sentence. He said that he thinks that's still long, but he doesn't want to say this is a situation that isn't supposed to be handled or punished. He said that when he has a chance to speak in Court he wants to be able to show that he's very sorry and his sincerity about that as well.

VIII. CONCLUSIONS:

A risk assessment was completed during the pre-sentence interview. Factors which require attention to reduce Mr. Musga's risk to re-offend include his sexual deviancy, drug and alcohol dependency, and possible mental health issues. Recommended conditions in Appendix H will enable the Department of Corrections (DOC) to effectively monitor and supervise him in the community. *Intervention applied to these areas would assist in reducing potential risk to community safety.* Also, DOC, as a matter of policy, supervises sex offenders and violent offenders who are placed on supervision at elevated levels

IX. SENTENCE OPTIONS:

- Confinement within the Standard Range Sentence
- Community Restitution Hours
- Exceptional Sentence
- First-time Offender Waiver (FTOW)
- Drug Offender Sentencing Alternative (DOSA)
- Special Sex Offender Sentence Alternative/SSOSA (Count II only)
- Mentally Ill Offender Sentencing Option (MIOSO)

X. RECOMMENDATIONS:

Based on information contained in the Guilty plea, I understand the Deputy Prosecutors (DPAs) in this matter intend to recommend an Exceptional sentence of 720 months, up to life, based on the aggravating factors in the State's Sentencing Memorandum that Mr. Musga 1) knew that CC was a particularly vulnerable victim due to his extreme youth; and 2) the rape and torture Mr. Musga inflicted on CC was deliberately cruel, and CC's injuries substantially exceeded the level of bodily harm necessary to sustain the elements of Murder in the First Degree. They further recommend upon release lifetime on Community Custody under the supervision of the Department of Corrections and the authority of the Indeterminate Sentencing Review Board (ISRB); to submit to a DNA test; No Contact with any minors; to Register as a sex offender in County of residence; and thereafter to register per the Sex Offender registration statute; forfeit any items in police property; to obtain a Psychosexual Evaluation, and then comply with and successfully complete any and all recommended treatment; to obtain a Substance Abuse Evaluation, and then comply with and successfully complete any and all recommended treatment; to maintain Law-Abiding behavior; to comply with conditions outlined in Appendix H, by the CCO, and on the Pre-Sentence Investigation; and Legal Financial Obligations as noted below in XI.

I am in agreement with the DPAs' recommendations, but for a somewhat lower exceptional sentence of 494 months, up to life, based on the same aforesaid aggravating factors cited by the DPAs in their Sentencing Memorandum.

This would be the equivalent of the sum at the high end of the sentence range of Counts I and II, the same total number of months if they were run consecutively. The rationale for the lower sentence is that Mr. Musga admitted to his crimes against CC and is willing to take responsibility for them. I would also add that Mr. Musga should be required to obtain a Mental Health Evaluation, and then comply with and successfully complete any and all recommended treatment as directed.

Sentence Type/Option: Confinement above the Range/Exceptional Sentence

Confinement: DPAs: 720 months, up to life; DOC; 494 months, up to life

Length of Community Custody: Lifetime

Conditions of Supervision: See attached Appendix H

XI. MONETARY OBLIGATIONS:

Restitution:	TBD	Court Costs:	\$200.00
Victim Penalty:	\$500.00	DNA:	\$100.00

I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:

Approved By:

 11/18/13
Date

 11/18/13
Date

Joe Sofia
Community Corrections Officer 3
1016 S 28th St
Tacoma, WA 98409
253-680-2610

Karen Blatman-Byers
Community Corrections Supervisor
1016 S 28th St
Tacoma, WA 98409
(253) 680-2684

Distribution ORIGINAL – Court COPY - Prosecuting Attorneys, J. Ausserer and A Williams; Defense Attorney, K Hall; File; WCC / RC (Prison)

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

]	Cause No 13-1-01369-1
STATE OF WASHINGTON]	
]	
] Plaintiff	
] v.	JUDGEMENT AND SENTENCE (FELONY)
Musga, Jake J.]	APPENDIX H
]	COMMUNITY PLACEMENT / CUSTODY
]	
DOC No. 368830]	

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

COMMUNITY PLACEMENT/CUSTODY: Defendant additionally is sentenced on convictions herein, for the offenses under RCW 9.94A.712 committed on or after September 1, 2001 to include up to life community custody; for each sex offense and serious violent offense committed on or after June 6, 1996 to community placement/custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2) whichever is longer; and on conviction herein for an offense categorized as a sex offense or serious violent offense committed on or after July 1, 1990, but before June 6, 1996, to community placement for two years or up to the period of earned release awarded pursuant to RCW 9.94A.150 (1) and (2) whichever is longer; and on conviction herein for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, to a one-year term of community placement.

Community placement/custody is to begin either upon completion of the term of confinement or at such time as the defendant is transferred to community custody in lieu of early release.

- (a) **MANDATORY CONDITIONS:** Defendant shall comply with the following conditions during the term of community placement/custody:
- (1) Report to and be available for contact with the assigned Community Corrections Officer as directed;
 - (2) Work at Department of Corrections' approved education, employment, and/or community service.
 - (3) Not consume controlled substances or alcohol, except pursuant to lawfully issued prescriptions,
 - (4) While on community custody do not unlawfully possess controlled substances;
 - (5) Pay supervision fees as determined by the Department of Corrections;
 - (6) Receive prior approval for living arrangements and residence location;
 - (7) Defendant shall not own, use, or possess a firearm or ammunition when sentenced to community service, community supervision, or both (RCW 9.94A, 120 (13));
 - (8) Notify Community Corrections Officer of any change in address or employment; and
 - (9) Remain within geographic boundary, as set forth in writing by the Community Corrections Officer.
- (b) **OTHER CONDITIONS:** Defendant shall comply with the following other conditions during the term of community placement / custody:
10. Reside at a residence and under living arrangements approved of in advance by your Community Corrections Officer. You shall not change your residence without first obtaining the authorization of you Community Corrections Officer.
 11. Enter and complete, following release, a state approved sexual deviancy treatment program (if Court-Ordered) through a certified sexual deviancy counselor. You are to sign all necessary releases to ensure your Community Corrections Officer will be able to monitor your progress in treatment.
 12. You shall not change sexual deviancy treatment providers without prior approval from the Court and your Community Corrections Officer.
 13. You shall not possess or consume any mind or mood altering substances, to include alcohol, or any controlled substances without a valid prescription from a licensed physician.
 14. Have no contact with any minor children. This includes but is not limited to personal, verbal, written or contact through a third party. Contact with minor children, if any, will need to be supervised, and will require prior approval by the Sexual Deviancy Treatment Provider and the CCO.
 15. Hold no position of authority or trust involving children under the age of 18.
 16. Do not initiate, or have in any way, physical contact with children under the age of 18 for any reason. Do not have any contact with physically or mentally vulnerable individuals.
 17. Inform your Community Corrections Officer of any romantic relationships to verify there is no victim-age children involved.

18. Submit to polygraph and plethysmograph testing upon direction of your Community Corrections Officer and/or therapist at your expense.
19. Register as a sex offender in your county of residence per current Statute.
20. Do not go to or frequent places where children congregate, (Fast-food outlets, libraries, theaters, shopping malls, play grounds and parks.) unless otherwise approved by the Court
21. Submit to testing for DNA purposes, and for an HIV test.
22. Follow all conditions imposed by your sexual deviancy treatment provider and CCO.
23. Obey all laws.
24. Obtain a Mental Health Treatment Evaluation, and follow any and all recommended treatment until successfully completed.
25. Obtain a Substance Abuse Treatment Evaluation, and then follow any and all recommended treatment until successfully completed as directed.

DATE

JUDGE, PIERCE COUNTY SUPERIOR COURT

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 08 day of May, 2015



Kevin Stock, Pierce County Clerk

By /S/Kayley Pitzele, Deputy.

Dated: May 8, 2015 8:31 AM



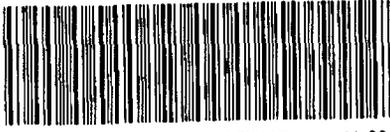
Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter SerialID: 342788C6-110A-9BE2-A9711780E47E392B.

This document contains 19 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “Y”

*Certified Warrant of Commitment/Judgment and Sentence
With Exceptional Sentence Findings of Fact and Conclusions of Law*



13-1-01369-1 41604227 JDSWCD 11-22-13

Case Number: 13-1-01369-1 Date: May 8, 2015
SerialID: 34278849-110A-9BE2-A9E5BEFC61C421C0
Certified By: Kevin Stock Pierce County Clerk, Washington



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 13-1-01369-1

NOV 22 2013

vs

JAKE JOSEPH MUSGA,

Defendant.

WARRANT OF COMMITMENT

- 1) County Jail
- 2) Dept. of Corrections
- 3) Other Custody

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

[] 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).

2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody).

[] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement or placement not covered by Sections 1 and 2 above).

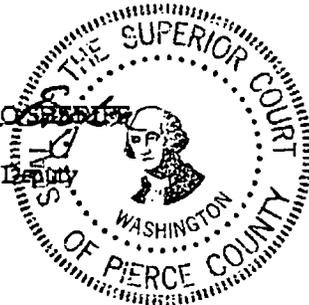
Dated: November 21, 2013

By direction of the Honorable

Kevin Stock
JUDGE
KEVIN STOCK

By: Michael Engler
DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF
Date NOV 22 2013 By Michael Engler Deputy



STATE OF WASHINGTON

ss:

County of Pierce

I, Kevin Stock, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this _____ day of _____.

KEVIN STOCK, Clerk

By: _____ Deputy

dlk



Case Number: 13-1-01369-1 Date: May 8, 2015
SerialID: 34278849-110A-9BE2-A9E5BEFC61C421C0 13-1-01369-1
Certified By: Kevin Stock Pierce County Clerk, Washington



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 13-1-01369-1

vs.

JUDGMENT AND SENTENCE ~~NOV~~ 22 2013

JAKE JOSEPH MUSGA

Defendant.

- Prison
- RCW 9.94A.712/9.94A.507 Prison Confinement
- Jail One Year or Less
- First-Time Offender
- Special Sexual Offender Sentencing Alternative
- Special Drug Offender Sentencing Alternative
- Alternative to Confinement (ATC)
- Clerk's Action Required, para 4.5 (SDOSA), 4.7 and 4.8 (SSOSA) 4.15.2, 5.3, 5.6 and 5.8
- Juvenile Decline Mandatory Discretionary

SID: 26750183
DOB: 03-05-94

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 SEPTEMBER 9, 2013 by plea jury-verdict bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	Murder In The First Degree (D3)	9A.32.030(1)(c), 9.94A.535(3)(b) 9.94A.535(3)(a), 9.94A.535(3)(y), 9.94A.530(2), 9.94A.535 9.94A.535(2)(y)	N/A	03-30-13	130890189
II	Rape Of A Child In The First Degree (I36)	9A.44.073, 9.94A.535(3)(a), 9.94A.535(3)(b)	N/A	03-30-13	130890189

JUDGMENT AND SENTENCE (JS)
(Felony) (7/2007) Page 1 of 12

13-9-12421-2

Office of Prosecuting Attorney
930 Tacoma Avenue S. Room 946
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Horn, See RCW 46.61.520, (JP) Juvenile present, (SM) Sexual Motivation, (SCF) Sexual Conduct with a Child for a Fee. See RCW 9.94A.533(8). (If the crime is a drug offense, include the type of drug in the second column.)

as charged in the Original Information

- A special verdict/finding that the victim was under 15 years of age at the time of the offense was returned on Count(s) RCW 9.94A.
- 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): NONE KNOWN OR CLAIMED

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	2	XV	261-347 Months	N/A	261-347 Months	\$50,000/ Life
II	2	XII	111-147 Months-Life	N/A	111-147 Months-Life	\$50,000/ Life

For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are attached as follows: Exceptional, Register, Standard LFO's, No Contact w/Minors, Psycho-Sex follow-up; Alcohol/Drug Follow-up.

2.4 EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence:

within below the standard range for Count(s) _____.

above the standard range for Count(s) I & II.

The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

Aggravating factors were stipulated by the defendant, found by the court after the defendant waived jury trial, found by jury by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4. Jury's special interrogatory is attached. 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):

The following extraordinary circumstances exist that make payment of nonmandatory legal financial obligations inappropriate:

JUDGMENT AND SENTENCE (JS)

2.6 **FELONY FIREARM OFFENDER REGISTRATION.** The defendant committed a felony firearm offense as defined in RCW 9A.1.010.

The court considered the following factors:

the defendant's criminal history.

whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere.

evidence of the defendant's propensity for violence that would likely endanger persons.

other: _____

The court decided the defendant should should not register as a felony firearm offender.

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1.

3.2 The court DISMISSES Counts _____ The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

RTNRJN \$ 200 Restitution to: _____
\$ _____ Restitution to: _____
(Name and Address--address may be withheld and provided confidentially to Clerk's Office).

PCV \$ 500.00 Crime Victim assessment

DNA \$ 100.00 DNA Database Fee

PUB \$ _____ Court-Appointed Attorney Fees and Defense Costs

FRC \$ 200.00 Criminal Filing Fee

FCM \$ _____ Fine

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ _____ Other Costs for: _____

\$ _____ Other Costs for: _____

\$ 900.00 TOTAL

The above total does not include all restitution 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, if necessary

is scheduled for _____

RESTITUTION. Order Attached

JUDGMENT AND SENTENCE (JS)

(Felony) (7/2007) Page 3 of 12

[] 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).

[X] All payments shall be made in accordance with the policies of the clerk, commencing immediately, unless the court specifically sets forth the rate herein: Not less than \$ Per CCO per month commencing Per CCO. RCW 9.94.760. If the court does not set the rate herein, the defendant shall report to the clerk's office within 24 hours of the entry of the judgment and sentence to set up a payment plan.

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

[] COSTS OF INCARCERATION. In addition to other costs imposed herein, the court finds that the defendant has or is likely to have the means to pay the costs of incarceration, and the defendant is ordered to pay such costs at the statutory rate. RCW 10.01.160.

COLLECTION COSTS The defendant shall pay the costs of services to collect unpaid legal financial obligations per contract or statute. RCW 36.18.190, 9.94A.780 and 19.16.500.

INTEREST 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

COSTS ON APPEAL An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.1b ELECTRONIC MONITORING REIMBURSEMENT. The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____ for the cost of pretrial electronic monitoring in the amount of \$ _____.

4.2 [X] DNA TESTING. The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

[X] HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

4.3 NO CONTACT
The defendant shall not have contact with minors including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence).

[] Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed with this Judgment and Sentence.

4.4 OTHER: Property may have been taken into custody in conjunction with this case. Property may be returned to the rightful owner. Any claim for return of such property must be made within 90 days. After 90 days, if you do not make a claim, property may be disposed of according to law.

<i>Abide by all conditions of Appendix H of PSI & CCO</i>
<i>No contact with minors</i>
<i>Legal financial obligations, including any restitution</i>
<i>Register as sex offender per statute</i>

4.4a All property is hereby forfeited

Property may have been taken into custody in conjunction with this case. Property may be returned to the rightful owner. Any claim for return of such property must be made within 90 days. After 90 days, if you do not make a claim, property may be disposed of according to law.

4.4b BOND IS HEREBY EXONERATED

4.5 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.507. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

<u>608</u> months on Count	<u>I</u>	_____ months on Count	_____
_____ months on Count	_____	_____ months on Count	_____
_____ months on Count	_____	_____ months on Count	_____

CONFINEMENT. RCW 9.94A.712/⁵⁰⁷ Defendant is sentenced to the following term of confinement in the custody of the Department of Corrections (DOC):

Count <u>II</u>	Minimum Term: <u>258</u>	Months	Maximum Term: <u>life</u>
Count _____	Minimum Term _____	Months	Maximum Term: _____
Count _____	Minimum Term _____	Months	Maximum Term: _____

The Indeterminate Sentencing Review Board may increase the minimum term of confinement.

Actual number of months of total confinement ordered is: 608 months (to life on Count II)

(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm, other deadly weapon, sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively to all felony sentences in other cause numbers imposed prior to the commission of the crime(s) being sentenced. The sentence herein shall run concurrently with felony sentences in other cause numbers imposed after the commission of the crime(s) being sentenced except for the following cause numbers. RCW 9.94A.589: _____

Confinement shall commence immediately unless otherwise set forth here: _____

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 175 days

4.6 [] COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:

Count _____ for _____ months;

Count _____ for _____ months;

Count _____ for _____ months;

[X] COMMUNITY CUSTODY (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

(A) The defendant shall be on community custody for the longer of:

(1) the period of early release. RCW 9.94A.728(1)(2); or

(2) the period imposed by the court, as follows:

Count(s) I 36 months for Serious Violent Offenses - Murder I

Count(s) _____ 18 months for Violent Offenses

Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

[X] COMMUNITY CUSTODY is Ordered for counts sentenced under RCW 9.94A.712, from time of release from total confinement until the expiration of the maximum sentence:

Count II until _____ years from today's date [X] for the remainder of the Defendant's life.

Count _____ until _____ years from today's date [] for the remainder of the Defendant's life.

Count _____ until _____ years from today's date [] for the remainder of the Defendant's life.

(B) 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) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706 and (10) for sex offenses, submit to electronic monitoring if imposed by DOC. The defendant's 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.507 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 court orders that during the period of supervision the defendant shall:

[X] consume no alcohol.

[X] have no contact with: minor & sister family

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

not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age

participate in the following crime-related treatment or counseling services: Per CCO

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

comply with the following crime-related prohibitions: Per CCO

Other conditions:
Per CCO

For sentences imposed under RCW 9.94A.702, other conditions, including electronic monitoring, 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 seven working days.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

PROVIDED: That under no circumstances shall the total term of confinement plus the term of community custody actually served exceed the statutory maximum for each offense

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:

CONFINEMENT. RCW 9.94A.507. Defendant is sentenced to the following term of confinement in the custody of the Department of Corrections (DOC):

Count _____ Minimum Term: _____ Months Maximum Term: _____

Count _____ Minimum Term _____ Months Maximum Term: _____

Count _____ Minimum Term _____ Months Maximum Term: _____

The Indeterminate Sentencing Review Board may increase the minimum term of confinement []
COMMUNITY CUSTODY is Ordered for counts sentenced under RCW 9.94A.507 from time of release
from total confinement until the expiration of the maximum sentence:

Count _____ until _____ years from today's date [] for the remainder of the Defendant's life.

Count _____ until _____ years from today's date [] for the remainder of the Defendant's life.

Count _____ until _____ years from today's date [] for the remainder of the Defendant's life.

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. 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 may be taken without further notice.
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 **CRIMINAL ENFORCEMENT AND CIVIL COLLECTION.** Any violation of this Judgment and
Sentence is punishable by up to 60 days of confinement per violation. Per section 2.5 of this document,
legal financial obligations are collectible by civil means. 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 court clerk
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.

5.7 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200.

1. General Applicability and Requirements. Because this crime involves a sex offense or kidnapping
offense (e.g., 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 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 at the time of your release and within three (3) business days from the time of release.

2. Offenders Who Leave the State and Return: If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within three (3) business days after moving to this state. If you are under the jurisdiction of this state's Department of Corrections, you must register within three (3) business days after moving to this state. 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 out a vocation in Washington, or attend school in Washington, you must register within three (3) business days after starting school in this state or becoming employed or carrying out a vocation in this state.

3. Change of Residence Within State and Leaving the State: If you change your residence within a county, you must provide, by certified mail, with return receipt requested or in person signed written notice of your change of residence to the sheriff within three (3) business days of moving. If you change your residence to a new county within this state, you must register with that county sheriff within three (3) business days of moving, and must, within three (3) business days provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address in the new county to the county sheriff with whom you last registered. If you move out of Washington State, you must send written notice within three (3) business days of moving to the county sheriff with whom you last registered in Washington State.

4. Additional Requirements Upon Moving to Another State: 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 three (3) business 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 three (3) days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

5. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12): 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 three (3) business days prior to arriving at the institution. 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 three (3) business days prior to beginning to work at the institution. 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 three (3) business days of such termination. If you attend, or plan to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW, you are required to notify the sheriff of the county of your residence of your intent to attend the school. You must notify the sheriff within three (3) business days prior to arriving at the school to attend classes. The sheriff shall promptly notify the principal of the school.

6. Registration by a Person Who Does Not Have a Fixed Residence: Even if you do not have a fixed residence, you are required to register. Registration must occur within three (3) business days 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. Within three (3) business days after losing your fixed residence, you must provide signed written notice to the sheriff of the county where you last registered. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county within three (3) business days after entering 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. You may be required to provide a 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.

7. Application for a Name Change: If you apply for a name change, you must submit a copy of the

JUDGMENT AND SENTENCE (JS)

(Felony) (7/2007) Page 9 of 12

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CERTIFICATE OF CLERK

CAUSE NUMBER of this case: 13-1-01369-1

I, KEVIN STOCK 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 said County and State, by: _____, Deputy Clerk

IDENTIFICATION OF COURT REPORTER

Katrina Smith
Court Reporter

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APPENDIX "F"

The defendant having been sentenced to the Department of Corrections for a:

- sex offense *Rape Child 1*
- serious violent offense *Murder 1*
- assault in the second degree
- any crime where the defendant or an accomplice was armed with a deadly weapon
- any felony under 69.50 and 69.52

The offender shall report to and be available for contact with the assigned community corrections officer as directed:

The offender shall work at Department of Corrections approved education, employment, and/or community service;

The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

An offender in community custody shall not unlawfully possess controlled substances;

The offender shall pay community placement fees as determined by DOC:

The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

The offender shall submit to affirmative acts necessary to monitor compliance with court orders as required by DOC.

The Court may also order any of the following special conditions:

(I) The offender shall remain within, or outside of, a specified geographical boundary: _____

(II) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals: *murder*

(III) The offender shall participate in crime-related treatment or counseling services;

(IV) The offender shall not consume alcohol; _____

(V) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or

(VI) The offender shall comply with any crime-related prohibitions.

(VII) Other: *Pen CCD*

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 three (3) business days of the entry of the order. RCW 9A.44.130(7).

5.8 [] The court finds that Court _____ 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 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

5.10 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: Nov. 21, 2013.

JUDGE
Print name

Bryan Shuck
BRYAN SHUCK

Attorney for Defendant

Print name: RICHARD WITTECK
WSB # 21399

Deputy Prosecuting Attorney

Print name: Angelica Williams
WSB # 36673

Defendant

Print name: JAKE WUSA

FILED
IN OPEN COURT
CDPJ

NOV 21 2013

Pierce County, Clerk

VOTING RIGHTS STATEMENT: RCW 10.64.140. I acknowledge that my right to vote has been lost due to felony convictions. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

Defendant's signature: _____

Case Number: 13-1-01369-1 Date: May 8, 2015
SerialID: 34278849-110A-9BE2-A9E5BEFC61C421C0_13-1-01369-1
Certified By: Kevin Stock Pierce County Clerk, Washington

IDENTIFICATION OF DEFENDANT

SID No 26750183
(If no SID take fingerprint card for State Patrol)

Date of Birth 03-05-94

FBI No. 15904RD9

Local ID No. UNKNOWN

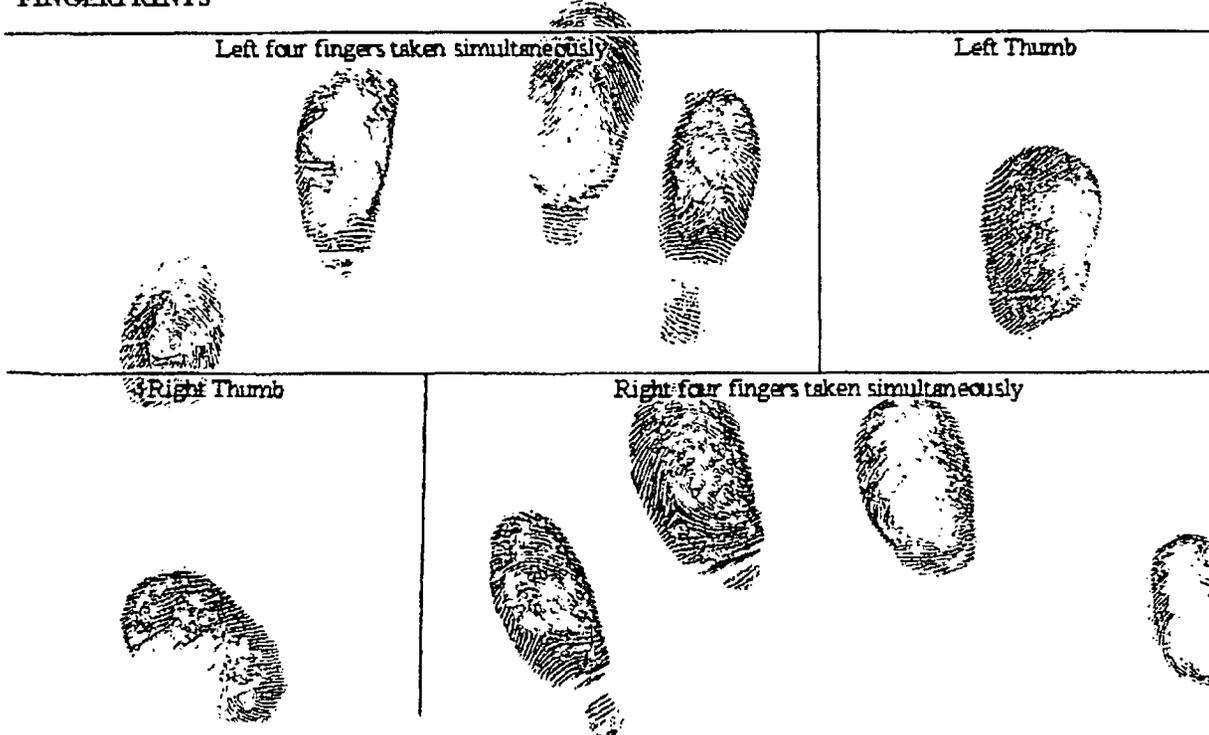
PCN No. 540948658

Other

Alias name, SSN, DOB:

Race:					Ethnicity:		Sex:
<input type="checkbox"/> Asian/Pacific Islander	<input type="checkbox"/> Black/African-American	<input checked="" type="checkbox"/> Caucasian	<input type="checkbox"/> Hispanic	<input checked="" type="checkbox"/> Male			
<input type="checkbox"/> Native American	<input type="checkbox"/> Other: :	<input checked="" type="checkbox"/> Non-Hispanic	<input type="checkbox"/> 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, Suzanne M. Winnels Dated: NOV 21 2013

DEFENDANT'S SIGNATURE: [Signature]

DEFENDANT'S ADDRESS: Pierce County Jail

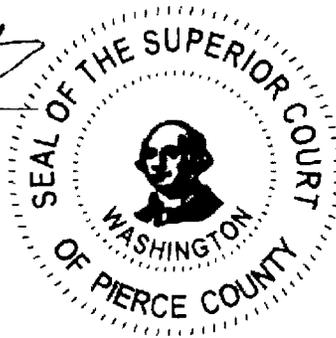
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 08 day of May, 2015



Kevin Stock, Pierce County Clerk

By /S/Kayley Pitzele, Deputy.

Dated: May 8, 2015 8:31 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

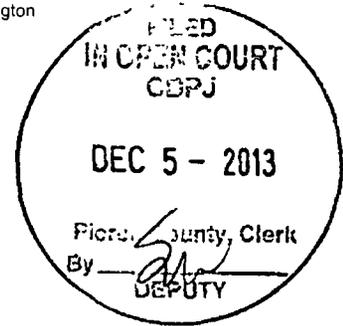
<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter SerialID: 34278849-110A-9BE2-A9E5BEFC61C421C0.

This document contains 15 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.



13-1-01369-1 41668655 FNCL 12-06-13

Case Number: 13-1-01369-1 Date: May 8, 2015
SerialID: 342786F2-110A-9BE2-A9A74AD61C2FF7D2
Certified By: Kevin Stock Pierce County Clerk, Washington



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 13-1-01369-1

vs.

JAKE JOSEPH MUSGA,

FINDINGS OF FACT AND
CONCLUSIONS OF LAW FOR
EXCEPTIONAL SENTENCE

Defendant.

This Matter, having come on before the Honorable Bryan Chushcoff, of the above entitled court, for sentencing on the 21st day of November, 2013, the defendant having been convicted following a plea of guilty to Murder in the First Degree and Rape of a Child in the First Degree, with additional finding of aggravating circumstances stipulated to by the defendant, the State being represented by Deputy Prosecuting Attorney Jared Ausserer and Deputy Prosecuting Attorney Angelica Williams, the defendant, Jake Joseph Musga, having been present and represented by Richard Warner and Keith Hall, and the court having considered all argument from both parties and having considered all written reports and briefs presented, deeming itself fully advised in the premises, does hereby make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

I

The defendant pled guilty to one count of Murder in the First Degree and one count of Rape of a Child in the First Degree.

II

1 The defendant stipulated to the presence of the following three aggravating factors
2 charged in Count I: (1) that the defendant knew or should have known that C.C. was particularly
3 vulnerable or incapable of resistance; (2) that the defendant's conduct during the commission of
4 the current offenses manifested deliberate cruelty to C.C.; and (3) that C.C.'s injuries
5 substantially exceed the level of bodily harm necessary to satisfy the elements of this offense
6 such that the defendant's conduct resulted in multiple injuries or more severe injuries than
7 typically associated with the offense
8

III.

9
10 The defendant stipulated to the presence of the following two aggravating factors charged
11 in Count II: (1 that the defendant's conduct during the commission of the current offenses
12 manifested deliberate cruelty to C.C; and (2) that the defendant knew or should have known that
13 C.C. was particularly vulnerable or incapable of resistance
14

IV.

15
16 C.C. was born on March 5, 2011 The defendant was born on March 5, 1994. This
17 incident occurred on or about March 30, 2013. The defendant was in a dating relationship with
18 Laura Colley, the biological mother of C.C. The defendant lived at the same residence as Laura
19 Colley and C.C..

V.

20
21 On March 29, 2013, Laura Colley left for the evening to celebrate her birthday. She did
22 not return until the following day. While she was away, the defendant was C.C.'s sole caretaker
23 The defendant was responsible for ensuring C.C.'s health and safety.
24
25

VI.

1 At the time of this incident C.C. was 24 months old and the defendant was 19 years old.
 2 C.C. was 3 feet tall and weighed 36 pounds. Due to his extreme youth, C.C. was physically
 3 incapable of defending himself from the defendant. C.C. was not in a position where he could
 4 summon either help or medical aid of his own volition. C.C. was particularly vulnerable or
 5 incapable of resistance given his extreme youth and C.C.'s vulnerability was a substantial factor
 6 in the commission of the crime of both Murder in the First Degree and Rape of a Child in the
 7 First Degree.
 8

VII

9 The defendant sexually assaulted C.C. prior to his death. C.C.'s had severe rectal
 10 injuries. The defendant repeatedly assaulted C.C. prior to his death. As a result of the assault,
 11 C.C. suffered head injuries, brain injuries, abdominal injuries, and injuries to all areas of his
 12 body. The extreme nature of the attack caused C.C. extreme terror. C.C. had a blood alcohol
 13 level of .11 as a result of the alcohol ^{PROVIDED} ~~fed~~ to him by the defendant. The defendant neglected to BEC
 14 obtain medical aid for C.C. for some time following infliction of the injuries. The defendant's
 15 conduct manifested deliberate cruelty to C.C. and that the deliberate cruelty exhibited was a
 16 substantial factor in the commission of both Murder in the First Degree and Rape of a Child in
 17 the First Degree.
 18
 19

VIII.

20 The abdominal injuries were fatal. The brain injuries were fatal. C.C. was covered in
 21 bruises from his head to his toes. The number of injuries inflicted by the defendant substantially
 22 exceeded the level of bodily harm necessary to satisfy the elements of Murder in the First Degree
 23 and was a substantial factor in the commission of Murder in the First Degree.
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IX.

The defendant's offender score is two. The standard range for Murder in the First Degree is 261-347 months. The standard range for Rape of a Child in the First Degree is 111-147-life, subject to the Indeterminate Sentence Review Board.

From the foregoing Findings of Fact, the Court hereby makes the following Conclusions of Law:

CONCLUSIONS OF LAW

I.

The fact that the defendant committed Murder in the First Degree against a particularly vulnerable victim whose vulnerability was a substantial factor in the commission of the crime is a substantial and compelling reason that justifies a sentence above the standard range.

II.

The fact that the defendant committed Rape of a Child in the First Degree against a particularly vulnerable victim whose vulnerability was a substantial factor in the commission of the crime is a substantial and compelling reason that justifies a sentence above the standard range.

III.

The fact that the defendant's conduct toward C.C during the commission of Murder in the First Degree manifested deliberate cruelty to C.C. is a substantial and compelling reason that justifies a sentence above the standard range.

IV.

The fact that the defendant's conduct toward C.C. during the commission of Rape of a Child in the First Degree manifested deliberate cruelty to C.C. is a substantial and compelling reason that justifies a sentence above the standard range.

V.

The fact that C.C.'s injuries substantially exceeded the level of bodily harm necessary to satisfy the elements of Murder in the First Degree such that the defendant's conduct resulted in more numerous and severe injuries than is typical of the crime of Murder in the First Degree is a substantial and compelling reason that justifies a sentence above the standard range.

VI.

The appropriate length sentence the defendant should receive is 608 months in prison on Count I and 258 months to life on Count II. In imposing this sentence, the Court has considered the defendant's age, the victim's age, the amount and nature of his criminal history, the standard range sentences available to the court, the victim's particular vulnerability, including his extreme youth and general helplessness, and the defendant's deliberate cruelty, including violence of the sexual assault and the physical assault which inflicted physical, psychological, and emotional pain upon C.C. as an end in itself, and that the injuries sustained by C.C. prior to his death were more numerous and severe than typically associated with murder, and the evidence presented by the defense in mitigation at sentencing.

VII.

Each aggravating circumstance is supported by substantial credible evidence. Any of the three aggravating circumstances stipulated to by the defendant is an independent basis

1 for the sentence imposed, and the court would impose the same sentence if any of the three
2 aggravating circumstances were standing alone.

3
4 The court's oral ruling on the sentence imposed was given in open court in the presence
5 of the defendant on November 21, 2013.

6 DONE IN OPEN COURT this 5 day of December, 2013.

7
8 
9 JUDGE

10 Presented by:

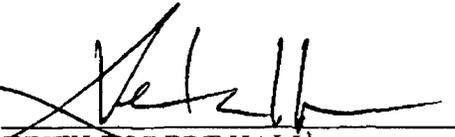
11 
12 JARED AUSSERER
13 Deputy Prosecuting Attorney
14 WSBA # 32719

15 
16 ANGELICA WILLIAMS
17 Deputy Prosecuting Attorney
18 WSBA # 36673



19 Approved as to Form:

20 RICHARD LOUIS WARNER
21 Attorney for Defendant
22 WSBA #21399

23 
24 KEITH ROBERT HALL
25 Attorney for Defendant
WSBA #35802

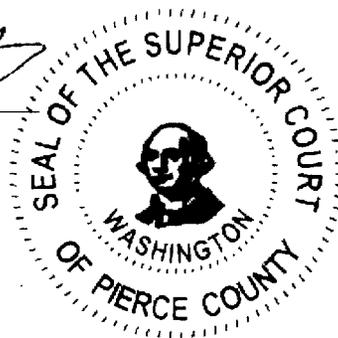
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 08 day of May, 2015



Kevin Stock, Pierce County Clerk

By /S/Kayley Pitzele, Deputy.

Dated: May 8, 2015 8:31 AM



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APPENDIX “Z”

Certified Advice of Right to Appeal

Case Number: 13-1-01369-1 Date: May 7, 2015
SerialID: 2F9F62CA-F20F-6452-D0F4BDC4776B1B0013-1-01369-1
Certified By: Kevin Stock Pierce County Clerk, Washington



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 13-1-01369-1

vs

JAKE JOSEPH MUSGA

Defendant.

ADVICE OF RIGHT TO APPEAL

RIGHT TO APPEAL

Judgment and Sentence having been entered, you are now advised that:

- 1.1 You have the right to appeal your conviction(s). If you have entered a guilty plea, you have waived your right to raise certain issues, as discussed in your guilty plea statement, in an appeal. You have a right to appeal any sentence that is outside the standard sentence range. You also have a right to appeal rulings on other post convictions motions as listed in Rules of Appellate Procedure 2.2.
- 1.2 Unless a notice of appeal is filed with the clerk of the court within thirty (30) days from the entry of judgment or the order appealed from, you have irrevocably waived your right of appeal.
- 1.3 The clerk of the Superior Court will, if requested by you, file a notice of appeal on your behalf.
- 1.4 If you cannot afford the cost of an appeal, you have the right to have a lawyer appointed to represent you on appeal and to have such parts of the trial record as are necessary for review of errors assigned transcribed for you, both at public expense.

Case Number: 13-1-01369-1 Date: May 7, 2015
SerialID: 2F9F62CA-F20F-6452-D0F4BDC4776B1B0013-1-01369-1
Certified By: Kevin Stock Pierce County Clerk, Washington

ACKNOWLEDGMENT

Regarding the foregoing advice of my "Right to Appeal":

- 1. I understand these rights, and
- 2. I waive formal reading of these rights, and
- 3. I acknowledge receipt of a true copy of these rights.

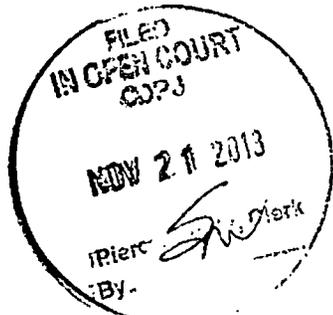
DATE: 11/21/13

DEFENDANT: [Signature]

DEFENDANT'S ATTORNEY: [Signature]

DATE: Nov. 21, 2013.

JUDGE: [Signature]



State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 07 day of May, 2015



Kevin Stock, Pierce County Clerk

By /S/Alyssa Porter, Deputy.

Dated: May 7, 2015 11:24 AM



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PIERCE COUNTY PROSECUTOR

May 26, 2015 - 3:44 PM

Transmittal Letter

Document Uploaded: 7-prp2-469871-Response.pdf

Case Name: In re the PRP of: Jake Musga

Court of Appeals Case Number: 46987-1

Is this a Personal Restraint Petition? Yes No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion:

Answer/Reply to Motion:

Brief:

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes:

Hearing Date(s):

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other:

Comments:

No Comments were entered.

Sender Name: Heather M Johnson - Email: hjohns2@co.pierce.wa.us

A copy of this document has been emailed to the following addresses:

barbara@bcoreylaw.com