

NO. 47267-8-II

IN THE COURT OF APPEALS OF THE STATE OF  
WASHINGTON

DIVISION II

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STATE OF WASHINGTON

Respondent,

v.

Jeremy David Rosenbaum

Petitioner.

FILED  
COURT OF APPEALS  
DIVISION II  
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STATE OF WASHINGTON  
BY  DEPUTY

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FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR COWLITZ COUNTY

SUPERIOR COURT CASE NO. 13-1-01538-0

THE HONORABLE MARILYN HANN, JUDGE

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PETITIONER'S REPLY TO RESPONDENT'S RESPONSE  
TO AMENDED PERSONAL RESTRAINT PETITION

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Petitioner Pro Se,

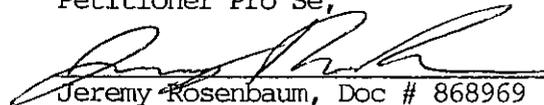
  
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A. IDENTITY OF PARTY

COMES NOW, Jeremy David Rosenbaum, Petitioner Pro Se, and pursuant to the Rules of Appellate Procedure hereby submits this reply to respondents response.

ISSUE # 1 (FORMERLY GROUND 5)

1.1 Defendants right to protection against double jeopardy under unit of prosecution and merger doctrine was violated when the court made allowances for two separate counts of felony harassment against two different people.

1.2 STATES RESPONSE: The felony harassment convictions do not merge or violate Rosenbaums double jeopardy rights. (States Response @ Pg. 8-9).

1.3 REBUTTAL: The state asserts that the merger doctrine does not apply because Rosenbaum was convicted of two separate counts of harassment, neither of which were predicated on a crime being accompanied by a separate distinct criminal act.

1.4 The state neglects to acknowledge the fact that the alleged harassments were sent to one phone registered to Julia Weed.

1.5 Essentially, the merger doctrine states that, were crime A (Julia Weed) and crime B (Ally Gibson) are charged separately, and completion of crime A is also an element of crime B, crime A will definitely merge into crime B if crime A was incidental to the commission of Crime B, and if crime A was not incidental, but had an independent purpose, it falls within an exception and courts may impose separate punishment; thus the incidental nature of the crime is relevant to the application of the exception to the general merger doctrine. See state v. Berg, 337 P.3d 310, 181 Wn.2d 857 (2014) (emphasis added).

1.6 The evidence shows multiple text messages going to Weed's phone (crime A). The state asserted that Rosenbaum committed two counts of harassment from crime A. So crime B (Ally Gibson) could not have been committed without committing crime A.

1.7 When a defendant threatens to cause harm to a particular person at a specified time and place, the defendant can only be convicted of a single count of harassment. It makes no difference that the threat is communicated to multiple people. *State v. Morales*, 174 Wn.App. 370, @ 387, 298 P.3d 791, 799 (2013); See also 13A Wash. Prac., Criminal Law § 1308. Judicial Interpretation-Harassment.

1.8 The petitioner argues that there has already been a judicial interpretation to this. Merger is a doctrine of statutory interpretation. In *re Fletcher*, 113 Wn.2d 42, 50, 776 P.2d 114 (1998). Statutory interpretation is a matter of law, thus review is de novo. The doctrine prevents pyramiding of charges. *State v. Vladovic*, 99 Wn.2d 413, 419-20, 662 P.2d 853 (1983).

1.9 Rosenbaum argues the unit of prosecution doctrine is applicable in this case, and is what the legislation intended regarding the statute of harassment. All the state does by invoking the same evidence doctrine is disturb the already murky waters of unit of prosecution analysis.

1.10 The unit of prosecution is unique in this aspect: while the issue is one of constitutional magnitude on double jeopardy grounds, the issue ultimately revolves around a question of statutory interpretation and legislative intent. See Peter Western & Richard Drubel, *Toward a General Theory of Double Jeopardy*, 1978 Sup. Ct. Rev. 81, 113; Note *twice in jeopardy*, 75 Yale L.J. 262, 313 (1965).

1.11 If the legislature has failed to denote a unit of prosecution in a criminal statute, the U.S. Supreme Court has declared the ambiguity should be construed in favor of lenity. *Bell*, 349 U.S. @ 84, 75 S.Ct. 620.

1.12 The U.S. Supreme Court has been especially vigilant of overzealous prosecutors seeking multiple convictions based on spurious distinctions between the charges. *Brown v. Ohio*, 432 U.S. 161, 169, 97 S.Ct. 2221, 53 L.Ed.2d 187 (1977).

1.13 The governing case of precedence in this argument is found in *State v. Adel*, 136 Wn.2d 629, 965 P.2d 1072 (1998). In the opinion of *Adel* the court referred to a case that the petitioner argues is both relevant and germane to his case. "The legislature did not intend to impose multiple punishments upon one person's promotion of prostitution by employing two or more persons simultaneously over period of weeks in the same location. See *State v. Mason*, 31 Wn.App. 680, 644 P.2d 710 (1982).

1.14 Now please refer to the facts of *Rosenbaum's* case: the first step in the unit of prosecution inquiry is to analyze the criminal statute. The relevant portion of the judicial interpretation of harassment is found in 13A Wash. Prac. Criminal Law § 1308—When a defendant threatens to cause harm to a particular person (*Julia Weed*) at a specified time and place, (which is between 11/21/2013 through 11/24/2013) (the place would be *Weed's* cell phone), that the defendant can be convicted of only a single count of harassment. It makes no difference that the threat was communicated to multiple people. *Id. State v. Morales*, 174 Wn.App. 370, 387, 289 P.3d 791, 799 (2013).

1.15 From November 21 to November 25 the petitioner is arguing that this falls within the same course of conduct.

1.16 For the conviction of Ally Gibson to stand the jury failed to elect the specific act upon which it will rely for conviction. (Jury Instruction 14- Exhibit 13 @ Pg. 17). The Petitioner again would like to address this courts attention to the juries pronounced verdict. (VR April 11, Pg. 108 @ Ln. 16-20). The jury clearly stated that they found no grounds to find the defendant guilty of conduct which placed Ally Gibson in position of reasonable fear, that any "threat or kill would be carried out".

1.17 The petitioners felon J&S (Ex. 11 on Pg. 1), the date of the crimes are the same, and the first three RCW's are also identical for conviction purposes, which is obviously putting Rosenbaum in double jeopardy when the merger doctrine and unit of prosecution was disregarded.

1.18 Double jeopardy may be implicated when multiple convictions arise from the same act, even if concurrent sentences have been imposed. State v. Calle, 125 Wn.2d 769, @ 775, 888 P.2d 158 (1995). The petitioner submits to this court that double jeopardy has been implicated in this case.

ISSUE # 2 (FORMERLY GROUND 2)

2.1 Defendant was denied constitutional guarantee of due process when trial court failed to acknowledge a proposed "other suspect". RAP 2.5 (a)(2) the trial court "failed to establish facts upon which relief can be granted".

2.2 STATES RESPONSE: Mr. Rosenbaum's due process rights were not violated by the trial court excluding "other suspect" evidence. (States response @ part 3, Pg. 10 & 11).

2.3 STATES RESPONSE: Sufficient foundation was laid for the text messages to be admitted into evidence. (States response @ part 4, Pg. 12).

2.4 REBUTTAL: Petitioner will rebut the second part of the states response first as this issue was the foundation of the states case.

2.5 Taking Rule 901 into consideration, the admissability of states exhibit 11 at trial should have been given a further and independant analysis/hearing.

2.6 At trial defense attorney made an objection to Ex. 11 on the grounds of foundation. This objection was overruled and the court permitted states Ex. 11 to be submitted to the jury on only the testimony of Weed confirming or authenticating that the exhibit is what it claims to be.

2.7 The petitioner has standing to complain that this fell well below the requirements of authentication/Identification/Admission of exhibits. Weed had no personal knowledge of who's phone was texting her, or other parties conversing to her phone. But she claimed that states Ex. 11 was screen shots of text messages between her, Gibson, and Rosenbaum. VR April 9, Pg. 128-29.

2.8 The petitioner also has evidence, which is a witness interview of Julia Weed under oath dated February 26, 2014. (See Ex. 12 attached to this reply). In this interview Weed is saying that he "Rosenbaum" had other people texting, or acting like other people to try and get Ally to talk to him. After the statement she is questioned whether she really knew if it wasn actually other people, and she replied "NO I DON'T". Then she provided examples of texts from future states Ex. 11 showing third party mention of defendant. (See Box 10 & 11 of exhibit 12).

2.9 Under Rule 901 (a) the requirement of authentication or identification as a condition precedent to admissability is satisfied by evidence sufficient to support a finding that the matter in question is what its proponents claim.

2.10 Ms. Weed failed to satisfy this rule because she was unsure, and

could not prove, who all was texting her phone in Ex. 11.

2.11 This exhibit on its face lacks foundation and should have never been presented to a jury. Weeds lack of personal knowledge into the owner of the phone, which is the underlining argument of the petitioner in his PrP @ issues # 2 relating to the circumstances of that relationship between 3 people, Rosenbaum, Gibson, and Mr. Spangler.

2.12 This does not conform to rule 901 (b)(1) which states "testimony of witness with knowledge that a matter is what it is claimed to be". Similarly, a court reviewed a trial courts decision regarding the authenticity of an exhibit under an abuse of discretion standard. State v. Williams, 136 Wn. App. 486, 499, 150 P.3d 111 (2007). Er 901 requires the proponent of the evidence to make a prima facie showing that the evidence is authentic- it is what it purports to be. Rice v. Offshore Sys., Inc. 167 Wn. App. 77, 86, 272 P.3d 865 (2012).

2.13 The petitioner argues that this is only the surface of the miscarriage of justice. Lets get to the meat of the matter.

2.14 States Ex. 11 was identified by testimony of Rosenbaum and Gibson as belonging to Mr. Spangler. (VR April 10, @ Pg. 58-59, & VR April 10, @ Pg. 179). But any attempt that the trial court attorney made to show that Spangler was the person who might have been the one who made certain text messages was *objected* by the state as speculation/hearsay because Spangler passed away a month before trial. (VR April 10, Pg. 59-60 & VR April 10, Pg. 94-96).

2.15 Now we approach a huge double standard in regards to the states prosecution. The prosecuter gets the court to permit states Ex. 11, which are hundreds of text messages taken from Weed's phone, but were sent from the phone of the deceased owner Mr. Spangler. (See death certificate Ex.7).

Petitioner argues that all states Ex. 11 should have been inadmissible as speculation/hearsay in every text message because Spangler was not available for questioning in regards to the text messages, and this ultimately caused a mandatory presumption that Rosenbaum was the author of all the text messages

2.16 Mandatory presumptions violate a defendant's right to due process if they relieve the state of its obligation to prove all the elements of the crime charged beyond a reasonable doubt. (Const. Amend. 14). A mandatory presumption is different from a permissive presumption, which does not require the trier of fact to infer the elemental fact from the proof by the prosecutor of the basic one and places no burden of any kind on the defendant. See *State v. Atkins*, 156 Wn.App. 799; 236 P.3d 897, @ 901 (2010) LEXIS 1093.

2.17 Petitioner submits an example to the court VR April 10, Pg. 94-96. The state then submits an objection for speculation, that somebody else could have authored the text messages. (VR April 10, Pg. 96-Ln. 9-10). The court erred in sustaining this objection, and deprived Rosenbaum of his right to a fair trial because it placed a mandatory presumption that he authored all of states Ex. 11.

2.18 REBUTTAL: In rebuttal to part 3-Pg. 10 & 11 of states response, a criminal defendant has a constitutional right to present a defense. (U.S. Const. Amend. 6). The standard for relevance of other suspect evidence is whether there is evidence tending to connect someone other than the defendant with the crime; the probative value must be based on whether the evidence has a logical connection to the crime, not based on the strength of the states evidence. *State v. Wade*, 346 Wn.App. 838, @ 846, LEXIS 685 (2015).

2.19 When Gibson tried to testify about a proposed other suspect, which she had personal knowledge of, the state and court prevented her testimony, thus depriving the petitioner his right to due process.

2.20 The state argues that Rosenbaum was permitted to testify about Mr. Spangler, and therefore he was not deprived to proposed other suspect. But when the court admitted states Ex. 11, and allowed Ms. Weed to testify to its authenticity relating to Rosenbaum and Spangler, and the court would not let Gibson testify to its authenticity relating to Spangler, the deceased owner of the phone and the proposed other suspect, this clearly is a double standard.

2.21 The underlying questions needs to be asked. If the state was permitted to submit states Ex. 11 and allow testimony from Weed to its authenticity, Why was Rosenbaum and Gibson not allowed to do the same? This is on its face a violation of Rosenbaum's Sixth Amendment to the U.S. Constitution, and the Fourteenth Amendment to the U.S. Constitution- Right to present a defense-right to a fair trial-and due process.

2.22 Petitioner asks that states Ex. 11 be suppressed as hearsay/speculation as it is impossible for him to confront or question Spangler in relation to his phone/texts, which as the petitioner's shown, has put a mandatory presumption, and thus has placed a burden on the petitioner to prove his innocents upon him due to Spanglers death and the courts error.

ISSUE # 3 (FORMERLY GROUND 9)

3.1 The prosecution failed to prove "true threat" and other required elemetns of felony harassment beyond a reasonable doubt.

3.2 STATES RESPONSE: There was sufficient evidence to convict the defendant of two counts of harassment, one count against Julia Weed, and one count against Ally Gibson. (States Response @ Pg. 2-6).

3.3 REBUTTAL: The states response reflects the prosecuter relying heavily on "after vewing the evidence in the light most favorable to the prosecution" doctrine.

3.4 The petitioner submits to this court that the application of this doctrine, when weighed against Rosenbaum's constitutional rights to double jeopardy as to the Gibson conviction, it falls well below the bar of fairness, and or is legal.

3.5 For the conviction of Gibson, the jury failed to elect the specific act upon which it will rely for conviction. In the states response, she erroneously states that the jury only had to find that "either the threats consisted of threats to kill the victam, or that the defendant was previously convicted of a crime of a protection order against any person who is specifically named in the no contact order, in order for the felony harassment to be established". (States response @ Pg. 3).

3.6 The petitioner argues that the jury needed to also find the defendant had harassed Gibson in some way, i.e. a specific threat of bodily harm, for a misdemeanor harassment charge to aggravate into a felony harassment. The jury failed to come to a unanimity decision to any specific act. (Jury instruction 14, Ex. 13 @ Pg. 17). This is indicative of the prosecuter playing on the fears and prejudices of the minds of the jury, as they just returned a verdict of guilty to all counts, despite the clearly unambiguous "specific act" jury instruction.

3.7 All the state does is assert that the defendant, between November 21, 2013 to November 25, 2013, threatened both Weed and Gibson through Weed's cell phone. But the jury verdict announced that they found no grounds to find the defendant guilty of conduct which placed Gibson in position of reasonable fear, that any "threat or kill would be carried out". (VR April 11, @ Pg. 108-Ln. 16-20). The jury only found defendant was previously convicted

of a crime of a protection order against any person who is specifically named in the no contact order; (See Ex. 13 @ Pg. 34-Martin Spangler), and that Gibson and Rosenbaum were in a dating relationship of the same household, both in special verdict instructions. (See Ex. 13 @ Pg. 36).

3.8 The foundation for the Gibson conviction lacks the specific "threat to bodily harm" element, and lacks a special verdict form to specify what specific act of "threat of bodily harm" that the jury had found Rosenbaum had committed.

3.9 The states response @ Pg. 5 says that Rosenbaum sent a text that said he'd beat Gibson worse then before. The petitioner wants to submit an objection as to the states response on Pgs. 4 & 5. The state is taking Gibson and Weed's testimony as examples and presenting them to this court way out of context. This is exactly what the state did in Rosenbaum's trial to. In addidtion to that, the state is also taking Weed's testimony, from what she allegedly heard Gibson say, and using this as to the state of mind of Gibson, which is both speculative and hearsay, as Gibson testified she did not tell Weed what Weed claims. (See VR April 10 @ Pg. 20-Ln. 2-7).

3.10 Taking the texts into their proper context, when the state refered to "Mr. Rosenbaum sent a text message that he would beat her (Gibson) worse than before, both women took that as a threat to harm Gibson".

3.11 This notion is absurd in light of Gibson's testimony that she had never been subjected to any type of abuse from Rosenbaum other than her arm being smashed in a door, which she testified to was an accident. (VR April 10, Pg.81-Ln 12-21).

3.12 So when Rosenbaum refered to this incident where Gibson was claiming

she was assaulted by him to Weed on November 21, it is clear on its face that this is a type of behavior made out of mockery to the absurdity, that if Gibson thought the arm slamming was bad, that she, if she kept up her behavior, then she would have nightmares for the rest of her life by the world at every stressfull event it threw at her. (See Ex. 5-Pg. 3 @ 6:24PM, and Ex. 5-Pg.13 & 14 @ 6:43 PM).

3.13 A "true threat" is a serious threat, not one said in jest, idle talk, or political argument. U.S. v. Howell, 719 F.2d 1258, 1260 (5th Cir. 1984); J.M., 144 Wn.2d @ 478, 28 P.3d 720; See also jury instruction # 10.

3.14 Felony harassment statute criminalizes pure speech, and therefore, it must be interpreted with the commands of the First Amendment clearly in mind. State v. Kilburn, 151 Wn.2d 36, 84 P.3d 1215 (2004).

3.15 In the case of State v. Schaler, 169 Wn.2d 274 (2010) @ ¶¶ 46, justice J. Sanders well said in his concurring in part and dissenting in part, that RCW 9A.46.020 is out of control and must be reigned in.

3.16 Petitioner would also like to respond to states response @ Pg. 5 where they are using (VR April 10 Pg. 35-38). When the court reviews this part of the verbatim reports, please be open to seeing it only further substantiates Rosenbaum's Claim that Gibson lied under oath to manipulate an arrest to destroy the defendants parental rights and to stop the petitioner from reporting to CPS about her active heroine use while being pregnant with his chiuld, which would have also stopped her from getting her other daughter Araiha back from CPS custody. (Please See Ex. 12-Pg.6 @ Box 21, Ln.14 - Pg. 7 @ Box 22, Ln. 7). Petitioner further reinstates herein, his full argument from his amended PrP @ issue 3, Pgs. 13-16, as to the Gibson conviction.

3.17 Petitioner now will respond as to the Weed conviction: This court will see, yes there are very harsh and negligent words/texts. Petitioner argues though that felony harassment based on threat to kill requires the state to prove that the person threatened be placed in reasonable fear that the threat would be carried out, rather than mere fear of bodily injury; plain meaning of statute indicates that fear of "The Threat" must be fear of actual threat made, i.e. the threat to kill. See state v. Sayaria, 82 Wn.App. 832, 919 P.2d 1263; State v. C.G., 150 Wn.2d 604, 80 P.3d 594.

3.18 Petitioner will now direct the courts attention to Ex. 12 attached to this response of testimony of Ms. Weed under oath dated February 26, 2014. Please read Pg. 5 of this exhibit @ Box 14-Ln 9-17. Now please read Pg. 6 @ Box 18-Ln.4-20. Petitioner argues that in light of this testimony, and the facts that Weed approximately one hour after the threat to kill, she is in her car driving to the defendants house and texting him a description of the present state of things like "cuz there is someone at your house with a bike, I drive a jeep! Like I said wrong house" or "And your garage door is wide open" to which Rosenbaum text back "can we stop these childish games"? And to that plea Weed texted back "Fuck You Punk". (See Ex. 5 Pg. 19-21). The petitioner submits to this court that these are not the actions of someone who was afraid for their life, nor believed in the threat to kill.

3.19 In this light how can these convictions stand? Please read Ex. 12 Pg.5 @ box 17-Ln 4 - Pg. 6 @ box 18-Ln. 24. After the threat to kill, Weed came to the defendants house within one hour. Petitioner prays that this court read the true motive for going to police, which is found in Ex. 12 Pg.6 @ Box 21-LN. 14 - Pg. 7 @ Box 22-Ln. 7. Petitioner further restates argument @ issue 3 from his amended PrP Pg. 16-20 as to the weed conviction.

ISSUE # 4 (FORMERLY GROUND 4)

4.1 The court denied defendant a fair trial by defining law to fit their own purpose exceeding legislative intent. As such the defendant was found guilty of the charge of bribery even though there was insufficient evidence.

4.2 STATES RESPONSE: There was sufficient evidence to support the conviction for bribing a witness. (States response @ Pg. 6-8).

4.3 REBUTTAL: It appears that this issue before this court is an issue of first impression. But the most obvious fact to this bribery charge is that no offer was ever conveyed or communicated to Ms. Weed.

4.4 This is accepted as fact because Weed even testified at trial that she has no knowledge of any bribe or offer. (VR April 9, Pg. 167 @ Ln. 19-21).

4.5 The states radical interpretation of this statute defies both reason and logic. The petitioner submits that the state played on the fears and prejudices of the minds of the juries while the state was comparing the ambiguous bribery statute with the tampering with a witness statute. (VR April 11, @ Pg. 65-69).

4.6 The petitioner has standing to complain that this crime should not have even been allowed before the jury to rule on, as it was prejudicial in relation to the witness tampering charges. You have twelve individuals untrained in the law, being told that bribery and tampering are attacks against the system by a prosecutor. (VR April 11, @ Pg. 67-Ln. 23-25 & Pg.68-Ln. 1-6). This is extremely influential, and very confusing due to the states position that bribery needs only be an attempt to bribe, compared to their same position with the tampering statute.

4.7 The defendants trial attorney tried to avoid this confusing issue when he moved for dismissal of bribing a witness after all testimony was

presented, and there was just a lack of evidence. In this oral motion for dismissal, the state and court took a confusing stance on the bribery statute and misconstrued it with the "attempted" language of the tampering statute. (VR April 11, @ Pg. 7-LN. 24 through to Pg. 16-Ln. 1).

4.8 The trial judge made a discretionary ruling regarding legislative intent in relation to the bribery statute, which this petitioner submits was an abuse of discretion due to the radical interpretation and misunderstanding of this statute.

4.9 This constitutes a Sixth and Fourteenth Amendment violation to the U.S. Constitution, and has deprived Rosenbaum of a fair trial.

ISSUES # 5 (FORMERLY GROUND 10)

5.1 The defendant was subjected to double jeopardy under the merger doctrine and unit of prosecution when the court allowed him to be tried and convicted of bribing a witness; Tampering with a witness; and another count of tampering with a witness, when all stem from one single course of conduct.

5.2 STATES RESPONSE: The convictions for bribing a witness and witness tampering do not merge or violate Mr. Rosnebaum's double jeopardy rights. (States response @ Pg. 9 & 10).

5.3 REBUTTAL: The state asserts that these charges do not constitute the same criminal conduct. Petitioner refutes this argument with evidence in his felony J&S (Ex. 11), on Pg. 2 @ 2.1-The eighteenth box. If this court will review this pleading it will find that the box checked specifically states: "Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589): COUNT III AND IV".

5.4 This is prima facie evidence that it puts the defendant in double jeopardy for the same criminal conduct against the victim Julia Weed.

5.5 Double jeopardy may be implicated when multiple convictions arise from the same act, even if concurrent sentences have been imposed. State v. Calle, 125 Wn.2d 769, @ 775, 888 P.2d 158 (1995).

5.6 The state should have chosen which charge they wanted to pursue rather than charge Rosenbaum with a pyramiding of charges, which ultimately could have played on the fears and prejudices of the minds of the jury.

5.7 Petitioner cites 8 A.L.R. 4th 769, all of § 15-Relationship to other offenses, as a secondary authority to substantiate his grounds related to this issue.

5.8 The courts held in each of the following cases that witness tampering and another crime of the same chapter were so similar that, at least under the circumstances presented, the defendant could not be convicted of both. See State v. Dipietro (1980, ME) 420 A2d 1233, supra § 12 [a]; State v. Liederman (1961) Ohio App. 339, 18 Ohio Ops 2d 25, 179 NE 2d 108).

5.9 Despite the fact Rosenbaum is being subjected to double jeopardy from Weed, he further has standing to complain that both tampering charges against Weed and Gibson should have merged into one unit prosecution under the merger doctrine, due to the fact that the witness tampering was never communicated or received by either victims.

5.10 Reiterating the facts to this case: the only letters that could have been remotely incriminating as to the witness tampering charges are the two letters mailed to the Petitioner's mother Kristine Evans (See Ex. 6, Pg. 1-7), which were never conveyed or delivered to either victims. (VR April 9, Pg. 167 @ Ln. 19-21, and April 10, Pg. 47 @ Ln. 25-Pg. 48 @ Ln.18).

5.11 Furthermore, under the merger doctrine, crime A (Rosenbaum's letter to his mother asking her to contact Gibson to tell her to *Tell The Truth and show* up for trial), and crime B (in the letter telling his mother to tell his girl Gibson "what I am saying, we gotta get her sister on our side. Hell I'll pay \$ if I have to"), none of this could have happened without crime A (Rosenbaum's letter to his mother asking to contact Gibson, and his mother and Gibson acting on his request). The record reflects that neither of them did so. (See *State v. Berg*, 337 P.3d 310, 181 Wn.2d 857 (2014)(Emphasis added). Merger doctrine prevents pyramiding of charges. *State v. Vladovic*, 99 Wn.2d 413, 419-20, 662 P.2d 853 (1983).

5.12 Finally, the evidence is clear here that these letters to the Petitioner's mother in no way tampered with either Weed or Gibson, nor was there a bribery ever made. This is just overzealous prosecution and trumped up pyramiding of charges.

5.13 Certainly, the double jeopardy clause prohibits multiple convictions for charges deprived from "arbitrary" or "spurious" distinctions such as "'dividing a crime into a series of temporal or spatial units.'" *State v. Adel*, 136 Wn.2d 629, 635, 965 P.2d 1072 (1998).

5.14 It is obvious the petitioner has been subjected to the very same thing that the defendants in *Brown v. Ohio* and *State v. Adel* also went through. This is a clear case of double jeopardy, and a blatant disregard to the merger doctrine and unit of prosecution.

ISSUE # 6 (FORMERLY GROUND 7)

6.1 Defendants rights to due process was violated when, absent a showing of actual criminal intent, he was found guilty of tampering with a witness.

6.2 STATES RESPONSE: It appears the State has failed to respond to this ground in their response. The entire response of the state has nothing in regards to disputing, challenging, or debating the Petitioner's issue # 6.

6.3 REBUTTAL: A Respondent's failure to argue this point may be treated as a concession. In re Pullman, 167 Wn.2d 205, 212 n.4, 218 P.3d 913 (2009).

6.4 The petitioner respectfully asks this court to treat the states failure to respond to issue # 6 as a concession.

6.5 The petitioner asserts issue # 6, pages 30-35 in his amended PrP, as if fully restated herein.

ISSUE # 7 (FORMERLY GROUND 3 & 8)

7.1 The defendant was denied the ability to present a defense due to courts ruling to omit any mention of drugs from testimony and collected evidence, knowing that drug usage was pivotal in establishing motive and explaining other key elements of the crime, as well as errant testimony.

7.2 STATES RESPONSE: Mr. Rosenbaum was not denied the right to present a defense by the exclusion of testimony regarding drug use. (States response @ Pg. 12 & 13).

7.3 REBUTTAL: After the review of the verbatim reports and the motions in limine, there becomes a fundamental question that needs to be asked; was the defendant not given a fair trial and denied his right to present a defense when both him and victim Gibson were not allowed to talk about drug use, but the state was allowed to talk about Rosenbaum's drug use to the jury? ((VR April 9, Pg. 94-Ln. 7-12).

7.4 For the defendants trial attorney not objecting to such a double standard is so ineffective that it cannot be credited to any type of "trial

defense strategy".

7.5 This type of representation screams of ineffective assistance of counsel.

7.6 Petitioner also formerly argued ineffective assistance of counsel in his first PrP @ ground # 3 specifically.

7.7 The state argues that the trial attorney agreed to these standards, despite the facts that such an agreement was fundamentally both actually and substantially prejudicial to the petitioner. But the state fails to dispute that the agreement was also conditioned with the door being opened by "someone volunteers their own drug use". (VR April 9, @ Pg. 10-Ln. 17-18; April 9, @ Pg. 93-Ln. 23-Pg. 94-Ln. 6). These motions in limine were granted by the trial judge. (VR April 9, @ Pg. 11-Ln. 16-20 & April 9, @ Pg. 94-Ln. 6).

7.8 In addition to this, the prosecutor also played on the fears and prejudices of the minds of the jury, by implying in front of the jury the defendants heroin use through questioning of Officer Mike Dalen. "Based on your training and experience, did he appear to be under the influence of ANY SORT OF INTOXICANT?" (VR April 10, @ Pg. 107-Ln. 24-25).

7.9 At this point defense attorney objected and it was overruled. Officer Dalen was then permitted to testify that Rosenbaum appeared to be under the influence of substances other than marijuana. (VR April 10, @ Pg. 108-Ln. 1-17).

7.10 Again, the petitioner submits to this court that he has standing to complain how much of a double standard he was subjected to by the states prosecution in this trial.

7.11 In addition to that, the court abused its discretion when it would not permit Gibson to voluntarily testify about her own heroin/drug use, and

how it was such a prevalent part of the incident, and Gibson further complained that she felt like she could not be truthful without mentioning how the role of drugs played in this entire incident. (VR April 10, @ Pg. 44-Ln. 14- Pg. 45-Ln. 24).

7.12 Rather than let Gibson testify truthfully and voluntarily about her drug use, which was well within the rules set in all motions in limine related to drug use, the court instead abused its discretion and intimidated Gibson under threat of contempt and jail time if she didn't stop. (VR April 10, @ Pg. 45-Ln. 13-20).

7.13 The petitioner submits that at this point Gibson's testimony was no longer voluntary, but now coerced under threat of jail time.

7.14 For a judge to not comport with her own rules set forth at the beginning of trial, and then threaten a witness on the stand for testifying to the truth, which was detrimental to the states case, is unprecedented, unexceptable, and a complete mockery of justice, which is deserving of dismissal of the charges with prejudice, or in the alternative, a new trial.

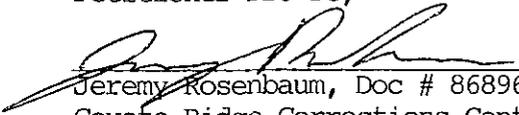
#### CONCLUSION

8.1 In light of the complete miscarriage of justice, the double standards that the petitioner was subjected to in trial, the violations of his right to present a defense, and violation of due process, and the double jeopardy issues, merger doctrine and unit of prosecution violations, the radical interpretation of the bribery statute, a judge threatening a witness, and the numerous other issues argued in the petitioner's PrP, he respectfully asks that this case be dismissed with prejudice, or in the alternative, that he be given a new trial.

8.2 In the event that this case is remanded for a new trial, petitioner also respectfully requests that it be remanded with instructions that the bribery charge be dismissed, and due to the trial judges blatant threat against a witness, the petitioner also would ask that there be a conflict of interest and an affidavit of prejudice made in regards to the Honorable Judge Hann.

RESPECTFULLY SUBMITTED THIS 15<sup>th</sup> day of December, 2015.

Petitioner Pro Se,

  
\_\_\_\_\_  
Jeremy Rosenbaum, Doc # 868969  
Coyote Ridge Corrections Center  
P.O. Box 769  
Connell, WA. 99326

DECLARATION OF MAILING

GR 3.1

I, Jeremy Rosenbaum on the below date, placed in the U.S. Mail, postage prepaid, 0 envelope(s) addressed to the below listed individual(s):

Court of Appeals Div. 2  
950 Broadway, suite 300  
Tacoma, Wa 98402

FILED  
COURT OF APPEALS  
DIVISION II  
28 DEC 21 PM 5:56  
STATE OF WASHINGTON  
BY MA DEPUTY

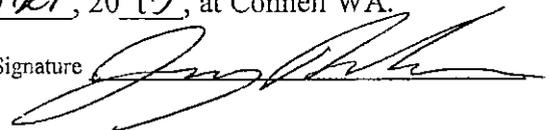
I am a prisoner confined in the Washington Department of Corrections ("DOC"), housed at the Coyote Ridge Correctional Complex ("CRCC"), 1301 N. Ephrata Avenue, Post Office Box 769, Connell, WA 99326-0769, where I mailed said envelope(s) in accordance with DOC and CRCC Policies 450.100 and 590.500. The said mailing was witnessed by one or more staff and contained the below-listed documents.

1. Response to Respondant's response
2. Exhibit 11
3. Exhibit 12
4. Exhibit 13
5. Declaration of mailing
6. \_\_\_\_\_

I hereby invoke the "Mail Box Rule" set forth in General Rule ("GR") 3.1, and hereby declare under penalty of perjury under the laws of the State of Washington that the forgoing is true and correct.

DATED this 15<sup>th</sup> day of December, 2015, at Connell WA.

Signature



APPENDIX

EXHIBIT 11.....FELONY JUDGMENT AND SENTENCE  
(11 PAGES)

EXHIBIT 12.....JULIA WEED WITNESS INTERVIEW- 2/26/2014  
(7 PAGES)

EXHIBIT 13.....COURTS JURY INSTRUCTIONS  
(36 PAGES)

DEFENDANT'S COPY

FILED  
SUPERIOR COURT

2014 MAY 22 PM 2 30

COURT REPORTER  
BEVERLY R. WHITE CLERK

BY \_\_\_\_\_

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

JEREMY DAVID ROSENBAUM,

Defendant.

No. 13-1-01538-0

Felony Judgment and Sentence (FJS)

Prison  RCW 9.94A.507 Prison Confinement

Jail One Year or Less  RCW 9.94A 507 Prison Confinement

First-Time Offender

Special Sexual Offender Sentencing Alternative

Special Drug Offender Sentencing Alternative

Clerk's Action Required, para 4.5 (DOS), 4.7 and 4.8 (SSOSA) 4.15.2, 5.3, 5.6 and 5.8

SiD: WA21915826

If no SiD, use DOB: 11/27/1982

I. Hearing

1.1, The court conducted a sentencing hearing this date 5/22/14; 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, in accordance with the proceedings in this case, the court finds:

2.1: Current Offenses: The defendant is guilty of the following offenses, based upon

:  guilty plea  jury-verdict on April 11, 2014  bench trial: BY MKH

Count	Crime	RCW	Date of Crime
I	FELONY HARASSMENT - DOMESTIC VIOLENCE	9A.46.020(1)(a)(i) 9A.46.020(2)(b)(i) 9A.46.020(2)(b)(ii) 10.99.020(3) 26.50.010(1)	11/21/2013 - 11/25/2013
II	FELONY HARASSMENT	9A.46.020(1)(a)(i) 9A.46.020(2)(b)(i) 9A.46.020(2)(b)(ii)	11/21/2013 - 11/24/2013
III	BRIBING A WITNESS	9A.72.090(1)(a) 9A.72.090(1)(b) 9A.72.090(1)(c)	11/25/2013 - 2/12/2014
IV	TAMPERING WITH A WITNESS	9A.72.120(1)(a) 9A.72.120(1)(b)	11/25/2013 - 2/12/2014
V	TAMPERING WITH A WITNESS	9A.72.120(1)(a) 9A.72.120(1)(b)	11/25/2013 - 2/12/2014

exhibit 11 pg. 1

(If the crime is a drug offense, include the type of drug in the second column.)

Additional current offenses are attached in Appendix 2.1.

The **burglary** in Count \_\_\_\_\_ involved a theft or intended theft.

The jury returned a special verdict or the court made a special finding with regard to the following:

The defendant is a sex offender subject to indeterminate sentencing under **RCW 9.94A.507**.

The defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage a victim of child rape or child molestation in sexual conduct in return for a fee in the commission of the offense in Count \_\_\_\_\_, RCW 9.94A.533(9).

The offense was predatory as to Count \_\_\_\_\_, RCW 9.94A.836.

The victim was under 15 years of age at the time of the offense in Count \_\_\_\_\_ RCW 9.94A.837.

The victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense in Count \_\_\_\_\_, RCW 9.94A.838, 9A.44.010.

The defendant acted with **sexual motivation** in committing the offense in Count \_\_\_\_\_, RCW 9.94A.835.

This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.

The defendant used a **firearm** in the commission of the offense in Count \_\_\_\_\_, RCW 9.94A.602, 9.94A.533.

The defendant used a **deadly weapon other than a firearm** in committing the offense in Count \_\_\_\_\_, RCW 9.94A.602, 9.94A.533.

Count \_\_\_\_\_, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count \_\_\_\_\_, RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.

The defendant committed  **vehicular homicide**  **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.

The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.

For the crime charged in Count I, **domestic violence** was pled and proved. RCW 10.99.020.

The offense in Count \_\_\_\_\_ was committed in a **county jail or state correctional facility**. RCW 9.94A.533(5).

Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589) Count III and IV

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

**2.2 Criminal History (RCW 9.94A.525):**

	Crime	Date of Sentence	Sentencing Court (County & State)	Date of Crime	A or J Adult, Juv.	Type of Crime
1	See appendix 2.2 attached					
2						
3						
4						

ex. 11 PG 2

III. Judgment

- 3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.
3.2 [ ] The defendant is found NOT GUILTY of Counts
[ ] The court DISMISSES Counts

IV. Sentence and Order

It is Ordered:

4.1a The defendant shall pay to the clerk of this court:

Table with columns for JASS CODE, amount, description, and RCW reference. Includes entries for Restitution, Victim assessment, Domestic Violence assessment, Court costs (Criminal filing fee, Witness costs, Sheriff service fees, Jury demand fee, Extradition costs, Incarceration fee, Other), Fees for court appointed attorney, Court appointed defense expert, Fine, Drug enforcement fund, Meth/Amphetamine Clean-up fine, Crime lab fee, Felony DNA collection fee, Emergency response costs, Urinalysis cost, and Total (\$2360).

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

ex. 11 PG 3

Restitution ordered above shall be paid jointly and severally with:

Name of other defendant                      Cause Number    (Amount-\$)

RJN

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ 25.00 per month commencing \_\_\_\_\_ . RCW 9.94A.760.

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).

The court finds that the defendant has the means to pay, in addition to the other costs imposed herein, for the cost of incarceration and the defendant is ordered to pay such costs at the rate of \$50 per day, unless another rate is specified here: \_\_\_\_\_. (JLR) RCW 9.94A.760.

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

**4.1b**  **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 DNA Testing.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

**HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

**4.3 No Contact:** The defendant shall not have contact with Ally C. Gibson (12/2/1993) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for 5 years and Julia R. Weed (9/2/1990) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for 10 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.

----- The defendant shall not use, own or possess any firearm or ammunition while under the supervision of the Department of Corrections. RCW 9.94A.120. -----

The firearm, to wit: \_\_\_\_\_ is forfeited to \_\_\_\_\_, a law enforcement agency.

**4.4 Other:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ex. 11 PG. 4

4.5 Confinement Over One Year. The court sentences the defendant to total confinement as follows:

(a) Confinement. RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

57 months on Count I 57 months on Count II
75 months on Count III 0 57 months on Count IV
57 months on Count V

(as it is same criminal conduct as count III)

[ ] The confinement time on Count(s) contain(s) a mandatory minimum term of

[ ] The confinement time on Count includes months as enhancement for [ ] firearm [ ] deadly weapon [ ] sexual motivation [ ] VUCSA in a protected zone [ ] manufacture of methamphetamine with juvenile present [ ] sexual conduct with a child for a fee.

Actual number of months of total confinement ordered is: 75

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively:

The sentence herein shall run concurrently with the sentence in cause number 14-1-00478-5

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here:

(b) Confinement. RCW 9.94A.507 (Sex Offenses only): The court orders the following term of confinement in the custody of the DOC:

Count minimum term maximum term
Count minimum term maximum term

(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 jail shall compute time served unless the credit for time served prior to sentencing is specifically set forth here by the court:

4.6 Community Placement or Community Custody. The court orders community placement or community custody as follows:

[ ] Community Placement: Count for months; Count for months; Count for months.

[ ] Community Custody for count(s), sentenced under RCW 9.94A.507, for any period of time the defendant is released from total confinement before the expiration of the maximum sentence.

[ ] Community Custody: Count for months; Count for months; Count for months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700 and .705 for community placement offenses, which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 committed before July 1, 2000. See RCW 9.94A.715 for community custody range offenses, which include

sex offenses not sentenced under RCW 9.94A.507 and violent offenses committed on or after July 1, 2000. Use paragraph 4.7 to impose community custody following work ethic camp.]

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

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

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) 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) pay supervision fees as determined by DOC; (7) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (8) for sex offenses, submit to electronic monitoring if imposed by DOC; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.720. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.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 defendant shall not consume any alcohol.

The defendant shall have no contact with: \_\_\_\_\_

The defendant shall remain  within  outside of a specified geographical boundary, to wit: \_\_\_\_\_

The defendant shall not reside within 880 feet of the facilities or grounds of a public or private school (community protection zone). RCW 9.94A.030(8).

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

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

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

Other conditions: \_\_\_\_\_

For sentences imposed under RCW 9.94A.507, 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.

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. 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: \_\_\_\_\_

ex. 11 PG 6

Other conditions may be imposed by the court or DOC during community custody or are set forth here: As outlined by DOC in Appendix F, if any, and additional conditions listed below:

- Submit to, and at your expense, a polygraph examination and a plethysmograph as directed by Corrections Officer or treatment provider.
- Participate in any therapy deemed necessary by your Corrections Officer.
- Have no contact with male/female/any children under the age of eighteen.
- The defendant shall not frequent parks or playgrounds or any location where minor children congregate.
- The defendant shall not live or stay in the residence where (minor child/minor females/minor males) are present unless granted specific permission by your community corrections officer or the court.
- Do not own, use, or possess firearms or ammunition.

V. Notices and Signatures

- 5.1 **Collateral Attack on Judgment.** If you wish to petition or move 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, you must do so 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.** If you committed your offense prior to July 1, 2000, you 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. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). **You are required to contact the Cowlitz County Collections Deputy, 312 SW First Avenue, Kelso, WA 98626 (360) 414-5532 with any change in address and employment or as directed. Failure to make the required payments or advise of any change in circumstances is a violation of the sentence imposed by the Court and may result in the issuance of a warrant and a penalty of up to 60 days in jail.** The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- This crime involves a Rape of a Child in which the victim became pregnant. The defendant shall remain under the court's jurisdiction until the defendant has satisfied support obligations under the superior court or administrative order, up to a maximum of twenty-five years following defendant's release from total confinement or twenty-five years subsequent to the entry of the Judgment and Sentence, whichever period is longer.
- 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 (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 **Restitution Hearing.**  
 I waive any right to be present at any restitution hearing (sign initials): \_\_\_\_\_.
- 5.5 **Community Custody Violation.**  
(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.634.  
(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.737(2).
- 5.6 **Firearms.** **You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record.** (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.8  Count \_\_\_\_\_ is a felony in the commission of which you used a motor vehicle. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.
- 5.9 If you are or become subject to court-ordered mental health or chemical dependency treatment, you must notify DOC and you must release your treatment information to DOC for the duration of your incarceration and supervision. RCW 9.94A.562.

5.10 IF AN APPEAL IS PROPERLY FILED AND APPEAL BOND POSTED, THE DEFENDANT WILL REPORT TO THE DEPARTMENT OF CORRECTIONS, WHO WILL MONITOR THE DEFENDANT DURING THE PENDING OF THE APPEAL, SUBJECT TO ANY CONDITIONS IMPOSED BY DOC AND/OR INCULDED IN THIS JUDGMENT & SENTENCE AND SPECIFICALLY NOT STAYED BY THE COURT.

5.11 Other: \_\_\_\_\_

Done in Open Court and in the presence of the defendant this date: 5/22/14

[Signature]  
Judge/Print Name: \_\_\_\_\_

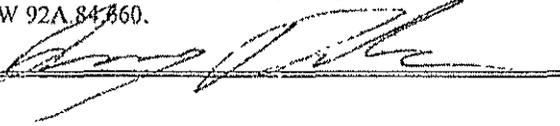
[Signature]  
(Deputy) Prosecuting Attorney  
WSBA No. 31375  
Print Name: Amel L. Hunter

[Signature]  
Attorney for Defendant  
WSBA No. 38484  
Print Name: D. MORBA

[Signature]  
Defendant  
Print Name: Jeremy D. Rosenbaum

ex. 11 PG. 9

**Voting Rights Statement:** I acknowledge that my right to vote has been lost due to felony conviction. 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.84.060.

Defendant's signature: 

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the \_\_\_\_\_ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

Interpreter signature/Print name: \_\_\_\_\_

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

Witness my hand and seal of the said Superior Court affixed this date: \_\_\_\_\_

Clerk of the Court of said county and state, by: \_\_\_\_\_, Deputy Clerk

**Identification of the Defendant**

SID No. WA21915826  
 (If no SID take fingerprint card for State Patrol)

Date of Birth 11/27/1982

FBI No. 296269DC4

Local ID No. 74337

PCN No. \_\_\_\_\_

Other \_\_\_\_\_

Alias name, DOB: \_\_\_\_\_

**Race:**

Asian/Pacific Islander     Black/African-American

Native American     Other: \_\_\_\_\_

**Ethnicity:**

Hispanic

Non-Hispanic

**Sex:**

Male

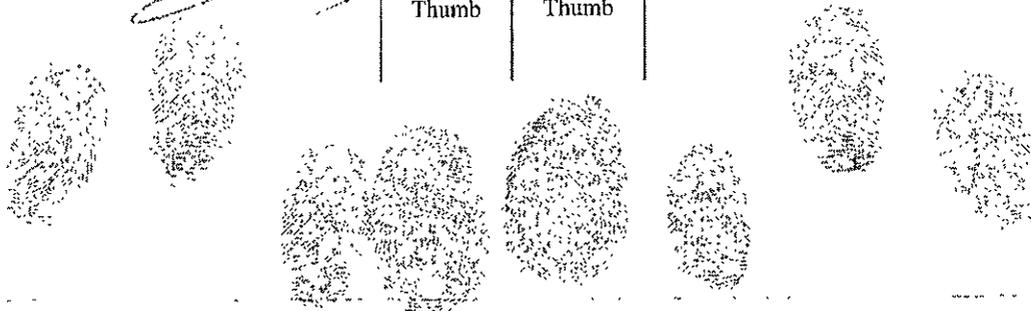
Female

**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, Nanette Hauke Dated: 5/22/14

The defendant's signature: \_\_\_\_\_

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



ex. 11 pg. 11

1 SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

2  
3  
4 STATE OF WASHINGTON, )  
5 Plaintiff, )  
6 vs. )  
7 JEREMY ROSENBAUM, )  
8 Defendant. )  
9

No. 13-1-01538-0

10  
11  
12  
13 WITNESS INTERVIEW

14 OF

15 JULIA WEED  
16  
17

18 DATE TAKEN: February 26, 2014

19 TIME: 4:25 p.m.

20 PLACE: Hall of Justice  
21 Kelso, Washington  
22  
23

24 TANYA L. McCREARY  
25 Archer Associates, Inc.  
PO Box 1118  
Vancouver, WA 98666-1118  
(360) 260-8784

COPY

1 BE IT REMEMBERED that the witness interview of  
2 JULIA WEED, a witness, was taken on the 26th day of  
3 February, 2014, commencing at the hour of 4:25 p.m. at  
4 the Cowlitz County Prosecuting Attorney's Office, The  
5 Hall of Justice, Kelso, Washington before Tanya L.  
6 McCreary, a notary public for the State of Washington,  
residing at Vancouver, Washington.

9 APPEARANCES:

10 AMIE HUNTER of Attorneys for  
11 Plaintiff  
12 Deputy Prosecuting Attorney  
13 Cowlitz County  
14 Hall of Justice  
15 Longview, Washington

16 DANIEL MORGAN Attorney for Defendant  
17 Attorney at Law  
18 1555 Third Avenue  
19 Suite A  
20 Longview, Washington

21 Also present: The witness' small child

22  
23  
24  
25

Julia Weed - Witness Interview

2

1 A **Brother-in-laws.**

2 Q So you were never actually married to Mr. Grochow?

3 A **No.**

4 Q And she was never married to Mr. Malloy?

5 A **No.**

6 Q All right. Do you refer to each other as family?

7 A **We did.**

8 Q Okay. What do you mean by "we did"?

9 A **Up until a few weeks ago, maybe a month ago.**

10 Q And how did you refer to each other prior to that  
11 time?

12 A **Sisters.**

13 Q All right. And what was your relationship like with  
14 her prior to that time?

15 A **Good.**

16 Q All right. You guys care about each other?

17 A **Did, yes.**

18 Q Then?

19 A **Yeah.**

20 Q All right. Do you care about her well-being?

21 A **Yes.**

22 Q Okay. Care about what kind of guys she was dating?

23 A **Yes.**

24 Q All right. What happened a month ago?

25 A **She likes to air all of her business on Facebook,**

Julia Weed - Witness Interview

4

EXAMINATION BY MR. MORGAN:

2 Q Julia, can you hear me okay?

3 A **Yeah.**

4 Q As you can see, we have someone here taking  
5 basically a written recording of everything we say. As a  
6 result of that I just ask when you answer you do so out  
7 loud. She doesn't write down nodding head, just like  
8 when you nodded your head a second okay, okay?

9 A **Yes.**

10 Q If I ask you a question you don't understand, feel  
11 free to ask me to rephrase. If you can't understand what  
12 I'm trying to ask, again tell me to speak up or rephrase,  
13 all right?

14 A **Yes, ma'am.**

15 Q Julia, how do you know Allie Gibson?

16 A **We dated brothers. Her ex -- I was dating his  
17 brother-in-law.**

18 Q Okay.

19 A **And so --**

20 Q Who is her ex?

21 A **Daniel Malloy.**

22 Q All right. And who is your ex?

A **Jeremy Grochow.**

24 Q Okay. So you were dating Jeremy, she was dating  
25 Daniel, and what was their relationship to each other?

Julia Weed - Witness Interview

3

1 **and I had said something to her about it and she started  
2 calling me names and said some things that weren't  
3 appropriate and blocked me on Facebook, and we haven't  
4 talked since.**

5 Q What kind of things did she say about you?

6 A **She told me that my son deserved to die and called  
7 me a cunt and a couple other things.**

8 Q All right. Is this just -- is that out of character  
9 for her using that kind of language?

10 A **Towards me, yeah.**

11 Q Okay. But towards other people, I mean, that's the  
12 way she --

13 A **That's just her personality.**

14 Q -- discusses things? Okay. It's her personality?

15 A **She's very loud-mouthed and open.**

16 Q Kind of rambunctious?

17 A **Yes.**

18 Q **Rambunctious with a foul mouth?**

19 A **Yes.**

20 Q So if someone says, "I hope your son doesn't make  
21 it," I would take it personally.

22 A **I did.**

23 Q Did you take it personally?

24 A **Yeah.**

25 Q All right. Let's talk about Jeremy Rosenbaum. How

Julia Weed - Witness Interview

5

1 do you know Jeremy?  
2 A I met him after Allie had called me one night and  
3 asked me to come get her because Jeremy was abusing her  
4 and she needed help.  
5 Q And when was this?  
6 A I don't even remember.  
7 Q Are we talking, like, two years ago or --  
8 A No. It was --  
9 Q Was it in the days leading up to you calling the  
10 police?  
11 A November.  
12 Q So that's the first time you ever met this guy?  
13 A I didn't even exactly meet him that night. I had  
14 met him after.  
15 Q Okay. So the first time you go there she claims  
16 that she's being abused and asks you to come get her?  
17 A Yeah.  
18 Q All right. And when you get there what do you find?  
19 A I sat outside in my uncle's truck -- that's what I  
20 picked her up in -- and waited for her to come out, and I  
21 could hear them in there yelling and screaming, and she  
22 was -- she came outside and he was trying to keep her  
23 from leaving, and they were yelling and screaming on the  
24 front porch. And we finally left and I convinced her to  
25 call the police, and she did, and so we sat out front of

Julia Weed - Witness Interview

6

1 A We still sat out in the car, and they came over and  
2 talked to us a little bit, and then they told us that we  
3 could leave, and when we left they were inside with him.  
4 Q All right. And you mentioned that you actually met  
5 him after that.  
6 A (Nodding head).  
7 Q Like personally talked to him?  
8 A Uh-huh.  
9 Q When was that?  
10 A Sometime after. A few days or a week or something  
11 like that we had went over there to get her stuff that  
12 she had left there, her clothes and some paperwork on her  
13 daughter's court hearing and stuff like that, and I  
14 actually went in the house with her just to kind of help  
15 and make sure things didn't go the wrong way.  
16 Q All right. How long do you think you were there  
17 until?  
18 A Half hour to an hour.  
19 Q All right. And how did things go while she was  
20 there?  
21 A He ended up shooting up in the bedroom on his bed  
22 and thought he was overdosing, or was trying to overdose.  
23 Q Who thought that?  
24 A Jeremy.  
25 Q Jeremy thought he was trying to overdose?

Julia Weed - Witness Interview

8

the -- a few houses down and waited for them to get  
2 there.  
3 Q What do you mean waited to get there? Oh, the  
4 police to get there?  
5 A The police to get there.  
6 Q Okay. So when you say he tried to keep her from  
7 leaving, what do you mean? Like yelling?  
8 A Stood in her way.  
9 Q Stood in her way? Okay. And he's yelling at her,  
10 she's yelling at him?  
11 A (Nodding head).  
12 Q Can you hear the kind of language they're using?  
13 A She was calling him names and telling him to move  
14 and that she was leaving, that she was done, and he was  
15 telling her that he didn't want her to leave and started  
16 calling her names. And they were yelling about a phone  
17 that she had used or that was -- they call the old man  
18 that he was living with. I guess it was his phone or  
19 something.  
20 Q All right. And Jeremy wanted it back?  
21 A Yeah. But she didn't have it.  
22 Q All right. Do you know what phone that was?  
23 A No.  
24 Q All right. So you drive down the street, wait for  
25 the police. What happens when the police arrive?

Julia Weed - Witness Interview

7

1 A He -- we went in there -- or she went in there and  
2 he was shooting up, and he was laying on the bed a few  
3 minutes later and she was trying to talk to him and he  
4 had said that he was overdosing. And she tried talking  
5 to him and rolling him over, and he told her to leave him  
6 alone. And I had gone in there to try and help, but he  
7 didn't want anybody to touch him.  
8 Q All right. Was he hostile at that time?  
9 A No.  
10 Q Okay. Any name calling from him?  
11 A No.  
12 Q How about Allie? Any name calling from her?  
13 A No.  
14 Q Okay. Was that the only time you met Jeremy, you  
15 know, face to face?  
16 A Yeah.  
17 Q All right. We're here because there was a claim  
18 that there was some text messages --  
19 A Uh-huh, on my phone, that he was trying to get a  
20 hold of Allie.  
21 Q When did these start, just relative to the two times  
22 that you went over to his place?  
23 A I think it was the night or the day after I had  
24 picked her up --  
25 Q All right.

Julia Weed - Witness Interview

9

1 A -- after we called the police on him, because he  
 2 started texting and messaging that he got drug charges  
 3 and that he might get a -- I don't know how to say it.  
 4 Q And that's what you remember?  
 5 A Yeah. That he was going to get drug charges.  
 6 Q So he started texting you. And do you still have  
 7 the texts from him on your phone?  
 8 A Yes.  
 9 Q All right. It's my understanding you showed some of  
 10 them to the police. Did you show all of them to the  
 11 police?  
 12 A I tried to find the specific ones of the actual --  
 13 most of the threats, and he was messaging from several  
 14 different phones, calling from several different phones  
 15 leaving messages, and it was either him apologizing or  
 16 him threatening and trying to get Allie to come back. He  
 17 had other people texting or acting like other people  
 18 texting trying to get Allie to talk to him.  
 19 Q Okay. Do you know if it was actually other people,  
 20 or --  
 21 A ~~Yeah.~~ No, I don't. The first message I got from a  
 22 number -- I don't remember whose it was -- said, "Jeremy  
 23 OD'd. I don't know what to do," and then that was at  
 24 1:40 in the morning on the 22nd of November. And then  
 25 the next one was, "I don't know if you want your shit,

Julia Weed - Witness Interview 10

but you showed Jeremy the real you and you don't give a  
 2 fuck about him. I win." That was at 7:03 a.m. on the  
 3 22nd.  
 4 Q All right. So this is how it starts? Do you have  
 5 the ability to take screen shots of your phone?  
 6 A I do, but they don't save to my SD card. I was  
 7 going to take screen shots of all of the messages and try  
 8 and print them out.  
 9 Q Can you e-mail them?  
 10 A Yes, I think so.  
 11 Q Okay.  
 12 MS. HUNTER: If you can, do you want to  
 13 e-mail them to me?  
 14 THE WITNESS: Sure.  
 15 MS. HUNTER: I'll leave that with you  
 16 before we go.  
 17 THE WITNESS: Okay.  
 18 Q (By Mr. Morgan, continuing) Because I'd be  
 19 interested -- I'm guessing that there's pages and pages  
 20 of them.  
 21 A Yes.  
 22 Q All right.  
 23 MR. MORGAN: Can we go off real quick?  
 24 (An off-record discussion was  
 25 held at this time.)  
 Julia Weed - Witness Interview 11

1 Q (By Mr. Morgan, continuing) My understanding is you  
 2 get a call to pick her up, and that's the first time you  
 3 ever see Jeremy Rosenbaum.  
 4 (The witness was interacting  
 5 with her child.)  
 6 Q (By Mr. Morgan, continuing) All right. So the  
 7 first time you ever see Jeremy Rosenbaum is when Allie  
 8 calls you to pick her up?  
 9 A Mm-hmm.  
 10 Q All right. And at this point you guys have a very  
 11 close relationship?  
 12 A (Nodding head).  
 13 Q And you go pick her up and the cops come, as you  
 14 previously described, and it seems like the next day that  
 15 the text messages start, right?  
 16 A Mm-hmm.  
 17 Q All right. And I just had an opportunity to review  
 18 just about all the text messages, correct?  
 19 A (Nodding head).  
 20 Q And it seemed like there was 100, 150 --  
 21 A Plus.  
 22 Q -- yeah, plus, with either him talking to you or him  
 23 talking to Allie on your phone, and then you guys  
 24 responding?  
 25 A (Nodding head).  
 Julia Weed - Witness Interview 12

1 Q And would you say it's a fair characterization it  
 2 was about 60/40 him contacting you folks and then 40  
 3 percent you contacting him back?  
 4 (The witness interacted  
 5 with her child.)  
 6 THE WITNESS: Sorry.  
 7 MR. MORGAN: It's Okay.  
 8 Q (By Mr. Morgan, continuing) All right, well, let's --  
 9 A Yeah.  
 10 Q You think that's a fair characterization?  
 11 A Yes.  
 12 Q I mean, give or take a couple percentage points, or  
 13 right around there?  
 14 A (Nodding head).  
 15 Q So it's fair to say that you and Allie were, it  
 16 seems like participants in a conversation?  
 17 A Yeah.  
 18 Q All right. Most of the e-mails from Jeremy are  
 19 pretty normal, and by that I mean, not violent or  
 20 alleging anything.  
 21 A Mm-hmm.  
 22 Q It's just more him saying he wants to talk to Allie,  
 23 he wants to see Allie, he's going to die without Allie --  
 24 A Mm-hmm.  
 25 Q -- he bought Allie presents and, you know, you guys  
 Julia Weed - Witness Interview 13

1 were essentially responding that you weren't interested?  
 2 **A Uh-huh.**  
 3 **Q** And that's just a summary, of course.  
 4 **A Yeah.**  
 5 **Q** There seems to be a few text messages, however,  
 6 that, you know, basically he's talking about, "Hey, I'm  
 7 going to come get you if you don't contact me"?  
 8 **A Uh-huh.**  
 9 **Q** And a couple I believe directed at you saying it's  
 10 none of your business and he's going to fucking kill you  
 11 or something like that?  
 12 **A Yeah.**  
 13 **Q** And you responded essentially that you weren't  
 14 afraid?  
 15 **A Yes.**  
 16 **Q** Correct?  
 17 **A Yes.**  
 18 **Q** All right. What did Allie tell you about Jeremy  
 19 during this time? Is she telling you he's just full of  
 20 hot air and he's a whiner, or what is she telling you  
 21 about this guy?  
 22 **A That she was afraid of him; that he's been in**  
 23 **trouble before for tampering with a witness; that he's**  
 24 **got connections and she was afraid that he would**  
 25 **eventually find out where I lived; that he would try and**  
 Julia Weed - Witness Interview 14

**find out where I lived and try and come find her.**  
 2 **Q** All right. Well, it seems like she was, you know,  
 3 maybe concerned a little bit about it; is that fair?  
 4 **A Mm-hmm.**  
 5 **Q** All right. As a result what did you think of him?  
 6 **A I thought he was a piece of shit that she didn't**  
 7 **need to be around.**  
 8 **Q** All right. And from your messages -- from the tone  
 9 of your messages it didn't seem like you were really  
 10 afraid of him, though. Is that a fair characterization?  
 11 **A To a point I was, but for the most part I wasn't.**  
 12 **Q** What do you mean to a point?  
 13 **A Some of his threats I was underlying afraid, but I**  
 14 **wasn't letting him know that.**  
 15 **Q** What were you afraid of?  
 16 **A That he might actually find out where I lived.**  
 17 **Q** Okay. Well --  
 18 **A And I told Allie that if she was going to stay there**  
 19 **that she wasn't allowed to tell anybody where I lived**  
 20 **because I didn't want him finding out.**  
 21 **Q** Well, what was your concern if he had found out  
 22 where you live; that he was just going to start harassing  
 23 you, showing up all hours of the night?  
 24 **A Mm-hmm.**  
 25 **Q** It sounds like you were kind of concerned about this  
 Julia Weed - Witness Interview 15

1 guy --  
 2 (The lights were turned off).  
 3 MS. HUNTER: Hold on. Can you turn the  
 4 lights back on, please?  
 5 (An off-record discussion was  
 6 held at this time.)  
 7 **Q** (By Mr. Morgan, continuing) It sounds like you were  
 8 concerned about this guy being a pest and being an  
 9 asshole for lack of a better word.  
 10 **A Uh-huh.**  
 11 **Q** But you weren't really concerned about your own  
 12 physical safety?  
 13 **A I was, only because of her. (Indicating).**  
 14 **Q** Okay. Well, what do you mean by that?  
 15 **A Because he was threatening to kill me and kill**  
 16 **Allie, and I was afraid that if he did end up finding**  
 17 **where I lived that we would be waking up to my door being**  
 18 **kicked in, but I wasn't letting him know that I was afraid**  
 19 **because I didn't want him to use that to his advantage.**  
 20 **Q** And here's the thing: And you know, that may be  
 21 understandable, given the context of those messages,  
 22 okay, but there's a big difference between you being  
 23 afraid of this guy finding out where you are and showing  
 24 up and yelling and giving a hard time and actually being  
 25 afraid that he was going to show up and kill you, okay?  
 Julia Weed - Witness Interview 16

1 I mean --  
 2 **A I wasn't sure what he was capable of because I**  
 3 **didn't personally know him.**  
 4 **Q** Yeah, but then you went over to his house an hour  
 5 later for her stuff.  
 6 **A Yeah.**  
 7 **Q** I mean, if you're afraid of someone you're not going  
 8 to their house if you're afraid they're going to kill  
 9 you, correct?  
 10 (The witness interacted  
 11 with her child.)  
 12 **Q** (By Mr. Morgan, continuing) So I mean, like I said,  
 13 though, there's a difference between being afraid -- and  
 14 being afraid would be understandable.  
 15 **A Uh-huh.**  
 16 **Q** Fearing for your life, it doesn't sound like you  
 17 were. I mean, you went over and saw the guy, after all,  
 18 these text messages, correct?  
 19 **A Some of them.**  
 20 **Q** Okay. Which ones hadn't you received at that point?  
 21 **A I'm not even sure. I'm not even sure exactly what**  
 22 **day we went over there. I more or less went over there**  
 23 **with her to make sure that something didn't happen, and**  
 24 **if something did I had a cell phone, because she didn't.**  
 25 **Q** Okay. And what do you mean by if something happened?  
 Julia Weed - Witness Interview 17

1 **A If he started to get physical with her --**  
 2 **Q** Okay.  
 3 **A -- and wouldn't let her take her stuff.**  
 4 **Q** Okay. And again, wouldn't you agree that there's a  
 difference between being physical and killing somebody?  
 5 **A Yeah.**  
 6 **Q** Okay. It doesn't sound like you had a concern that  
 7 she was going to be killed, because you never would have  
 8 gone there if that was really a concern, correct?  
 9 **A Yeah.**  
 10 **Q** All right. And if you had a real concern that you  
 11 were going to be killed, you would not have gone there,  
 12 right?  
 13 **A Mm-hmm.**  
 14 **Q** So you were concerned about your safety with this  
 15 guy?  
 16 **A Mm-hmm.**  
 17 **Q** But not concerned about your mortality? You weren't  
 18 concerned he was going to kill you?  
 19 **A No.**  
 20 **Q** Okay. And you think it was about a week after,  
 21 roughly, give or take a day, after the first incident  
 22 that you went over to collect her things?  
 23 **A Within a week. Yeah, I would say within a week.**  
 24 **Q** And you say you got a majority of those texts before  
 25

you went over there, if not all?  
 2 **A Do you have records of when the cops were first**  
 3 **called on him -- a date -- and I can tell you. I just**  
 4 **don't remember the date.**  
 5 **Q** Do you recall writing a statement?  
 6 **A Because I was getting --**  
 7 **Q** Would it be Thursday, November 21st? Is this your  
 8 statement?  
 9 **A Yeah. Okay, the 21st. Then I was receiving text**  
 10 **messages from him the next day.**  
 11 **Q** Okay. And just for purposes of the record, what  
 12 you're doing now is looking at the text messages to  
 13 establish dates?  
 14 **A Yeah. We went over there -- because he tried to**  
 15 **accuse us of stealing his laptops when we left.**  
 16 MS. HUNTER: Maybe I can -- the date of  
 17 this statement is 11/24 -- that's the date that you wrote  
 18 it -- and you said three days earlier is when you got  
 19 her. Do you remember -- do you remember if you went over  
 20 there before or after you wrote the statement?  
 21 THE WITNESS: I think we went over there  
 22 the 22nd. I'm trying to find a date on this one. We  
 23 went over there the 22nd, the day after, because that's  
 24 when he accused us of stealing their laptops that were in  
 25 his bedroom, and he found exactly where they were at that

1 same day and apologized.  
 2 **Q** (By Mr. Morgan, continuing) All right. Why did you  
 3 ultimately call the police?  
 4 **A Because when she called me to come pick her up on**  
 5 **the 21st they were screaming at each other over the**  
 6 **phone -- or at each other while she was on the phone with**  
 7 **me, and I went and picked her up and she told me that he**  
 8 **was getting physical with her; that he slammed her arm in**  
 9 **a door, which he apologized for that later, and that he**  
 10 **hit her and kicked her. And so I convinced her that she**  
 11 **needed to call the police because that wasn't okay, and**  
 12 **that --**  
 13 (Child crying)  
 14 **Q** Well, not that night. I'm talking about when you  
 15 called to report the text messages.  
 16 **A Oh, because he was threatening us, and it wasn't**  
 17 **okay, and I didn't know if he would actually follow up on**  
 18 **those threats.**  
 19 **Q** Okay. You've had no conversations with Allie about  
 20 this in the last month?  
 21 **A No.**  
 22 **Q** Okay. Did you two of you discuss this matter with  
 23 each other prior to filling out your statements for the  
 24 police?  
 25 **A I couldn't hear you.**

1 **Q** Did you and Allie talk with each other about what  
 2 happened prior to filling out your statements for the  
 3 police?  
 4 **A Yeah, because we had talked about everything that**  
 5 **had happened, and I was trying to get her to actually**  
 6 **follow through with pressing charges for harassment.**  
 7 **Q** Okay. And at that point did she still believe she  
 8 was pregnant?  
 9 **A I don't know.**  
 10 **Q** Okay. Did you have discussions about what would be  
 11 best for --  
 12 **A According to her, she was, but as far as physical**  
 13 **proof, she couldn't ever prove it.**  
 14 **Q** Okay. Did you have a discussion about what would be  
 15 best for her child being away from Jeremy?  
 16 **A Yeah. Because of his drug habits and his personal**  
 17 **choices we discussed, you know, that he didn't need to be**  
 18 **around and she didn't need to have anything to do with**  
 19 **him because of the physical part of their relationship,**  
 20 **the abuse.**  
 21 **Q** Okay.  
 22 **A And she was trying to get clean at that time, and he**  
 23 **was still doing heroin.**  
 24 **Q** She discussed with you, isn't it correct, that, you  
 25 know, if he were in prison then she would automatically

17:11:32 1 get the kid?  
17:11:33 2 A Yes.  
17:11:34 3 Q All right. And isn't it accurate that that's also  
39 4 one of the reasons that you called the police regarding  
17:11:45 5 the text messages?  
17:11:46 6 A Because she was pregnant?  
17:11:47 7 Q Yes.  
17:11:48 8 A Part of it.  
17:11:50 9 Q Are you related to Christina Coons in any way, shape  
17:11:59 10 or form?  
17:11:59 11 A I don't even know who that is  
17:12:01 12 Q Okay. I have no other questions.  
17:12:12 13 MS HUNTER: Okay.  
17:12:12 14 (The interview was concluded  
17:12:12 15 at 5:12 p.m.)  
17:12:12 16  
17  
18  
19  
20  
21  
22  
23  
24  
25



INSTRUCTION NO. 1

It is your duty to decide the facts in this case based upon the evidence presented to you during this trial. It also is your duty to accept the law from my instructions, regardless of what you personally believe the law is or what you personally think it should be. You must apply the law from my instructions to the facts that you decide have been proved, and in this way decide the case.

Keep in mind that a charge is only an accusation. The filing of a charge is not evidence that the charge is true. Your decisions as jurors must be made solely upon the evidence presented during these proceedings.

The evidence that you are to consider during your deliberations consists of the testimony that you have heard from witnesses, stipulations, and the exhibits that I have admitted during the trial. If evidence was not admitted or was stricken from the record, then you are not to consider it in reaching your verdict.

Exhibits may have been marked by the court clerk and given a number, but they do not go with you to the jury room during your deliberations unless they have been admitted into evidence. The exhibits that have been admitted will be available to you in the jury room.

One of my duties has been to rule on the admissibility of evidence. Do not be concerned during your deliberations about the reasons for my rulings on the evidence. If I have ruled that any evidence is inadmissible, or if I have asked you to disregard any evidence, then you must not discuss that evidence during your deliberations or consider it in reaching your verdict.

In order to decide whether any proposition has been proved, you must consider all of the evidence that I have admitted that relates to the proposition. Each party is entitled to the benefit of all of the evidence, whether or not that party introduced it.

You are the sole judges of the credibility of each witness. You are also the sole judges of the value or weight to be given to the testimony of each witness. In considering a witness's testimony, you may consider these things: the opportunity of the witness to observe or know the things he or she testifies about; the ability of the witness to observe accurately; the quality of a witness's memory while testifying; the manner of the witness while testifying; any personal interest that the witness might have in the outcome or the issues; any bias or prejudice that the witness may have shown; the reasonableness of the witness's statements in the context of all of the other evidence; and any other factors that affect your evaluation or belief of a witness or your evaluation of his or her testimony.

The lawyers' remarks, statements and arguments are intended to help you understand the evidence and apply the law. It is important, however, for you to remember that the lawyers' statements are not evidence. The evidence is the testimony and the exhibits. The law is contained in my instructions to you. You must disregard any remark, statement, or argument that is not supported by the evidence or the law in my instructions.

You may have heard objections made by the lawyers during trial. Each party has the right to object to questions asked by another lawyer, and may have a duty to do so. These objections should not influence you. Do not make any assumptions or draw any conclusions based on a lawyer's objections.

Our state constitution prohibits a trial judge from making a comment on the evidence. It would be improper for me to express, by words or conduct, my personal opinion about the value of testimony or other evidence. I have not intentionally done this. If it appeared to you that I have indicated my personal opinion in any way, either during trial or in giving these instructions, you must disregard this entirely.

You have nothing whatsoever to do with any punishment that may be imposed in case of a violation of the law. The fact that punishment may follow conviction cannot be considered by you except insofar as it may tend to make you careful.

The order of these instructions has no significance as to their relative importance. They are all important. In closing arguments, the lawyers may properly discuss specific instructions. During your deliberations, you must consider the instructions as a whole.

As jurors, you are officers of this court. You must not let your emotions overcome your rational thought process. You must reach your decision based on the facts proved to you and on the law given to you, not on sympathy, prejudice or personal preference. To assure that all parties receive a fair trial, you must act impartially with an earnest desire to reach a proper verdict.

INSTRUCTION NO. 2

As jurors, you have a duty to discuss the case with one another and to deliberate in an effort to reach a unanimous verdict. Each of you must decide the case for yourself, but only after you consider the evidence impartially with your fellow jurors. During your deliberations, you should not hesitate to re-examine your own views and change your opinion based upon further review of the evidence and these instructions. You should not, however, surrender your honest belief about the value or significance of evidence solely because of the opinions of your fellow jurors. Nor should you change your mind just for the purpose of reaching a verdict.

INSTRUCTION NO. 3

A separate crime is charged in each count. You must decide each count separately. Your verdict on one count should not control your verdict on any other count.

INSTRUCTION 4

The defendant has entered pleas of not guilty. These pleas put in issue every element of the crimes charged. The State is the plaintiff and has the burden of proving each element of the crimes beyond a reasonable doubt. The defendant has no burden of proving that a reasonable doubt exists.

A defendant is presumed innocent. This presumption continues throughout the entire trial unless during your deliberations you find it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly and carefully considering all of the evidence or lack of evidence. If, after such consideration, you have an abiding belief in the truth of the charge, you are satisfied beyond a reasonable doubt.

INSTRUCTION NO. 5

The evidence that has been presented to you may be either direct or circumstantial. The term "direct evidence" refers to evidence that is given by a witness who has directly perceived something at issue in this case. The term "circumstantial evidence" refers to evidence from which, based on your common sense and experience, you may reasonably infer something that is at issue in this case.

The law does not distinguish between direct and circumstantial evidence in terms of their weight or value in finding the facts in this case. One is not necessarily more or less valuable than the other.

INSTRUCTION NO. 6

You may consider evidence that the defendant has been convicted of a crime only in deciding what weight or credibility to give to the defendant's testimony, and for no other purpose.

INSTRUCTION NO. 7

You may consider evidence that a witness has been convicted of a crime only in deciding what weight or credibility to give to the testimony of the witness, and for no other purpose.

INSTRUCTION NO. 8

A person knows or acts knowingly or with knowledge with respect to a fact, circumstance or result when he or she is aware of that fact, circumstance or result. It is not necessary that the person know that the fact, circumstance or result is defined by law as being unlawful or an element of a crime.

If a person has information that would lead a reasonable person in the same situation to believe that a fact exists, the jury is permitted but not required to find that he or she acted with knowledge of that fact.

When acting knowingly as to a particular fact is required to establish an element of a crime, the element is also established if a person acts intentionally as to that fact.

INSTRUCTION NO. 9

A person acts with intent or intentionally when acting with the objective or purpose to accomplish a result that constitutes a crime.

Ex. 13 PR. 12

INSTRUCTION NO. 10

Threat means to communicate, directly or indirectly, the intent to cause bodily injury in the future to the person threatened or to any other person.

To be a threat, a statement or act must occur in a context or under such circumstances where a reasonable person, in the position of the speaker, would foresee that the statement or act would be interpreted as a serious expression of intention to carry out the threat rather than as something said in jest or idle talk.

INSTRUCTION NO. 11

Bodily injury means physical pain or injury, illness, or an impairment of physical condition.

INSTRUCTION NO. 12

“Words or conduct” includes, in addition to any other form of communication or conduct, the sending of electronic communication.

Ex. 13 PG. 15

INSTRUCTION NO. 13

A person commits the crime of harassment when he or she, without lawful authority, knowingly threatens to cause bodily injury immediately or in the future to another person and when he or she by words or conduct places the person threatened in reasonable fear that the threat will be carried out.

INSTRUCTION NO. 14

The State alleges that the defendant committed acts of Harassment on multiple occasions. To convict the defendant on a particular count of harassment, one particular act of harassment must be proved beyond a reasonable doubt, and you must unanimously agree as to which act has been proved. You need not unanimously agree that the defendant committed all the acts of harassment.

INSTRUCTION NO. 15

To convict the defendant of the crime of harassment in Count I, each of the following four elements of the crime must be proved beyond a reasonable doubt:

- (1) That on, about, or between November 21, 2013 and November 25, 2013, the defendant knowingly threatened to cause bodily injury immediately or in the future to Ally Gibson;
- (2) That the words or conduct of the defendant placed Ally Gibson in reasonable fear that the threat would be carried out;
- (3) That the defendant acted without lawful authority; and
- (4) That the threat was made or received in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 16

To convict the defendant of the crime of harassment in Count II, each of the following four elements of the crime must be proved beyond a reasonable doubt:

- (1) That on, about, or between November 21, 2013 and November 25, 2013, the defendant knowingly threatened to cause bodily injury immediately or in the future to Julia Weed;
- (2) That the words or conduct of the defendant placed Julia Weed in reasonable fear that the threat would be carried out;
- (3) That the defendant acted without lawful authority; and
- (4) That the threat was made or received in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 19

A person commits the crime of bribing a witness when he or she offers, confers, or agrees to confer any benefit upon a witness, or a person he or she has reason to believe is about to be called as a witness in any official proceeding with the intent to influence the testimony of that person, or induce that person to avoid legal process summoning him or her to testify, or induce that person to absent himself or herself from an official proceeding to which he or she has been legally summoned.

INSTRUCTION NO. 18

“Official proceeding” means a proceeding heard before any legislative, judicial, administrative, or other government agency or official authorized to hear evidence under oath including any referee, hearing examiner, commissioner, notary, or other person taking testimony or depositions.

INSTRUCTION NO. 17

Benefit is any gain or advantage to the person benefitted.

INSTRUCTION NO. 20

To convict the defendant of the crime of bribing a witness in Count III, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on, about, or between November 25, 2013 and February 12, 2014, the defendant offered, conferred, or agreed to confer a benefit upon a witness or a person he had reason to believe was about to be called as a witness in any official proceeding; and

(2) That the defendant acted with the intent to influence the testimony of that person or induce that person to avoid legal process summoning her to testify or induce that person to absent herself from an official proceeding to which she had been legally summoned; and

(3) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 21

A person commits the crime of tampering with a witness when he or she attempts to induce a witness or person he or she has reason to believe is about to be called as a witness in any official proceeding to testify falsely or, without right or privilege to do so, to withhold any testimony, or to absent himself or herself from any official proceedings.

INSTRUCTION NO. 22

To convict the defendant of the crime of tampering with a witness in Count IV, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on, about, or between November 25, 2013 and February 12, 2014, the defendant attempted to induce a person, Julia Weed, to testify falsely or, without right or privilege to do so, withhold any testimony, or absent herself from any official proceeding; and

(2) That the other person was a witness or a person the defendant had reason to believe was about to be called as a witness in any official proceedings; and

(3) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 23

To convict the defendant of the crime of tampering with a witness in Count V, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on, about, or between November 25, 2013 and February 12, 2014, the defendant attempted to induce a person, Ally Gibson, to testify falsely or, without right or privilege to do so, withhold any testimony, or absent herself from any official proceeding; and

(2) That the other person was a witness or a person the defendant had reason to believe was about to be called as a witness in any official proceedings; and

(3) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 24

For purposes of this case, “family or household members” means adult persons who are presently residing together or who have resided together in the past or persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship or a person sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship.

“Dating relationship” means a social relationship of a romantic nature. In deciding whether two people had a “dating relationship,” you may consider all relevant factors, including (a) the nature of any relationship between them; (b) the length of time that any relationship existed; and (c) the frequency of any interaction between them.

INSTRUCTION NO. 25

When you begin deliberating, you should first select a presiding juror. The presiding juror's duty is to see that you discuss the issues in this case in an orderly and reasonable manner, that you discuss each issue submitted for your decision fully and fairly, and that each one of you has a chance to be heard on every question before you.

During your deliberations, you may discuss any notes that you have taken during the trial, if you wish. You have been allowed to take notes to assist you in remembering clearly, not to substitute for your memory or the memories or notes of other jurors. Do not assume, however, that your notes are more or less accurate than your memory.

You will need to rely on your notes and memory as to the testimony presented in this case. Testimony will rarely, if ever, be repeated for you during your deliberations.

If, after carefully reviewing the evidence and instructions, you feel a need to ask the court a legal or procedural question that you have been unable to answer, write the question out simply and clearly. For this purpose, use the form provided in the jury room. In your question, do not state how the jury has voted. The presiding juror should sign and date the question and give it to the bailiff. I will confer with the lawyers to determine what response, if any, can be given.

You will be given the exhibits admitted in evidence, these instructions, and verdict forms for recording your verdict. Some exhibits and visual aids may have been used in court but will not go with you to the jury room. The exhibits that have been admitted into evidence will be available to you in the jury room.

You must fill in the blank provided in each verdict form the words "not guilty" or the word "guilty", according to the decision you reach.

Because this is a criminal case, each of you must agree for you to return a verdict. When all of you have so agreed, fill in the verdict forms to express your decision.

You will also be given special verdict forms. Special verdict form A pertains to the crime of Harassment in count I. If you find the defendant not guilty of Harassment in count I, do not use special verdict form A. If you find the defendant guilty of Harassment in count I, you will then use special verdict form A and fill in the blank with the answer "yes" or "no" according to the decision you reach.

Special verdict form B pertains to the crime of Harassment in count II. If you find the defendant not guilty of Harassment in count II, do not use special verdict form B. If you find the defendant guilty of Harassment in count II, you will then use special verdict form B and fill in the blank with the answer "yes" or "no" according to the decision you reach.

Special verdict C pertains to count I and/or IV. If you find the defendant not guilty of all the crimes alleged, do not use special verdict form C. If you find the defendant guilty of either or both counts I and/or IV, you will then use special verdict form C and fill in the blank with the answer "yes" or "no" according to the decision you reach.

Because this is a criminal case, all twelve of you must agree in order to answer the special verdict forms. In order to answer the special verdict forms "yes," you must unanimously be satisfied beyond a reasonable doubt that "yes" is the correct answer. If you unanimously have a reasonable doubt as to this question, you must answer "no". If, after fully and fairly considering all of the evidence or lack of evidence you are not able to reach a unanimous decision as to any one of the special verdict forms questions, do not fill in the blank for that question.

The presiding juror must sign the verdict forms and notify the bailiff. The bailiff will bring you into court to declare your verdict.

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JUDGE

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON, )  
 ) No. 13-1-01538-0  
 )  
v. ) VERDICT FORM  
 )  
JEREMY DAVID ROSENBAUM, )  
 )  
 ) Defendant. )

---

We, the jury, find the defendant, Jeremy David Rosenbaum, \_\_\_\_\_  
(Write in "not guilty" or "guilty")  
of the crime of harassment as charged in Count I.

Dated: \_\_\_\_\_

\_\_\_\_\_  
PRESIDING JUROR

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON, )  
 )  
 ) No. 13-1-01538-0  
v. )  
 ) VERDICT FORM  
 )  
JEREMY DAVID ROSENBAUM, )  
 )  
 )  
 )  
 ) Defendant. )

---

We, the jury, find the defendant, Jeremy David Rosenbaum, \_\_\_\_\_  
(Write in "not guilty" or "guilty")  
of the crime of harassment as charged in Count II.

Dated: \_\_\_\_\_

\_\_\_\_\_  
PRESIDING JUROR

Ex. 13 PG. 32

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON, )  
 ) No. 13-1-01538-0  
 )  
v. ) VERDICT FORM  
 )  
JEREMY DAVID ROSENBAUM, )  
 )  
 )  
Defendant. )

---

We, the jury, find the defendant, Jeremy David Rosenbaum, \_\_\_\_\_  
(Write in "not guilty" or "guilty")  
of the crime of tampering with a witness as charged in Count V.

Dated: \_\_\_\_\_

\_\_\_\_\_  
PRESIDING JUROR

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON, )  
 )  
 Plaintiff, ) No. 13-1-01538-0  
 )  
 vs. ) SPECIAL VERDICT FORM A  
 )  
 JEREMY DAVID ROSENBAUM, )  
 )  
 Defendant. )

**THIS SPECIAL VERDICT IS TO BE ANSWERED ONLY IF THE JURY FINDS THE DEFENDANT GUILTY OF HARASSMENT IN COUNT I.**

We, the jury, return a special verdict by answering as follows:

QUESTION #1: Did the defendant's threat to cause bodily harm consist of a threat to kill Ally Gibson and did the words or conduct of the defendant place Ally Gibson in reasonable fear that the threat to kill would be carried out?

ANSWER: \_\_\_\_\_  
(Yes or No)

QUESTION #2: Was the defendant previously convicted of the crime of Violation of a Protection Order against any person who was specifically named in a no-contact order or no-harassment order?

ANSWER: \_\_\_\_\_  
(Yes or No)

DIRECTION: Sign this verdict form and notify the bailiff.

DATE: \_\_\_\_\_

\_\_\_\_\_  
PRESIDING JUROR

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	No. 13-1-01538-0
	)	
vs.	)	SPECIAL VERDICT FORM B
	)	
JEREMY DAVID ROSENBAUM,	)	
	)	
Defendant.	)	

**THIS SPECIAL VERDICT IS TO BE ANSWERED ONLY IF THE JURY FINDS THE DEFENDANT GUILTY OF HARASSMENT IN COUNT II.**

We, the jury, return a special verdict by answering as follows:

QUESTION #1: Did the defendant's threat to cause bodily harm consist of a threat to kill Julia Weed and did the words or conduct of the defendant place Julia Weed in reasonable fear that the threat to kill would be carried out?

ANSWER: \_\_\_\_\_  
(Yes or No)

QUESTION #2: Was the defendant previously convicted of the crime of Violation of a Protection Order against any person who was specifically named in a no-contact order or no-harassment order?

ANSWER: \_\_\_\_\_  
(Yes or No)

DIRECTION: Sign this verdict form and notify the bailiff.

DATE: \_\_\_\_\_

\_\_\_\_\_  
PRESIDING JUROR

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	No. 13-1-01538-0
	)	
JEREMY DAVID ROSENMAUM,	)	SPECIAL VERDICT FORM C
	)	
Defendant.	)	

---

We, the jury, answer the question submitted by the court as follows:

QUESTION: Were Ally Gibson and Jeremy Rosenbaum members of the same family or household?

ANSWER: \_\_\_\_\_  
(Yes or No)

DATE: \_\_\_\_\_

\_\_\_\_\_  
PRESIDING JUROR