

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

In re Personal Restraint)
Petition of)
)
)
)
)
)
JOSE TOLEDO-SOTELO,)
Petitioner.)
_____)

No. 65460-8-I

85377-1

STATE'S RESPONSE TO
PERSONAL RESTRAINT
PETITION

A. AUTHORITY FOR RESTRAINT OF PETITIONER.

Jose Toledo-Sotelo is restrained pursuant to Judgment and Sentence in King County Superior Court No. 00-1-05743-8 KNT and 07-1-10361-5 KNT. Appendix A and B.

B. ISSUES PRESENTED.

Whether this personal restraint petition should be dismissed where it is untimely and the judgment and sentences are valid on their face.

C. STATEMENT OF THE CASE.

Jose Toledo-Sotelo pled guilty to two counts of child molestation in the first degree, and was found guilty by jury trial of

2010 DEC 12 PM 4:49
COURT OF APPEALS
CLERK OF COURT

bail jumping in 2007. Appendix A and B. He was sentenced for both cases on the same day and received a standard range sentence of 84 months as to the child molestation convictions and 13 months as to bail jumping, to be served concurrently. Appendix A and B. He did not appeal. The judgment and sentences were filed with the clerk of the trial court on May 16, 2008. Appendix A and B.

D. ARGUMENT.

THIS PETITION MUST BE DISMISSED AS UNTIMELY.

No petition collaterally attacking a judgment and sentence may be filed more than one year after the judgment becomes final, if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction. RCW 10.73.090(1); see In re Personal Restraint of Runyan, 121 Wn.2d 432, 444, 449, 853 P.2d 424 (1993). A judgment becomes final on the date that it is filed with the clerk of the trial court if no appeal is filed. RCW 10.73.090(3). The judgments in this case became final on May 16, 2008, when it was filed with the clerk of the trial court. Appendix A and B. This personal restraint petition was filed on May 14, 2010, more than one year later.

The one-year time limit only applies if the judgment and sentence is "valid on its face." RCW 10.73.090(1). A judgment is valid on its face unless the judgment evidences an error without further elaboration. In re Personal Restraint of Thompson, 141 Wn.2d 712, 10 P.3d 380 (2000). Toledo-Sotelo does not allege that his judgments are facially invalid. There is no error on the face of the judgments.

Instead, Toledo-Sotelo contends that his plea was invalid because he was misadvised of a consequence of the plea. However, this claim must be rejected as untimely and without merit. The documents of the plea can inform the inquiry as to whether the judgment and sentence is invalid on its face. In re Personal Restraint of Hemenway, 147 Wn.2d 529, 55 P.3d 615 (2002). Misinformation about the consequences of a plea is not a facial defect exempt from the one-year time limit on collateral attack. In re Personal Restraint of Hemenway, 147 Wn.2d 529, 533, 55 P.3d 615 (2002).

Moreover, Toledo-Sotelo was not misadvised of his standard range as he contends. The Statement of Defendant on Plea of Guilty advised him that the standard range for both counts of child molestation in the first degree was 72 to 96 months. Appendix D,

at 2. The court determined at sentencing that the standard range was 72 to 96 months, and imposed a sentence of 84 months on both counts. Appendix A.

It appears that Toledo-Sotelo is actually claiming that his offender score was miscalculated and should have been zero, resulting in a lower standard range. However, this claim is without merit. Toledo-Sotelo agreed that the State had correctly calculated his offender score and standard range pursuant to the plea agreement. Appendix D, at 3. Pursuant to RCW 9.94A.589, other current offenses are included in calculating the offender score. Pursuant to RCW 9.94A.525, other sex offenses count three points in the offender score. RCW 9.94A.525(1). Thus, each of Toledo-Sotelo's child molestation in the first degree convictions counted three points in the offender score of the other. His offender score was properly calculated to be three for each. There was no error in imposing the sentences.

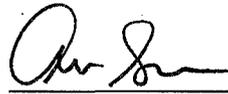
E. CONCLUSION.

This personal restraint petition should be dismissed.

DATED this 12th day of July, 2010.

Respectfully Submitted,

DAN SATTERBERG
King County Prosecuting
Attorney

by 

ANN SUMMERS, #21509
Senior Deputy Prosecuting
Attorney
Attorneys for Respondent
Office ID #91002

W554 King County Courthouse
516 Third Avenue
Seattle, WA 98104
(206) 296-9650

APPENDIX A

FILED

08 MAY 16 AM 9:48

KING COUNTY
SUPERIOR COURT CLERK
KENT, WA

PRESENTENCING STATEMENT & INFORMATION ATTACHED

COMMITMENT ISSUED MAY 16 2008

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

Vs.

JOSE TOLEDO-SOTELO,

Defendant,

No. 00-1-05743-8 KNT

JUDGMENT AND SENTENCE
FELONY

CLERK'S ACTION REQUIRED (p3 #6)

I. HEARING

I.1 The defendant, the defendant's lawyer, BARRY J. WALLIS, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: victim's family

defendant's significant other

II. FINDINGS

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

2.1 **CURRENT OFFENSE(S):** The defendant was found guilty on 10/16/2007 by plea of:

Count No.: III Crime: CHILD MOLESTATION IN THE FIRST DEGREE
RCW 9A.44.083 Crime Code: 01064
Date of Crime: 04/25/1995 THROUGH 08/31/1996 Incident No. _____

Count No.: IV Crime: CHILD MOLESTATION IN THE FIRST DEGREE
RCW 9A.44.083 Crime Code: 01064
Date of Crime: 04/25/1995 THROUGH 08/31/1996 Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code: _____
Date of Crime: _____ Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code: _____
Date of Crime: _____ Incident No. _____

[] Additional current offenses are attached in Appendix A

SPECIAL VERDICT or FINDING(S):

- (a) While armed with a **firearm** in count(s) _____ RCW 9.94A.510(3).
- (b) While armed with a **deadly weapon** other than a firearm in count(s) _____ RCW 9.94A.510(4).
- (c) With a **sexual motivation** in count(s) _____ RCW 9.94A.835.
- (d) A V.U.C.S.A. offense committed in a **protected zone** in count(s) _____ RCW 69.50.435.
- (e) **Vehicle homicide** Violent traffic offense DUI Reckless Disregard.
- (f) **Vehicle homicide by DUI** with _____ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.510(7).
- (g) **Non-parental kidnapping** or unlawful imprisonment with a minor victim. RCW 9A.44.130.
- (h) **Domestic violence** offense as defined in RCW 10.99.020 for count(s) _____.
- (i) Current offenses **encompassing the same criminal conduct** in this cause are count(s) _____ RCW 9.94A.589(1)(a).

2.2 **OTHER CURRENT CONVICTION(S):** Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

- Criminal history is attached in **Appendix B**.
- One point added for offense(s) committed while under community placement for count(s) _____

2.4 **SENTENCING DATA:**

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count III	3	XII			120-160 MONTHS 72-96mo	LIFE AND/OR \$50,000
Count IV	3	XII			120-160 MONTHS 72-96mo	LIFE AND/OR \$50,000
Count						
Count						

Additional current offense sentencing data is attached in **Appendix C**.

2.5 **EXCEPTIONAL SENTENCE (RCW 9.94A.535):**

Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) _____. Findings of Fact and Conclusions of Law are attached in **Appendix D**. The State did did not recommend a similar sentence.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and **Appendix A**.

The Court **DISMISSES** Count(s) I & II

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
 - Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(2), sets forth those circumstances in attached Appendix E.
 - Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
 - Date to be set.
 - Defendant waives presence at future restitution hearing(s).
 - Restitution is not ordered.
- Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500.

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a) \$ _____, Court costs; Court costs are waived; (RCW 9.94A.030, 10.01.160)
- (b) \$100 DNA collection fee; DNA fee waived (RCW 43.43.754)(crimes committed after 7/1/02);
- (c) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs;
 Recoupment is waived (RCW 9.94A.030);
- (d) \$ _____, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA;
 VUCSA fine waived (RCW 69.50.430);
- (e) \$ _____, King County Interlocal Drug Fund; Drug Fund payment is waived;
(RCW 9.94A.030)
- (f) \$ _____, State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);
- (g) \$ _____, Incarceration costs; Incarceration costs waived (RCW 9.94A.760(2));
- (h) \$ _____, Other costs for: _____

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 500⁰⁰. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month; On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. **The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied.** Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

- Court Clerk's trust fees are waived.
- Interest is waived except with respect to restitution.

4.4 The defendant, having been convicted of a FELONY SEX OFFENSE, is sentenced to the following:

(a) **DETERMINATE SENTENCE** : Defendant is sentenced to a term of confinement in the custody of the
 King County Jail King County Work/Education Release (subject to conditions of conduct ordered
this date) Department of Corrections, as follows, commencing: immediately;

Date: _____ by _____ a.m. / p.m.

84 months/days on count III; _____ months/days on count _____; _____ months/days on count _____;

84 months/days on count IV; _____ months/days on count _____; _____ months/days on count _____;

_____ months/days on count _____; _____ months/days on count _____; _____ months/days on count _____;

ALTERNATIVE CONVERSION - RCW 9.94A.680 (LESS THAN ONE YEAR ONLY):

_____ days of total confinement are hereby converted to:

_____ days of partial confinement to be served subject to the requirements of the King County Jail.

_____ days/hours community restitution under the supervision of the Department of Corrections to
be completed as follows:

on a schedule established by the defendant's Community Corrections Officer;

Alternative conversion was not used because: Defendant's criminal history, Defendant's
failure to appear, Other: _____

COMMUNITY CUSTODY for FAILURE TO REGISTER AS A SEX OFFENDER under RCW
9A.44.130(11)(a) committed on or after 6-7-2006 as to Counts _____ (regardless of length of
confinement) is ordered pursuant to RCW 9.94A.545(2) and RCW 9.94A.715 for the range of 36 to 48
months.

FOR CONFINEMENT LESS THAN ONE YEAR (except for Failure to Register as a Sex
Offender under RCW 9A.44.130(11)(a) committed on or after 6-7-06) as to Counts _____;
COMMUNITY **SUPERVISION**, for crimes committed before 7-1-2000, **CUSTODY**, for
crimes committed on or after 7-1-2000, is ordered pursuant to RCW 9.94A.545 for a period of 12 months.
The defendant shall report to the Department of Corrections within 72 hours of this date or of his/her
release if now in custody; shall comply with all the rules, regulations and conditions of the Department for
supervision of offenders (RCW 9.94A.720); shall comply with all affirmative acts required to monitor
compliance; and shall otherwise comply with terms set forth in this sentence.

APPENDIX _____: Additional Conditions are attached and incorporated herein.

COMMUNITY PLACEMENT (CONFINEMENT OVER ONE YEAR) as to Counts _____;
pursuant to RCW 9.94A.700, for **qualifying crimes committed before 6-6-1996**, is ordered for
_____ months or for the period of earned early release awarded pursuant to RCW 9.94A.728,
whichever is longer. [24 months for any serious violent offense, vehicular homicide, vehicular assault, or
sex offense prior to 7-6-96; 12 months for any assault 2°, assault of a child 2°, felony violation of RCW
69.50/52, any crime against person defined in RCW 9.94A.440 not otherwise described above.]

APPENDIX H, Community Placement conditions, is attached and incorporated herein.

COMMUNITY CUSTODY (CONFINEMENT OVER ONE YEAR) as to Counts _____;
pursuant to RCW 9.94A.710 for any **SEX OFFENSE committed on or after 6-6-1996 but before 7-1-**
2000, is ordered for a period of 36 months or for the period of earned early release awarded under RCW
9.94A.728 whichever is longer.

APPENDIX H, Community Custody conditions, is attached and incorporated herein.

COMMUNITY CUSTODY (CONFINEMENT OVER ONE YEAR) as to Counts III, IV; pursuant to RCW 9.94A.715 for qualifying crimes (non RCW 9.94A.712 offenses) committed after 6-30-2000 is ordered for the following established range:

- Sex Offense, RCW 9.94A.030(38): 36 to 48 months
- Serious Violent Offense, RCW 9.94A.030(37): 24 to 48 months
- Violent Offense, RCW 9.94A.030(45): 18 to 36 months
- Crime Against Person, RCW 9.94A.411: 9 to 18 months
- Felony Violation of RCW 69.50/52: 9 to 12 months

or for the entire period of earned early release awarded under RCW 9.94A.728, whichever is longer. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.737.

APPENDIX H, Community Custody conditions, is attached and incorporated herein.

(b) **INDETERMINATE SENTENCE - QUALIFYING SEX OFFENSES occurring after 9-1-2001:**

The Court having found that the defendant is subject to sentencing under RCW 9.94A.712, the defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: immediately; (Date): _____ by _____, m.

Count ____: Minimum Term: _____ months/days; Maximum Term: _____ years/life;

Count ____: Minimum Term: _____ months/days; Maximum Term: _____ years/life;

Count ____: Minimum Term: _____ months/days; Maximum Term: _____ years/life;

Count ____: Minimum Term: _____ months/days; Maximum Term: _____ years/life.

COMMUNITY CUSTODY: pursuant to RCW 9.94A.712 for qualifying SEX OFFENSES committed on or after September 1, 2001, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence as set forth above. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.713, 9.94A.737.

APPENDIX H: Community Custody conditions are attached and incorporated herein.

4.5 **ADDITIONAL CONDITIONS OF SENTENCE**

The above terms for counts 071103615 KNT are consecutive / concurrent.

The above terms shall run CONSECUTIVE CONCURRENT to cause No.(s) _____

The above terms shall run CONSECUTIVE CONCURRENT to any previously imposed sentence not referred to in this order.

In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special WEAPON finding(s) in section 2.1: _____

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (For crimes committed after 6-10-1998.)

The enhancement term(s) for any special WEAPON findings in section 2.1 is/are included within the term(s) imposed above. (For crimes before 6-11-1998 only, per In Re Charles)

The TOTAL of all terms imposed in this cause is 84 months.

Yunk defendant may by motion address the court for consideration of time spent in (custody) in custody

Credit is given for 607 days served ~~000~~ days as determined by the King County Jail, solely for confinement under this cause number pursuant to RCW 9.94A505(6). Jail term is satisfied and defendant shall be released under this cause.

4.6 NO CONTACT: For the maximum term of 99 years, defendant shall have no contact, direct or indirect, in person, in writing, by telephone, or through third parties with: me. garcia
(malicious)
 Any minors without supervision of a responsible adult who has knowledge of this conviction.

4.7 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, as ordered in APPENDIX G.

HIV TESTING: For sexual offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in APPENDIX G.

4.8 SEX OFFENDER REGISTRATION:
The defendant shall register as a sex offender as ordered in APPENDIX J.

4.9 ARMED CRIME COMPLIANCE, RCW 9.94A.475, 480. The State's plea/sentencing agreement is attached as follows:

The defendant shall report to an assigned Community Corrections Officer within 72 hours of release from confinement for monitoring of the remaining terms of this sentence.

Date: ~~2/10/08~~ May 13 08

[Signature]
JUDGE
Print Name:

Presented by:
[Signature]
Deputy Prosecuting Attorney, WSBA# 31600
Print Name: Jean Miller

Approved as to form:
[Signature]
Attorney for Defendant, WSBA# 37475
Print Name: BRUCE WALLIS

FINGERPRINTS

BEST IMAGE POSSIBLE



RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE: _____
DEFENDANT'S ADDRESS: _____

JOSE TOLEDO-SOTELO

DATED: 5-13-08

[Signature]
JUDGE, KING COUNTY SUPERIOR COURT

ATTESTED BY: BARBARA MINER
SUPERIOR COURT CLERK

BY: [Signature]
DEPUTY CLERK

CERTIFICATE

OFFENDER IDENTIFICATION

I, _____,
CLERK OF THIS COURT, CERTIFY THAT
THE ABOVE IS A TRUE COPY OF THE
JUDGEMENT AND SENTENCE IN THIS
ACTION ON RECORD IN MY OFFICE.
DATED: _____

S.I.D. NO. WA19665588
DOB: JANUARY 27, 1966
SEX: M
RACE: W

CLERK

BY: _____
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

JOSE TOLEDO-SOTELO,

Defendant,

EW
No. 00-1-05743-8 KNT

APPENDIX G
ORDER FOR BIOLOGICAL TESTING
AND COUNSELING

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

(2) HIV TESTING AND COUNSELING (RCW 70.24.340):

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 205-7837 to make arrangements for the test to be conducted within 30 days.

If (2) is checked, two independent biological samples shall be taken.

Date:

~~2/11/08~~ May 13 '08

[Signature]

JUDGE, King County Superior Court

- (15) Do not possess or peruse sexually explicit materials unless given prior approval by your sexual deviancy treatment specialist and/or Community Corrections Officer.
- (16) Do not attend X-rated movies, peep shows or adult bookstores without the prior approval of your sexual deviancy treatment specialist or Community Corrections Officer.
- (17) If directed by your sexual deviancy treatment specialist or Community Corrections Officer, obtain a mental health evaluation from a qualified provider and complete all treatment recommendations.
- (18) If directed by your sexual deviancy treatment specialist or Community Corrections Officer, undergo an evaluation regarding substance abuse at your expense and follow any recommended treatment as a result of the evaluation.
- (19) Do not use or possess illegal or controlled substances without the written prescription of a licensed physician and to verify compliance, submit to testing and reasonable searches of your person, residence, property and vehicle by the Community Corrections Officer to monitor compliance.
- (20) Do not purchase, possess, or use alcohol (beverage or medicinal), and submit to testing and reasonable searches of your person, residence, property and vehicle by the Community Corrections Officer to monitor compliance.
- (21) Do not change residence without the prior approval of your Community Corrections Officer.
- (22) Obey all laws.
- (23) Maintain Community Corrections Officer approved employment and notify your employer regarding your history of sexual deviancy and rules and regulations regarding children and legal status.
- (24) Pay for counseling costs for victims and their families.
- (25) Within 30 days of sentencing, submit to DNA and HIV testing as required by law.
- (26) Do not change therapist without prior approval of your Community Corrections Officer and treatment therapist.
- (27) Do not access the Internet without the prior approval of your supervising Community Corrections Officer and sex offender treatment provider.
- (28) Abide by any additional conditions imposed by the Washington State Department of Corrections.

Date:

5-13-08


JUDGE, KING COUNTY SUPERIOR COURT

APPENDIX H- COMMUNITY CUSTODY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)
Plaintiff,)
)
vs.)
Jose Toledo - Sotelo)
Defendant,)

No. 001057438 KNT

APPENDIX J
JUDGMENT AND SENTENCE
SEX/ KIDNAPPING OFFENDER NOTICE OF
REGISTRATION REQUIREMENTS

SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. You are required to register your complete residential address with the sheriff of the county where you reside, because you have been convicted of one of the following sex or kidnapping offenses: *Rape 1, 2, or 3; Rape of a Child 1, 2, or 3; Child Molestation 1, 2 or 3; Sexual Misconduct With A Minor 1 or 2; Indecent Liberties; Incest 1 or 2; Voyeurism; Kidnapping 1 or 2 (if victim is a minor and offender is not the minor's parent); Unlawful Imprisonment (if victim is a minor and offender is not the minor's parent); Sexual Exploitation of a Minor; Custodial Sexual Misconduct 1; Criminal Trespass against Children; Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct; Sending, Bringing Into State Depictions of a Minor Engaged in Sexually Explicit Conduct; Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct; Communication with a Minor for Immoral Purposes; Patronizing a Juvenile Prostitute; Failure to Register as a Sex Offender; any gross misdemeanor that is under RCW 9A.28, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or RCW 9A.44.130 or a kidnapping offense under 9A.44.130; or any felony with a finding of sexual motivation (RCW 9.94A.835 or RCW 13.40.135).*

If you are out of custody, you must register immediately upon being sentenced.

If you are in custody, you must register within 24 hours of your release.

If you change your residence within a county, you must send signed written notice of your change of residence to the county sheriff within 72 hours of moving.

If you change your residence to a new county within this state, you must send signed written notice of your change of residence to the sheriff of the county of your new residence at least 14 days before moving and register with the county sheriff of your new residence within 24 hours of moving. In addition, you must give signed written notice of your change of address to the sheriff of the county where you last registered within 10 days of moving.

If you plan to attend a public or private school or institution of higher education in Washington, you are required to notify the county sheriff for the county of your residence within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you are currently attending a public or private school or institution of higher education in Washington, you must notify the county sheriff, for the county where the school is located, immediately.

If you lack a fixed residence, you are required to register as homeless. You must also report in person to the sheriff of the county where you registered on a weekly basis. If you are under DOC supervision and lack a fixed residence, you must register in the county where you are being supervised. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county within 24 hours.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 3 business days after returning to this state or within 24 hours if you are under the jurisdiction of the state department of corrections, the indeterminate sentence review board or the department of social and health services.

If you move to a new state, you must register with the new state within 10 days after establishing residence. You must also send written notice, within 10 days of moving to the new state, to the county sheriff with whom you last registered in Washington State.

If you are not a resident of Washington, but attend school, are employed, or carry on a vocation in the State of Washington, you must register with the county sheriff for the county where your school, place of employment, or vocation is located.

If you are ranked as a Level II or Level III offender (even if you have a fixed residence), you must report, in person, every ninety days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours.

The King County Sheriff's Office sex offender registration desk is located on the first floor of the King County Courthouse- 516 3rd Avenue, Seattle, WA. Failure to comply with registration requirements is a criminal offense.

Copy Received: _____
_____ May 13 '08
_____ 21/08
Defendant Date

JUDGE

APPENDIX J Rev 8/06
Distribution:
Original/White - Clerk
Yellow - Defendant
Pink - King County Jail

Translated by Roxana S. Gohar

APPENDIX B

FILED

FAX HIV ✓

08 MAY 16 AM 9:50

KING COUNTY
SUPERIOR COURT CLERK
KENT, WA

PRESENTENCING STATEMENT & INFORMATION ATTACHED

CERTIFIED COPY TO COUNTY JAIL MAY 16 2008

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 07-1-103615-KNT

Vs.

JUDGMENT AND SENTENCE
FELONY

JOSE TOLEDO-SOTELO

Defendant,

* CLERK'S ACTION REQUIRED (p3)

I. HEARING

I.1 The defendant, the defendant's lawyer, BARRY WALLIS, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: richm's family,

defendant's significant other - WIFE

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 9/10/2007 by jury verdict of:

Count No.: I Crime: BAIL JUMPING
RCW 9A.76.170 Crime Code: 05156
Date of Crime: 9/21/2000 Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code: _____
Date of Crime: _____ Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code: _____
Date of Crime: _____ Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code: _____
Date of Crime: _____ Incident No. _____

[] Additional current offenses are attached in Appendix A

SPECIAL VERDICT or FINDING(S):

- (a) While armed with a **firearm** in count(s) _____ RCW 9.94A.510(3).
- (b) While armed with a **deadly weapon** other than a firearm in count(s) _____ RCW 9.94A.510(4).
- (c) With a **sexual motivation** in count(s) _____ RCW 9.94A.835.
- (d) A V.U.C.S.A. offense committed in a **protected zone** in count(s) _____ RCW 69.50.435.
- (e) **Vehicle homicide** Violent traffic offense DUI Reckless Disregard.
- (f) **Vehicle homicide by DUI** with _____ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.510(7).
- (g) **Non-parental kidnapping** or unlawful imprisonment with a minor victim. RCW 9A.44.130.
- (h) **Domestic violence** offense as defined in RCW 10.99.020 for count(s) _____.
- (i) Current offenses **encompassing the same criminal conduct** in this cause are count(s) _____ RCW 9.94A.589(1)(a).

2.2 **OTHER CURRENT CONVICTION(S):** Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): 00-1-05743-8KNT ~~808~~-1(2 COUNTS)
CM

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):
 Criminal history is attached in **Appendix B**.
 One point added for offense(s) committed while under community placement for count(s) _____

2.4 SENTENCING DATA:

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count I	* 2	V			6-18 MONTHS 13-17	5 YRS AND/OR \$10,000
Count						
Count						
Count						

Additional current offense sentencing data is attached in **Appendix C**.

2.5 **EXCEPTIONAL SENTENCE (RCW 9.94A.535):**
 Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) _____. Findings of Fact and Conclusions of Law are attached in **Appendix D**. The State did did not recommend a similar sentence.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and **Appendix A**.
 The Court **DISMISSES** Count(s) _____

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
 - Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(2), sets forth those circumstances in attached Appendix E.
 - Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
 - Date to be set.
 - Defendant waives presence at future restitution hearing(s).
 - Restitution is not ordered.
- Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500.

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a) \$ _____, Court costs; Court costs are waived; (RCW 9.94A.030, 10.01.160)
- (b) \$100 DNA collection fee; DNA fee waived (RCW 43.43.754)(crimes committed after 7/1/02);
- (c) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs; Recoupment is waived (RCW 9.94A.030);
- (d) \$ _____, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA; VUCSA fine waived (RCW 69.50.430);
- (e) \$ _____, King County Interlocal Drug Fund; Drug Fund payment is waived; (RCW 9.94A.030)
- (f) \$ _____, State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);
- (g) \$ _____, Incarceration costs; Incarceration costs waived (RCW 9.94A.760(2));
- (h) \$ _____, Other costs for: _____

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 500⁰⁰ The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month; On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied. Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

- Court Clerk's trust fees are waived.
- Interest is waived except with respect to restitution.

4.4 **CONFINEMENT OVER ONE YEAR:** Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: immediately; [] (Date): _____ by _____ m.

13 months/days on count I; _____ months/days on count _____; _____ months/day on count _____
_____ months/days on count _____; _____ months/days on count _____; _____ months/day on count _____

The above terms for counts _____ are consecutive / concurrent.

The above terms shall run [] CONSECUTIVE CONCURRENT to cause No.(s) 001057438KNT

The above terms shall run [] CONSECUTIVE CONCURRENT to any previously imposed sentence not referred to in this order.

[] In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special **WEAPON** finding(s) in section 2.1: _____

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (Use this section only for crimes committed after 6-10-98)

[] The enhancement term(s) for any special **WEAPON** findings in section 2.1 is/are included within the term(s) imposed above. (Use this section when appropriate, but for crimes before 6-11-98 only, per In Re Charles)

The **TOTAL** of all terms imposed in this cause is 13 months.

Credit is given for 252 days served [] days as determined by the King County Jail, solely for confinement under this cause number pursuant to RCW 9.94A.505(6).

4.5 **NO CONTACT:** For the maximum term of 001 years, defendant shall have no contact with _____
~~_____~~

4.6 **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, as ordered in **APPENDIX G.**

[] **HIV TESTING:** For sex offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in **APPENDIX G.**

4.7 (a) [] **COMMUNITY PLACEMENT** pursuant to RCW 9.94A.700, for **qualifying crimes committed before 7-1-2000**, is ordered for _____ months or for the period of earned early release awarded pursuant to RCW 9.94A.728, whichever is longer. [24 months for any serious violent offense, vehicular homicide, vehicular assault, or sex offense prior to 6-6-96; 12 months for any assault 2°, assault of a child 2°, felony violation of RCW 69.50/52, any crime against person defined in RCW 9.94A.411 not otherwise described above.] **APPENDIX H** for Community Placement conditions is attached and incorporated herein.

(b) [] **COMMUNITY CUSTODY** pursuant to RCW 9.94.710 for any **SEX OFFENSE** committed after 6-5-96 but before 7-1-2000, is ordered for a period of 36 months or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. **APPENDIX H** for Community Custody Conditions and **APPENDIX J** for sex offender registration is attached and incorporated herein.

- (c) **COMMUNITY CUSTODY** - pursuant to RCW 9.94A.715 for qualifying crimes committed after 6-30-2000 is ordered for the following established range:
- Sex Offense, RCW 9.94A.030(38) - 36 to 48 months—when not sentenced under RCW 9.94A.712
 - Serious Violent Offense, RCW 9.94A.030(37) - 24 to 48 months
 - Violent Offense, RCW 9.94A.030(45) - 18 to 36 months
 - Crime Against Person, RCW 9.94A.411 - 9 to 18 months
 - Felony Violation of RCW 69.50/52 - 9 to 12 months

n/a

or for the entire period of earned early release awarded under RCW 9.94A.728, whichever is longer. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.737.

- APPENDIX H for Community Custody conditions is attached and incorporated herein.
- APPENDIX J for sex offender registration is attached and incorporated herein.

4.8 **WORK ETHIC CAMP:** The court finds that the defendant is eligible for work ethic camp, is likely to qualify under RCW 9.94A.690 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the defendant shall be released to community custody for any remaining time of total confinement. The defendant shall comply with all mandatory statutory requirements of community custody set forth in RCW 9.94A.700. Appendix H for Community Custody Conditions is attached and incorporated herein.

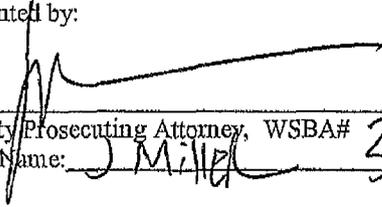
n/a

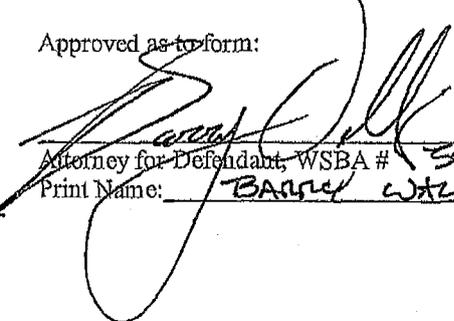
4.9 **ARMED CRIME COMPLIANCE, RCW 9.94A.475, 480.** The State's plea/sentencing agreement is attached as follows:

The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

Date: May 13 08

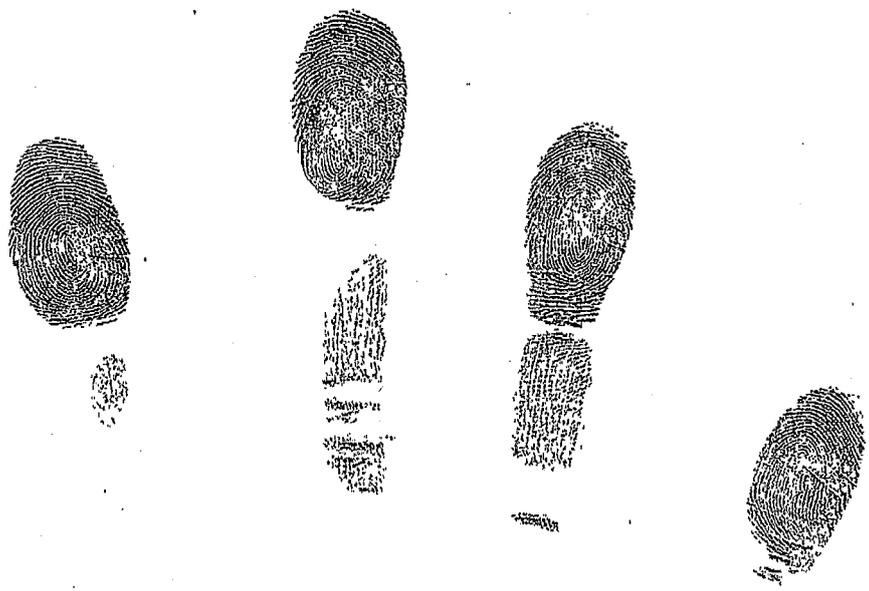

 JUDGE
 Print Name: _____

Presented by:

 Deputy Prosecuting Attorney, WSBA# 31600
 Print Name: J. Miller

Approved as to form:

 Attorney for Defendant, WSBA # 57475
 Print Name: Barry Walters

FINGERPRINTS

BEST IMAGE POSSIBLE



RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE: [Signature]
DEFENDANT'S ADDRESS: _____

JOSE TOLEDO-SOTELO

DATED: 05/16/08
[Signature]
JUDGE, KING COUNTY SUPERIOR COURT

ATTESTED BY: [Signature] BARBARA MINEK,
SUPERIOR COURT CLERK
BY: [Signature] DEPUTY CLERK

CERTIFICATE

OFFENDER IDENTIFICATION

I, _____,
CLERK OF THIS COURT, CERTIFY THAT
THE ABOVE IS A TRUE COPY OF THE
JUDGEMENT AND SENTENCE IN THIS
ACTION ON RECORD IN MY OFFICE.
DATED: _____

S.I.D. NO. WA19665588
DOB: JANUARY 27, 1966
SEX: M
RACE: W

CLERK
BY: _____
DEPUTY CLERK



SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

JOSE TOLEDO-SOTELO

Defendant,

No. 07-1-103615-KNT

APPENDIX G
ORDER FOR BIOLOGICAL TESTING
AND COUNSELING

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

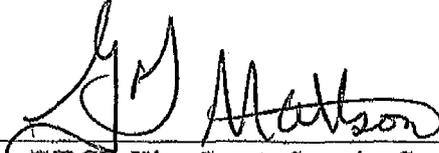
(2) HIV TESTING AND COUNSELING (RCW 70.24.340):

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 205-7837 to make arrangements for the test to be conducted within 30 days.

If (2) is checked, two independent biological samples shall be taken.

Date: May 13 '08



JUDGE, King County Superior Court

APPENDIX C

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

FILED
KING COUNTY, WASHINGTON
AUG 08 2008
SUPERIOR COURT CLERK
BY: NANCY L. SILVE
DEPUTY

CERTIFIED COPY TO COUNTY JAIL AUG 08 2008

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 00-1-05743-8 KNT

vs.

Order Correcting Judgment and Sentence

Jose Toledo Sotelo,

Defendant.

The Court modifies the original judgment and sentence by deleting the community custody range and providing an order for 36 months community custody following release from confinement on these convictions.

Signed this 8 August of July 2008

~~Jennifer Miller DPA WSBA #31600~~

~~Barry Wallace defense attorney~~


The Honorable George T. Mattison

Daniel T. Satterberg, Prosecuting Attorney
Norm Maleng Regional Justice Center
401 Fourth Avenue North
Kent, Washington 98032-4429



Order Correcting Judgment and Sentence - 1

ORIGINAL

APPENDIX D

FILED

07 NOV 26 AM 8:59

KING COUNTY
SUPERIOR COURT CLERK
KENT, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 00-1-05743-8 KNT

vs.

JOSE TOLEDO-SOTELO,

Defendant.

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY TO FELONY
SEX OFFENSE (STIDFG)

1. My true name is JOSE TOLEDO-SOTELO

2. My date of birth is JAN 27TH 1966

3. I went through the 9TH grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer; if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is BARRY WALLIS

(b) I am charged with the crime(s) of CHILD MOLESTATION 1ST DEGREE 2 COUNTS

The elements of this crime(s) are set forth in the ~~information~~ amended information, which is incorporated by reference and which I have reviewed with my lawyer.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to testify and to hear and question the witnesses who testify against me;
- (d) The right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) The right to be presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a determination of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA(S), I UNDERSTAND THAT:

(a) The crime(s) with which I am charged carries a sentence(s) of:

Count No.	Standard Range	Enhancement That Will Be Added to Standard Range	Maximum Term And Fine
III	72 to 96 mos.	N/A	life years \$ 50,000
IV	72 to 96 mos.	N/A	life years \$ 50,000
			_____ years \$ _____

1 (b) The standard sentence range is based on the crime charged and my criminal history.
2 Criminal history includes prior convictions and juvenile adjudications or convictions, whether in
3 this state, in federal court, or elsewhere.

4 (c) The prosecuting attorney's statement of my criminal history is attached to this agreement.
5 Unless I have attached a different statement, I agree that the prosecuting attorney's statement is
6 correct and complete. If I have attached my own statement, I assert that it is correct and complete.
7 If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated
8 to tell the sentencing judge about those convictions.

9 (d) If I am convicted of any new crimes before sentencing, or if any additional criminal
10 history is discovered, both the standard sentence range and the prosecuting attorney's
11 recommendations may increase or a mandatory sentence of life imprisonment without possibility of
12 parole may be required by law. Even so, I cannot change my mind and my plea of guilty to this
13 charge is binding on me.

14 (e) In addition to sentencing me to confinement, the judge will order me to pay \$500 as a
15 victim's compensation fund assessment. If this crime resulted in injury to any person or damages to
16 or loss of property, the judge will order me to make restitution, unless extraordinary circumstances
17 exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs,
18 attorney fees, and other costs and fees. Furthermore, the judge may place me on community
19 supervision, community placement or community custody and I will have restrictions and
20 requirements placed upon me.

21
22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

(f)

(i) For sex offenses committed before July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is not more than 12 months. If the period of confinement is more than one year, the judge will order me to serve three years of community custody (or two years of community placement if offense committed before 6/6/1996) or up to the period of earned early release, whichever is longer. During the period of community custody or community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

~~(ii) For sex offenses committed on or after July 1, 2000 but before September 1, 2001: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, the judge will sentence me to community custody for a period of 36 to 48 months or up to the period of earned early release, whichever is longer. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.~~

1 (iii) For sex offenses committed on or after September 1, 2001:

2 (a) Sentencing under RCW 9.94A.712: If this offense is for any of the
3 offenses listed in subsections (1) or (2), below, the judge will impose a
4 maximum term of confinement consisting of the statutory maximum
5 sentence for the offense, and a minimum term of confinement either within
6 the standard range for the offense or outside the standard range if an
7 exceptional sentence is imposed. The minimum term of confinement that
8 is imposed may be increased by the Indeterminate Sentence Review Board
9 if the Board determines by a preponderance of the evidence that it is more
10 likely than not that I will commit sex offenses if released from custody. In
11 addition to the period of confinement, I will be sentenced to community
12 custody for any period of time I am released from total confinement before
13 the expiration of the maximum sentence. During the period of community
14 custody I will be under the supervision of the Department of Corrections
15 and I will have restrictions and requirements placed upon me and I may be
16 required to participate in rehabilitative programs.

17 (1) If the current offense is any of these offenses or attempt to commit any of these
18 offenses:

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree committed when I was at least 18 years old.	Rape of a child in the second degree committed when I was at least 18 years old.
Child molestation in the first degree committed when I was at least 18 years old.	Indecent liberties by forcible compulsion

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

Any of the following offenses with a finding of sexual motivation:	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Kidnapping in the second degree	Assault in the first degree
Assault in the second degree	Assault of a child in the first degree
Burglary in the first degree	

ST

(2) If the current offense is any sex offense and I have a prior conviction for any of these offenses or attempt to commit any of these offenses or a comparable offense in this state, in federal court, or elsewhere:

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

(b) If this offense is for a sex offense that is not listed in paragraph 6(f)(iii)(a), in addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, the judge will sentence me to community custody for a period of 36 to 48 months or up to the period of earned early release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

~~(iv) If this offense is Failure to Register as a Sex Offender and the crime was committed on or after June 7, 2006, regardless of the term of confinement ordered, the judge will sentence me to community custody for a period of 36 to 48 months or up to the period of earned early release, whichever is longer. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.~~

(g) The prosecuting attorney will make the following recommendation to the judge: _____

The prosecutor will make the recommendation stated in the plea Agreement and State's Sentence Recommendation, which are incorporated by reference.

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless there is a finding of substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

~~(i) The crime of child molestation I has a mandatory minimum sentence of at least N/A years of total confinement. The law does not allow any reduction of this sentence. For crimes committed on or after July 24, 2005, this does not apply to juveniles tried as~~

1 adults pursuant to a transfer of jurisdiction under RCW 13.40.110 (see RCW 9.94A.540(3)). [If not
2 applicable, this paragraph should be stricken and initialed by the defendant and the judge _____.]

3 The crime of Child Molestation I is a most serious offense as defined by
4 RCW 9.94A.030, and if I have at least two prior convictions on separate occasions whether in this
5 state, in federal court, or elsewhere, of most serious crimes, I may be found to be a Persistent
6 Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence
7 of life imprisonment without the possibility of early release of any kind. RCW 9.94A.570. [If not
8 applicable, this paragraph should be stricken and initialed by the defendant and the judge _____.]

9 The crime of _____ with a finding that [circle
10 applicable finding] (1) the crime was predatory as defined by RCW 9.94A.030; (2) the victim was
11 under 15 at the time of the offense; (3) the victim was developmentally disabled, mentally
12 disordered, a frail elder, or a vulnerable adult; if committed on or after July 1, 2006, has a
13 mandatory minimum sentence of 25 years of confinement or the maximum of the standard range
14 sentence, whichever is greater. The law does not allow any reduction of this sentence. RCW
15 9.94A.712. This minimum sentence does not apply to juveniles tried as adults pursuant to RCW
16 13.040.030(1)(e). [If not applicable, this paragraph should be stricken and initialed by the
17 defendant and the judge Δ τ.]

18 (j) If this offense is (1) rape in the first degree, rape of a child in the first degree, rape in the
19 second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child
20 molestation in the first degree, or (2) any of the following with a finding of sexual motivation: murder
21 in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree,
22 kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a

1 child in the first degree, or burglary in the first degree, or (3) any attempt to commit any of the offenses
2 listed in this sentence and I have at least one prior conviction for one of these listed offenses (or if the
3 current offense was committed after July 21, 2001, a comparable offense in this state, in federal court,
4 or elsewhere), the offense for which I am charged carries a mandatory sentence of life imprisonment
5 without the possibility of parole.

6 (k) ~~The crime charged in Count _____ includes a firearm / deadly weapon
7 sentence enhancement of _____ months.~~

8 ~~This additional confinement time is mandatory and must be served consecutively to any
9 other sentence and any other enhancement I have already received or will receive in this or any other
10 cause for any felony offense. [If not applicable, this paragraph should be stricken and initialed by
11 the defendant and the judge S J]~~

12 (l) ~~The crime charged in Count _____, committed on or after July 1, 2006,
13 includes a sexual motivation sentence enhancement of _____ months.~~

14 ~~This additional confinement time is mandatory and must be served consecutively to any
15 other sentence and any other enhancement I have already received or will receive in this or any other
16 cause for any felony offense. [If not applicable, this paragraph should be stricken and initialed by
17 the defendant and the judge Δ T]~~

18 (m) The sentences imposed on counts III + IV, except for any weapons enhancement,
19 will run concurrently unless there is a finding of substantial and compelling reasons to do otherwise.

20 [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge
21 _____.]

1 (n) Counts _____ are serious violent offenses arising from separate and distinct
2 criminal conduct and the sentences on these counts will run consecutively unless the judge finds
3 substantial and compelling reasons to do otherwise. [If not applicable, this paragraph should be
4 stricken and initialed by the defendant and the judge Δ ∇.]

5 (o) Special sex offender sentencing alternative:

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

17 For offenses committed on or after September 1, 2001: The judge may suspend
18 execution of the standard range term of confinement or the minimum term of confinement, under the
19 special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.670. If the judge
20 suspends execution of the standard range term of confinement for a sex offense that is not listed in
21 paragraph 6(f)(iii)(a), I will be placed on community custody for the length of the suspended sentence
22 or three years, whichever is greater. If the judge suspends execution of minimum term of confinement

1 for a sex offense listed in paragraph 6(f)(iii)(a), I will be placed on community custody for the length
2 of the statutory maximum sentence of the offense. In addition to the term of community custody, I will
3 be ordered to serve up to 180 days of total confinement or, for a crime committed after July 1, 2005, up
4 to 12 months of total confinement with no early release; I will be ordered to participate in sex offender
5 treatment; I will have restrictions and requirements placed upon me; and I will be subject to all of the
6 conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a
7 specific occupation and to pursue a prescribed course of study or occupational training. If a violation
8 of the sentence occurs during community custody, the judge may revoke the suspended sentence.

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

11 (q) I will be required to undergo testing for the human immunodeficiency virus (HIV).

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

15 (s) I will be required to provide a biological sample for purposes of DNA identification
16 analysis.

17 (t) I will be required to register with the sheriff of the county of the state of Washington
18 where I reside, study, or work. The specific registration requirements are described in Appendix J,
19 Notice of Registration Requirements, which is attached to this form.

20 (u) This plea of guilty will result in the revocation of my right to possess, own, or have in
21 my control any firearm unless and until my right to do so is restored by a court of record.

1 (v) Because this is a crime of domestic violence, I may be ordered to pay a domestic
2 violence assessment of up to \$100. If I, or the victim of the crime, have a minor child, the court
3 may order me to participate in a domestic violence perpetrator program approved under RCW
4 26:50.150. [If not applicable, this paragraph should be stricken and initialed by the defendant and
5 the judge _____.]

6 7. I plead guilty to the crime(s) of CHILD MOLESTATION IN THE
7 FIRST DEGREE, TWO COUNTS

8
9 as charged in the information/ _____ amended information. I have received a copy of
10 that information.

11 8. I make this plea freely and voluntarily.

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

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

16 11. The judge has asked me to state briefly in my own words what I did that makes me
17 guilty of this (these) crime(s). This is my statement:

18 ~~CHILD MOLESTATION~~ I, JOSE TOLEDO - SOLEO, IN KING COUNTY
19 WASHINGTON ON AUGUST 6TH 1996, DID KISS ON
20 THE MOUTH AND FONDLE THE BREAST OF
21 M.C.G. (DOB 04/24/86) ^{TWICE} FOR THE PURPOSE OF SEXUAL
22 GRATIFICATION. MCG WAS LESS THAN 12 YEARS
OLD AT THE TIME AND NOT MY WIFE.

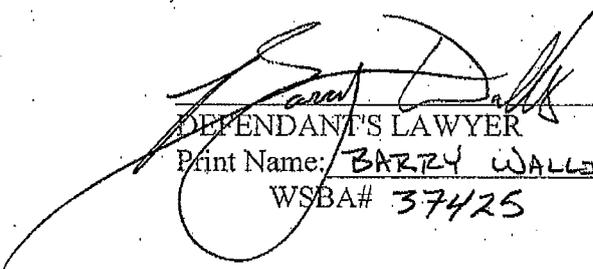
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

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

X 
DEFENDANT

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


PROSECUTING ATTORNEY
Print Name: Goodman
WSBA# 29304


DEFENDANT'S LAWYER
Print Name: BARRY WALLIS
WSBA# 37425

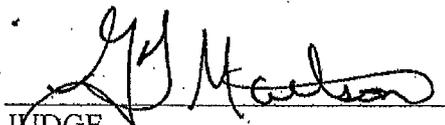
The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read; or
- (b) The defendant's lawyer had previously read to him or her; or
- (c) An interpreter had previously read to the defendant the entire statement above;

and that the defendant understood it in full.

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

Dated this 16 day of October, 2007.


JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

I am a certified interpreter or have been found otherwise qualified by the court to interpret in the Spanish language and I am fluent in that language, which the defendant understands. I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 16 day of October, 2007

TRANSLATOR
Print Name: _____

Alicia Beatty

INTERPRETER
Print Name: Alicia Beatty

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)	
	Plaintiff,)
v.)	No. 00-1-05743-8 KNT
)	
JOSE TOLEDO-SOTELO,)	MOTION AND ORDER PERMITTING
)	FILING OF A SECOND AMENDED
)	INFORMATION
)	
	Defendant.)

COMES NOW the State of Washington by Daniel T. Satterberg, Interim Prosecuting Attorney, by and through his deputy, and moves the court for an order permitting the filing of a second amended information in the above entitled cause.

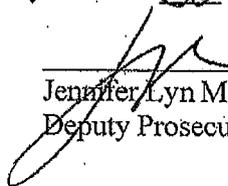
That Jennifer Lyn Miller is a Deputy Prosecuting Attorney in and for King County, Washington, and is familiar with the records and files herein, and certifies that:

~~(X) Newly available information is set forth in the prosecutor's case summary and request for bail.~~

() The Amended Information more accurately reflects the Defendant's Conduct.

As After consultation with the victim and in the interest of justice

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 30 day of July, 2007, at Seattle, Washington.


Jennifer Lyn Miller, WSBA #31600
Deputy Prosecuting Attorney

MOTION AND ORDER PERMITTING FILING OF A SECOND AMENDED INFORMATION - 1

Norm Maleng, Prosecuting Attorney
Daniel T. Satterberg, Interim Prosecuting Attorney
Regional Justice Center
401 Fourth Avenue North
Kent, Washington 98032-4429

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

ORDER

THIS MATTER having come before this court upon the motion of the Prosecuting Attorney, good cause having been demonstrated, and the defendant not being prejudiced in any substantial right, the State of Washington is allowed to file a second amended information herein.

DONE IN OPEN COURT this ¹⁶~~30~~ day of ^{October}July, 2007.

JUDGE

Presented by:



Jennifer Lyn Miller, WSBA #31600
Deputy Prosecuting Attorney *29304*
duy for
Goodman

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)	
	Plaintiff,)
v.)	No. 00-1-05743-8 KNT
)	
JOSE TOLEDO-SOTELO,)	SECOND AMENDED INFORMATION
)	
)	
)	
	Defendant.)

COUNT I

I, Daniel T. Satterberg, Interim Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse JOSE TOLEDO-SOTELO of the crime of **Rape of a Child in the First Degree**, committed as follows:

That the defendant JOSE TOLEDO-SOTELO in King County, Washington, during a period of time intervening between April 25, 1995 through August 31, 1996, being at least 24 months older than M.G. (dob 04/24/86), had sexual intercourse with M.G. (dob 04/24/86), who was less than 12 years old and was not married to the defendant;

Contrary to RCW 9A.44.073, and against the peace and dignity of the State of Washington.

COUNT II

And I, Daniel T. Satterberg, Interim Prosecuting Attorney aforesaid further do accuse JOSE TOLEDO-SOTELO of the crime of **Rape of a Child in the First Degree**, a crime of the same or similar character and based on the same conduct as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

Norm Maleng, Prosecuting Attorney
Daniel T. Satterberg, Interim Prosecuting Attorney
Regional Justice Center
401 Fourth Avenue North
Kent, Washington 98032-4429

1 That the defendant JOSE TOLEDO-SOTELO in King County, Washington, during a period
2 of time intervening between April 24, 1995 through August 31, 1996, being at least 24 months older
3 than M.G.(dob 04/24/86), had sexual intercourse with M.G. (dob 04/24/86), who was less than 12
4 years old and was not married to the defendant;

5 Contrary to RCW 9A.44.073, and against the peace and dignity of the State of Washington.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
COUNT III

And I, Daniel T. Satterberg, Interim Prosecuting Attorney aforesaid further do accuse JOSE
TOLEDO-SOTELO of the crime of **Child Molestation in the First Degree**, a crime of the same or
similar character and based on the same conduct as another crime charged herein, which crimes were
part of a common scheme or plan and which crimes were so closely connected in respect to time,
place and occasion that it would be difficult to separate proof of one charge from proof of the other,
committed as follows:

That the defendant JOSE TOLEDO-SOTELO in King County, Washington, during a period
of time intervening between April 25, 1995 through August 31, 1996, being at least 36 months older
than M.G. (dob 04/24/86), had sexual contact for the purpose of sexual gratification, with M.G. (dob
04/24/86), who was less than 12 years old and was not married to the defendant;

Contrary to RCW 9A.44.083, and against the peace and dignity of the State of Washington.

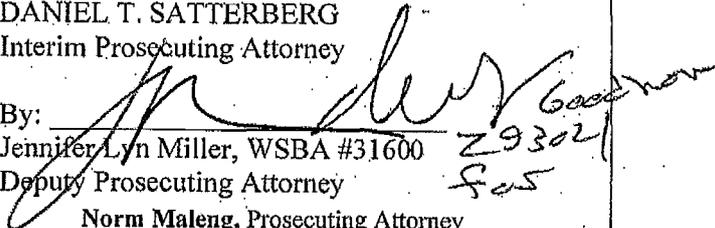
COUNT IV

And I, Daniel T. Satterberg, Interim Prosecuting Attorney aforesaid further do accuse JOSE
TOLEDO-SOTELO of the crime of **Child Molestation in the First Degree**, a crime of the same or
similar character and based on the same conduct as another crime charged herein, which crimes were
part of a common scheme or plan and which crimes were so closely connected in respect to time,
place and occasion that it would be difficult to separate proof of one charge from proof of the other,
committed as follows:

That the defendant JOSE TOLEDO-SOTELO in King County, Washington, during a period
of time intervening between April 25, 1995 through August 31, 1996, being at least 36 months older
than M.G. (dob 04/24/86), had sexual contact for the purpose of sexual gratification, with M.G. (dob
04/24/86), who was less than 12 years old and was not married to the defendant;

Contrary to RCW 9A.44.083, and against the peace and dignity of the State of Washington.

NORM MALENG
Prosecuting Attorney
DANIEL T. SATTERBERG
Interim Prosecuting Attorney

By: 
Jennifer Lyn Miller, WSBA #31600
Deputy Prosecuting Attorney

Norm Maleng, Prosecuting Attorney
Daniel T. Satterberg, Interim Prosecuting Attorney
Regional Justice Center
401 Fourth Avenue North
Kent, Washington 98032-4429

00 - 1 - 05743 - 8KNT

Cause Number: _____

**Auburn Police Department
Certification for Determination of Probable Cause**

That I, Robert M. JONES, am a Detective with the Auburn Police Department and I have investigated case(s) #: 99-11220.

There is probable cause to believe that TOLEDO-SOTELO, Jose * (01/27/66) has committed the crime(s) of:

- 1) Child Rape 1st Degree.

In the City of Auburn, County of King, State of Washington.

This belief is based on the following facts and circumstances:

10/07/99

I received Child Protective Services referral # 1032666. This referral indicated that 13-year-old Marycruz GARCIA (04/24/86) disclosed that she had been sexually abused by her mother's ex-boyfriend Jose TOLEDO-SOTELO when she was 8 years of age. She reported that he had kissed and touched her on the genital area and breasts.

10/08/99

At approximately 1500 hours I contacted GARCIA at her listed address. She stated that TOLEDO-SOTELO had touched several times, under her clothing, that included digital penetration. GARCIA told me that she didn't know TOLEDO-SOTELO date of birth, but would try to find it for me.

10/19/99

At approximately 1526 hours I contacted GARCIA at her apartment. She told me that the touching started when she was about 9 or 10 years of age, and was either in the 5th or 6th grade. She indicated that she was living at Continental Village #55, which is in Auburn, WA, 98002, County of King, with her mom and sister when the touching started. I asked her to describe the person that had touched her in a way that made her feel uncomfortable. She gave the name of Jose TOLEDO-SOTELO, and said that she thought he was about 35 years of age.

GARCIA stated that TOLEDO-SOTELO started to touch her with his tongue and hands. She said that he touched her chest and her vagina and kissed her on the mouth. She then

hesitated and stated that he had touched her private with his tongue as well. GARCIA indicated that he had touched her on the inside and the outside of her private. She said that he had pulled her panties down and that her shirt was lifted up.

I asked her if anything else had ever happened to her to make her feel uncomfortable, and she told me when they would go to the park or swim TOLEDO-SOTELO tried to touch her as well. I asked her if he had ever been able to touch her during these times, and she said that he did on the vagina. She was able to tell me that this occurred when they had went to Lake Meridian or would swim at the pool at the Continental Village Apartments. She then added that he would come out of the shower and would show her and her sister his penis, but added that she wouldn't look. She continued to talk and said that when she was doing the dishes and her mom was doing her sisters hair, he would come up to her and would start to kiss and touch her. I asked if he told her anything at this time and she said that he would tell her that he loved her. She noted that when she was touched, while doing the dishes, he would only touch her over the clothing and that it made her feel sick. I asked her if she recalled anything else and she stated that on one holiday there were a lot of people over. Everyone was drinking and TOLEDO-SOTELO grabbed her and took her into the bedroom. She stated that she told him to stop and he didn't. He held her down and placed his finger in her vagina. She said that this felt, "Gross." She stated that when he did this he didn't say anything, but she told him to stop or she would scream. She said that he told her, "I don't give a fuck." She told him that she would tell her mother and he stated that he didn't care. He told her that he wanted to be with her and not with her mom.

She said this incident also took place at Continental Village #55. I asked her how this made her feel and she stated that she felt gross and also sad, because he was telling her that he loved her and not her mother.

At approximately 1638 hours I talked to Elvia and she told me that her daughter told her that he was touching her in August of 1996. She recalled this date because she had been in the hospital. She said that her daughter told her that he had touched and kissed her, but this was all. She said that she confronted him and asked him why he did this to her daughter, and what was his problem. He told her that her daughter was like his wife and that he was sorry, and he didn't want to do it anymore. About two or three months, after she confronted him, he moved out. She stated that she never saw anything, adding that she was working two jobs.

Elvia was able to give me TOLEDO-SOTELO date of birth, 01/27/66, and information that he had worked at the Auburn Super Mall as a Housekeeper.

10/21/99

I received a disclosure statement from Rainy FIAMENGO, Therapist at Auburn Youth Resources. On September 30, 1999, GARCIA disclosed to her that she had been sexually abused. She told her that her mom's ex-boyfriend had touched her all over and had made her feel uncomfortable. She said that this person was Jose TOLEDO-SOTELO, but she

was uncertain of his entire name. She said that she was 8 or 9 years of age when this happened. She said that the touching would happen when her mom was away or when she was just in the other room. He would come into the kitchen, while she was washing dishes, and would touch her. Her mom didn't know at the time that this occurred, but was told after he left.

11/22/99

At 1415 hours I contacted victim GARCIA at her school. I gave her an Auburn Police Department Montage Identification Sheet to read, which she did. I asked if she understood and she acknowledged her understanding with her signature. I then showed her the prepared montage, that consisted of 6 photographs. She looked at the montage and then pointed to the photograph in the bottom middle, TOLEDO-SOTELO. She said that this was the man that sexually abused her.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct to the best of my knowledge. Signed and dated 08/14/2000, at Auburn, Washington.

Det. R.M. [Signature]
Name and date

8/14/00

FELONY PLEA AGREEMENT

Date of Crime: 4/25/95 - 8/31/96

Date: 10/16/07

Defendant: Jose Toledo-Sotelo Cause No: 00-1-05743-8 SEA/KNT

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is as follows:

On Plea To: As charged in Count(s) III + IV, IV 36 of the original 2nd amended information.

With Special Finding(s): deadly weapon - firearm, RCW 9.94A.510(3); deadly weapon other than firearm, RCW 9.94A.510(4); sexual motivation, RCW 9.94A.835; protected zone, RCW 69.50.435; domestic violence, RCW 10.99.020; other _____; for count(s): _____

DISMISS: Upon disposition of Count(s) III, IV, IV 36, the State moves to dismiss Count(s): I, II

REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.530, the parties have stipulated that the following are real and material facts for purposes of this sentencing:

- The facts set forth in the certification(s) for determination of probable cause and prosecutor's summary.
- The facts set forth in Appendix C; _____

RESTITUTION: Pursuant to RCW 9.94A.753, the defendant shall pay restitution in full to the victim(s) on charged counts and agrees to pay restitution in the specific amount of \$ _____ agrees to pay restitution as set forth in Appendix C; _____

OTHER: _____

CRIMINAL HISTORY AND OFFENDER SCORE:

a. The defendant agrees to the foregoing Plea Agreement and that the attached sentencing guidelines scoring form(s) (Appendix A) and the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). The State makes the sentencing recommendation set forth in the State's sentence recommendation.

b. The defendant disputes the Prosecutor's Statement of the Defendant's Criminal History, as follows:
(1) Conviction: _____ Basis: _____
(2) Conviction: _____ Basis: _____

c. The State's recommendation may change if the score used by the court at sentencing differs from that set out in Appendix A.

Maximum on Count(s) III, IV is not more than life years each and \$ 50,000 fine each.

Maximum on Count(s) _____ is not more than _____ years each and \$ _____ fine each.

Mandatory Minimum Term(s) pursuant to RCW 9.94A.540 only: _____

Mandatory weapon sentence enhancement for Count(s) _____ is _____ months each; for Count(s) _____ is _____ months each. This/these additional term(s) must be served consecutively to each other and to any other term and without any earned early release.

The State's recommendation will increase in severity if additional criminal convictions are found or if the defendant commits any new charged or uncharged crimes, fails to appear for sentencing or violates the conditions of release.

#25115

[Signature]
Defendant
[Signature]
Attorney for Defendant
#37425

[Signature]
Deputy Prosecuting Attorney
[Signature]
Judge, King County Superior Court

GENERAL SCORING FORM

Violent Sex Offenses

Use this form only for the following offenses: Child Molestation 1, Indecent Liberties (with forcible compulsion), Rape of a Child 1 and 2, Rape 2.

OFFENDER'S NAME <i>Toledo-Sotelo, Jose</i>	OFFENDER'S DOB <i>1-27-66</i>	STATE ID#
JUDGE	CAUSE# <i>00-1-05743-8 KUT</i>	FBI ID#

ADULT HISTORY: (If the prior offense was committed before 7/1/86, count prior adult offenses served concurrently as one offense; those served consecutively are counted separately. If both current and prior offenses were committed after 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of sex offense convictions x 3 = _____
 Enter number of other serious violent and violent felony convictions x 2 = _____
 Enter number of other felony convictions x 1 = _____

JUVENILE HISTORY:

Enter number of sex offense adjudications x 3 = _____
 Enter number of other serious violent and violent felony adjudications x 2 = _____
 Enter number of other felony adjudications x 1/2 = _____

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct)

Enter number of other sex offense convictions *other Ct - this cause* 1 x 3 = 3
 Enter number of other serious violent and violent felony convictions x 2 = _____
 Enter number of other felony convictions x 1 = _____

STATUS AT TIME OF CURRENT OFFENSES:

If on community placement at time of current offense, add 1 point. + 1 = _____

Total the last column to get the Offender Score. (Round down to the nearest whole number.)

STANDARD RANGE CALCULATION*

<i>ROC 10 - 2 CTS</i>	<i>XII</i>	<i>3</i>	TO	<i>120</i>	TO	<i>160</i>
CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE		LOW STANDARD SENTENCE RANGE		HIGH STANDARD SENTENCE RANGE

- * Multiply the range by .75 if the current offense is an attempt, conspiracy, or solicitation.
- * If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-16 or III-17 to calculate the enhanced sentence.
- * If no prior sex offense conviction and sentence is less than eleven years, the Special Sex Offender Sentencing Alternative is an option.

**APPENDIX B TO PLEA AGREEMENT
 PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY
 (SENTENCING REFORM ACT)**

This criminal history compiled on: 18-Sep-00

Date of O = Offense C = Conviction S = Sentence	Crime	Place of Conviction	Case Number	Disposition	Score or No Score	Point Given
--	-------	---------------------	-------------	-------------	----------------------------	----------------

Defendant: Toledo-Sotelo, Jose Cause Number: 00-1-05743-8KNT Current Offense Incident Date: 4/24/95 thru 8/31/96

ADULT FELONIES:	
<input checked="" type="checkbox"/>	NONE KNOWN; RECOMMENDATION AND STANDARD RANGE ASSUMES NO PRIOR FELONY CONVICTIONS.
<input type="checkbox"/>	CRIMINAL HISTORY NOT KNOWN AND NOT RECEIVED AT THIS TIME.

ADULT MISDEMEANORS:							

WASIS/NCIC: 10/25/99

Prepared by:

 King County Prosecutor's Office

STATE'S SENTENCING RECOMMENDATION

FELONY SEX OFFENSES (NON-SSQSA)

Date of Crime: 4/25/05 - 8/31/06
Defendant: Jose Toledo-Sotelo

Date: 10/16/07
Cause: 00-1-05743-0 SEA/KNT

The State recommends that the defendant be sentenced to a term of confinement in the King County Jail, King County Work/Education Release, Department of Corrections as follows:

DETERMINATE SENTENCE:

84 months/days on Count III; _____ months/days on Count _____; _____ months/days on Count _____;

84 months/days on Count IV; _____ months/days on Count _____; _____ months/days on Count _____.

ALTERNATIVE CONVERSION - RCW 9.94A.680 (LESS THAN ONE YEAR ONLY):

_____ days of total confinement are hereby converted to:

_____ days of partial confinement to be served subject to the requirements of the King County Jail.

_____ days / hours community restitution under the supervision of the Department of Corrections to be completed as follows: on a schedule established by the defendant's Community Corrections Officer;

Alternative conversion was not used because: Defendant's criminal history, Defendant's failure to appear,

Other: _____

FOR CONFINEMENT LESS THAN ONE YEAR: COMMUNITY SUPERVISION, for crimes committed before 7-1-2000, CUSTODY, for crimes committed on or after 7-1-2000, is recommended pursuant to RCW 9.94A.545 for a period of 12 months.

COMMUNITY PLACEMENT (CONFINEMENT OVER ONE YEAR) is mandatory for any sex offense committed before 6-6-1996 for 24 months, or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. RCW 9.94A.700.

COMMUNITY CUSTODY (CONFINEMENT OVER ONE YEAR) is mandatory for any sex offense committed after 6-6-1996 but before 7-1-2000 for a period of 36 months or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. RCW 9.94A.710.

COMMUNITY CUSTODY (CONFINEMENT OVER ONE YEAR) is mandatory for any sex offense (non-RCW 9.94A.712 offenses) committed after 6-30-2000 for a period of 36-48 months or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. RCW 9.94A.715.

INDETERMINATE SENTENCE - FOR QUALIFYING OFFENSES occurring on or after 9-1-2001 (RCW 9.94A.712):

Count _____: Minimum Term: _____ months/days; Maximum Term: _____ years/life

Count _____: Minimum Term: _____ months/days; Maximum Term: _____ years/life

Count _____: Minimum Term: _____ months/days; Maximum Term: _____ years/life

Count _____: Minimum Term: _____ months/days; Maximum Term: _____ years/life

COMMUNITY CUSTODY is mandatory for any period of time the defendant is released from confinement before the expiration of the maximum sentence. Unless a condition is waived by the court, the defendant is required to comply with any conditions imposed by the court and by the Department of Corrections pursuant to RCW 9.94A.712 / .713. The defendant is required to comply with any conditions imposed by the Indeterminate Sentence Review Board pursuant to RCW 9.94A.713 and 9.95.420 - .435.

Terms on each count to run ~~consecutively~~ concurrently with: each other, and Count V (bail jumping).
Terms on each count to run consecutively / concurrently with: Cause No(s). _____

EXCEPTIONAL SENTENCE: This is an exceptional sentence and the substantial and compelling reasons for departing from the presumptive sentence range are set forth on the attached form.

ADDITIONAL RECOMMENDED CONDITIONS OF COMMUNITY | SUPERVISION, CUSTODY:

within 45 days of release, defendant shall obtain a sexual deviancy evaluation from st. certified treatment provider and follow all recommendations

NO CONTACT: For the maximum term, the defendant shall have no contact, direct or indirect, in person, in writing, by telephone or through third parties with: M.G. (d.o.b. 4/24/86)

any minors without the supervision of a responsible adult who has knowledge of this conviction and order.

MONETARY PAYMENTS: The defendant shall make the following monetary payments under the supervision of the Department of Corrections pursuant to RCW 9.94A.670, .750, and .753:

- restitution as set forth on "Plea Agreement" and reimburse the victim for the cost of any counseling required as a result of the offender's crime;
- Court costs, \$500 Victims Penalty Assessment, recoupment of costs for appointed counsel; \$100 DNA collection fee;
- Other _____

BLOOD TESTING: HIV blood testing is mandatory under RCW 70.24.340 for any sex offense, prostitution related offense, or drug offense under RCW 69.50 associated with needle use.

DNA TESTING: DNA testing is mandatory under RCW 43.43.754 for any felony offense.

SEX OFFENDER REGISTRATION: Every person convicted of a sex offense is required to register as a sex offender pursuant to RCW 9A.44.130.

FIREARM REVOCATION: Revocation of the right to possess a firearm is mandatory for any felony conviction. RCW 9.41.040.

The State will consider recommending the Special Sex Offender Sentencing Alternative RCW 9.94A.670 following receipt of a sexual deviancy evaluation from a qualified State-certified treatment provider. In the event the State agrees to recommend a SSOSA sentence, the State's recommendation will be 96 months as to Count(s) III, IV

This is not stricken, and should be considered a possibility if the defendant obtains an evaluation.

*RLA
10/16/07*

Approved by:



Deputy Prosecuting Attorney, WSBA #

CERTIFICATION OF SERVICE

Today I deposited in the mails of the United States of America, a properly stamped and addressed envelope directed to Jose Toledo-Sotelo, at the following address: DOC# 311886, Clallam Bay Corrections Center, 1830 Eagle Crest Way, Clallam Bay, WA 98326, the petitioner, containing a copy of the State's Response to Personal Restraint Petition in In re Personal Restraint of Toledo-Sotelo, No. 65460-8-1, in the Court of Appeals of the State of Washington.

I certify under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct.

U Brame 7/12/10
Name Date
Done in Seattle, Washington

Today I deposited in the mails of the United States of America, a properly stamped and addressed envelope directed to Ronda Larsen, at the following address: Attorney General's Office, P.O. Box 40116, Olympia, WA 98504, the attorney for respondent Department of Corrections, containing a copy of the State's Response to Personal Restraint Petition in In re Personal Restraint of Toledo-Sotelo, No. 65460-8-1, in the Court of Appeals of the State of Washington.

I certify under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct.

U Brame 7/12/10
Name Date
Done in Seattle, Washington

FILED
COURT OF APPEALS DIV #1
STATE OF WASHINGTON
2010 JUL 12 PM 4:49