FILED
COURT OF APPEALS
DIVISION II

No. 93545-9

2015 MAY 29 PM 1:20

STATE OF WASHINGTON
BY _____
DEPUTY

STATE OF WASHINGTON
COURT OF APPEALS, DIVISION II

STATE OF WASHINGTON,	)	
	)	
Respondent,	)	No:
	)	
v.	)	STATEMENT OF ADDITIONAL
	)	GROUNDS FOR REVIEW
Brian W. Buckman	)	
Appellant.	)	

I, Brian Wallace Buckman, have received and reviewed the opening brief by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

Jugement and Sentence "invalid on its face."

Additional Ground 2

Guilty plea was not knowingly, intelligently and voluntarily made

See brief attached for Additional Ground(s) arguments.

☒ There are additional grounds, a brief summary is attached to this statement.

Dated this 20th day of May, 2015.

Respectfully Submitted,

Appellant

Table of Authorities

Washington Cases

In re Pers. Restraint of Yates, 180 wn.2d 33, 38-39, 321 P.3d 1195 (2014)
In re Snively, 320 P.3d 1107 (2014)
In re Stockwell, 179 wash.2d 588, 316 P.3d 1007 (2014)
In re Toledo-Sotelo, 176 wash.2d 759, 297 P.3d 51 (2013)
In re Coats, 173 wash.2d 123, 267 P.3d 324 (2011)
In re Pers. Restraint of Tobin, 165 wash.2d 172, 176, 196 P.3d 670 (2008)
In re McKiernan, 165 wash.2d 777, 203 P.3d 375 (2009)
State v. Mitter, 48 wn.app. 625, 742 P.2d 723 (1987)
State v. Mitter, 110 wn.2d 528, 536, 756 P.2d 122 (1988)
State v. Mendoza, 157 wn.2d 582, 590 (2006)
State v. Ross, 129 wn.2d 279, 284, 916 P.2d 405 (1996)
State v. Weyrich, 163 wn.2d 554, 182 P.3d 965 (2008)
In re Pers. Restraint of Bradley, 165 wash.2d 934, 205 P.3d 123 (2009)
State v. Moon, 108 wn.app. 59, 63 (2001)
State v. Walsh, 143 wn.2d 1, 8, 17 P.3d 591 (2001)
In re Moritto, 134 wn.app. 521, 142 P.3d 615 (2006)
State v. Pascal, 108 wn.2d 125, 736 P.2d 1065 (1987)
State v. Hicks, 61 wn.app. 923, 812 P.2d 893 (1991)
State v. Epefanio, 156 wn.app. 378, 234 P.3d 253 (2010)
State v. Harvey, 109 wn.app. 157, 34 P.3d 850 (2001)
State v. Clemens, 78 wn.app. 458, 898 P.2d 324 (1995)

United States Cases

Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969)

Revised Code of Washington

RCW 10.73.090

RCW 9.94A.670

RCW 9.94A.507

RCW 9.94A.507 (2)

RCW 9.94A.507 (3) (a)

RCW 9.94A.507 (3) (b)

RCW 9.94A.535 (1) (a)

RCW 10.73.100

RCW 10.73.100 (2)

RCW 10.73.100 (5)

Court Rules

CrR 7.8

CrR 4.2

CrR 4.2 (f)

Arguments

(1) Buckman's CrR 7.8 Motion To Withdraw Guilty Plea Is Not Time-Barred Based On J&S Being "Invalid On Its Face" pg. 1

(2) Buckman's Plead Of Guilty WAS NOT Knowing, Voluntary and Intelligently Made When He Based Such Plea On Misinformation Regarding "Direct Sentencing Consequences" pg. 3

(3) Buckman Had Substantial AND Competing Reasons To Request An Exceptional Sentence Below The Standard Range Of 86-114 Months pg. 7

(4) Conclusion pg. 14

Exhibits

• Exhibit A - Statement of Defendant on Plea of Guilty to Sex Offense

• Exhibit B - J&S (Felony) Appendix H Community Placement/Custody

• Exhibit C - Felony J&S

• Exhibit D - Victim Impact Statement

• Exhibit E - March 7, 2012 Reporter's Verbatim Report of Proceedings

(1) Buchman's CrR 7.8 Motion To Withdrawal Guilty Plea is not time-barred based on J&S Being "Invalid on its face"

On January 26, 2012 Buchman was given the ultimatum to plead guilty to 2nd° Rape of a Child and petition for SSOSA or face the possibility of spending the rest of his entire adult life in prison. Prior to pleading guilty Buchman was informed that he is subject to indeterminate sentencing under RCW 9.94A.507 and faces a minimum term within the standard range, and a maximum term that consists of the statutory maximum. The standard range is 86-114 months with the statutory maximum of life. Exhibit A (pg. 2 section 6(a)), (pg. 3 section 6(f)(i)), (pg. 8 question 12). Exhibit C (pg. 1 - RCW 9.94A.507).

Buchman's CrR 7.8 motion is not time-barred even though more than 1-year has passed, RCW 10.73.090, because his J&S is facially invalid. In re Pers. Restraint of Yates, 180 wn. 2d 33, 38-39, 321 P.3d 1195 (2014). A J&S is facially invalid, so as to avoid the 1-year time-bar, if the trial court lacked authority to impose challenged sentence. RCW 10.73.090; In re Snively, 320 P.3d 1107 (2014); and In re Stockwell, 179 wash. 2d 588, 316 P.3d 1007 (2014).

Under "facial invalidity" exception to 1-year statutory time-bar, for a judgment to exceed trial courts statutory authority, the Supreme Court requires more than an error that invites the court to exceed its authority; the sentencing court must actually passdown a sentence not authorized under the Sentencing Reform Act. RCW 9.94A.010 et seq.; RCW 10.73.090; RCW 10.73.100; In re Toledo-Sotelo, 176 wash. 2d 759, 297 P.3d 51 (2013); In re Coats, 173 wash. 2d 123, 267 P.3d 324 (2011).

Not every error renders a J&S "invalid", see e.g., McHiernan, 165 wash. 2d at 783, 203 P.3d 375. Mere typographical errors easily corrected would not render a J&S invalid. Similarily, errors such as a date or place would not necessary render a J&S invalid. A careful review of cases reveals that the courts have only found errors rendering a J&S invalid under RCW 10.73.090 where the trial court has in fact exceeded its statutory authority in entering the J&S. For example, the courts have

found invalidity when the offender has been given a longer sentence than the statutory maximum authorized by law and where the judge has imposed an unlawful sentence. In re Coats, 173 Wash. 2d 123, 267 P.3d 324 (2011). A court may not order a sentence beyond that authorized by law; any such order is "invalid on its face". In re Pers. Restraint of Tobin, 165 Wash. 2d 172, 176, 196 P.3d 670 (2008).

In 1987, Michael McKiernan pleaded guilty to 1st° Robbery. Both the plea agreement and the J&S form stated that the maximum sentence that McKiernan could receive was "20 years to life", when in fact the actual statutory maximum was simply "Life Imprisonment". McKiernan argued that his J&S is facially invalid, that he was not properly informed of the consequences of his plea agreement, and that he is entitled to withdraw his guilty plea. Supreme Court concludes that he was not substantitively misinformed as to the maximum sentence, his J&S is not "invalid on its face", and his petition is time barred. In re McKiernan, 165 Wash. 2d 777, 203 P.3d 375 (2009).

Buckman's plea agreement and J&S form states that the maximum sentence for both sentence and community custody is "Life". Exhibit A (pg. 2' section 6(a)). Exhibit B. Exhibit C (pg. 3' Section 2.3 - Sentencing Data). Unlike in McKiernan where he was informed of the sentence "20 years to life" when in fact the actual statutory maximum was simply "Life Imprisonment", Buckman was completely misadvised prior to plea, during plea hearing and at sentencing of the statutory maximum. Exhibit A (pg. 2' Section 6(a)), (pg. 3' Section 6(f)(i)), (pg. 8' question 12). (RP. 1/26/12 - See opening brief pg. 6), Exhibit E (RP. 8: 6-14).

Buckman was informed that his standard range was 86-114 months with the statutory maximum of "Life" inprisonment due to being subject to indeterminate sentencing. Buckman was then forced to plead guilty to 2nd° Rape of a child and petition for a lighter sentence under SSOSA's RCW 9.94A.670. These direct sentencing consequences go beyond the statutory maximum authorized by law and the judge had imposed an unlawful sentence as Buckman cannot be subject to indeterminate sentencing under RCW 9.94A.507 and face "Life" in prison because he was 17 years old when the alleged offense

was committed and RCW 9.94A.507(2) says:

> "An offender convicted of Rape of a Child in the 1st° or 2nd° or Child Molestation in the 1st° who was 17 years of age or younger at the time of the offense shall not be sentenced under this section."

Buchman was sentenced under RCW 9.94A.507 and received a minimum 114 months with the statutory maximimum of life. Buchman should never had been placed under RCW 9.94A.507 because he was a juvenile, Exhibit E (RP.10:10-13., RP.15:23-24), RCW 9.94A.507(2); and the correct sentence was only 86-114 months. By informing and sentencing Buchman to "Life", the judge exceeded the statutory maximum by law and such sentence imposed went beyond that authorized by law and more importantly Buchman was clearly misinformed. Such erroneous sentence must render Buchman's J&S "invalid on its face" and Buchman must be entitled to withdraw his plea of guilty as it was based on misinformation.

(2) Buchman's Plead Of Guilty Was Not Knowing, Voluntary and Intelligently Made When He Based Such Plea On Misinformation Regarding "Direct Sentencing Consequences"

Due process guarentees that Federal and State Constitutions both require that a guilty plea be made intelligently and voluntarily. U.S.C.A. Const. Amend. 5 & 14; Const. Art. I, Section 3; Boykin v. Alabama, 395 U.S. 238, 242, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969).

A defendant may challenge the voluntariness of his guilty plea where he was misinformed of the sentencing consequences. State v. Miller, 48 Wn.App. 625, 742 P.2d 723 (1987); State v. Miller, 110 Wn.2d 528, 536, 756 P.2d 122 (1988); State v. Mendoza, 157 Wn.2d 582, 590 (2006); State v. Ross, 129 Wn.2d 279, 284, 916 P.2d 405 (1996); State v. Weyrich, 163 Wn.2d 554, 182 P.3d 965 (2008).

A plea is involuntary if the plea is entered without knowledge of the "direct sentencing consequences". A "direct consequence" is one that has a definite, immediate, and largely automatic effect on the range of the defendants punishment. In re Pers. Restraint of Bradley, 165 wash. 2d 934, 205 P. 3d 123 (2009); State v. Ross, 129 wn. 2d 279, 284, 916 P. 2d 405 (1996). The total length of a sentence is a "direct consequence of a guilty plea. State v. Moon, 108 wn. app. 59, 63 (2001). The statutory maximum of the sentence and community custody is a "direct consequence" that the defendant must be properly informed. Therefore, any misinformation about the length of the sentence renders a plea involuntary, even where the correct sentence may be less than the erroneous sentence included in the plea. State v. Mendoza, 157 wn. 2d 582, 590 (2006); State v. Moon, 108 wn. app. 59, 63 (2001)

An involuntary guilty plea produces a "manifest injustice" and the court must allow a defendant to withdraw a guilty plea to correct that manifest injustice. CrR 4.2 (f); State v. Walsh, 143 wn. 2d 1, 8, 17 P. 3d 591 (2001).

On January 26, 2012 Buchman entered a plead of guilty to one count 2nd° Rape of a child in exchange for SSOSA, a plea that was neither knowingly, intelligently and voluntarily made. Prior to pleading guilty, during the plea colloquy and at sentencing Buchman was misinformed that the statutory maximum sentence was "Life" in prison. Exhibit A (pg. 2 Section 6(aa), (pg. 8 question 12). RP(1/26/12) at 2-3 (pg. 6-Opening Brief). Exhibit E (RP. 8: 6-14).

Buchman claims that he is entitled to withdraw his guilty plea because it was not knowingly, intelligently and voluntarily made when he based such plea on misinformation regarding his "direct sentencing consequences". Had Buchman known that he doesn't have a "Life" sentence because he was under the age of 18 when the alleged offense was committed he would never had pleaded guilty. RCW 9.94A. 507(2). Exhibit E (RP. 10: 10-13, RP. 15: 23-24). Exhibit A (pg. 3 Section 6(f)(i) subsection (aa)). As the result of being misinformed Buchman was given the ultimatum to either plead guilty for a lighter sentence under SSOSA's RCW 9.94A.670 or spend the rest of his adult life in prison.

In In re Muritto, 134 wn. app. 521, 142 P.3d 615 (2006), the court had concluded that Muritto's guilty plea was not knowingly, intelligently and voluntarily made to 1st° Child Molestation as he was informed of a standard range sentence of 51-68 months instead of the correct range of 51-68 months with the statutory maximum of Life. Muritto contends that had he known he faces a life sentence he would not have pleaded guilty. The Court of Appeals agrees that he is entitled to withdraw his guilty plea.

Similar to that in Muritto, Buchman was informed that he was subject to indeterminate sentencing under RCW 9.94A.507 and that his standard sentence range was 86-114 months with the statutory maximum of Life instead of the correct range of 86-114 months. By imposing the statutory maximum of Life Buchman was illegally sentenced as such sentenced goes beyond that authorized by law.

Buchman was under the age of 18 when the alleged offense was committed. Buchman's attorney and the court on March 7, 2012 states:

Mr. Brown: The State has previously mentioned, but this crime occurred when he was a juvenile. (3/7/12-RP.10:10-12)

The Court: First, this crime occurred when the defendant was under the age of 18.... (3/7/12-RP.15:23-24)

Buchman's plea form which advises the indeterminate sentencing statute under RCW 9.94A.507 states:

- Rape of a Child in the 1st° committed when I was at least 18
- Child Molestation in the 1st° committed when I was at least 18
- Rape of a Child in the 2nd° committed when I was at least 18

See Exhibit A (pg. 3 paragraph 6(f)(i) subsection (aa)

Buchman's plea form, J&S and words of attorney, prosecutor and

judge indicate that Buckman is subject to indeterminate sentencing. Buckman was never advised that he cannot be subject to indeterminate sentencing under RCW 9.94A.507 and face a life sentence for 2nd° Rape of a child a offense that was allegedly committed when he was 17 years old. RCW 9.94A.507(2). Buckman never waived his right to challenge the voluntariness of his plea. When he realized that he had been incorrectly advised and sentenced, he filed a motion to withdraw his plea.

In State v. Mendoza, 157 wn. 2d 582, 590 (2006), the court's decision states that when a guilty plea is based on misinformation, the defendant may move to withdraw the plea based on involuntariness. However, if the defendant was clearly informed before sentencing that the correctly calculated offender score rendered the actual standard range lower than had been anticipated at the time of the guilty plea, and the defendant neither objects or moves to withdraw the plea on those basis before he is sentenced, the defendant waives his right to challenge the voluntariness of the plea.

Unlike Mendoza where he learned of the error in sentence and continued with sentencing, Buckman was neither informed of the illegal sentence at time of plea or at sentencing.

The State at Buckman's sentencing on March 7, 2012 stated:

> Mr. O'Rourke: We're asking the court to impose a middle of the standard range sentence, which in this case would be range's 86-114 months to life. The middle of the standard range would be 100 months minimum with the maximum of life. 3/7/12 (RP. 8: 6-10). RCW 9.94A.507(3)(a).
>
> ..... We are asking that he have community custody for a period up to the statutory maximum, which would be life in this case. 3/7/12 (RP. 8: 12-14). RCW 9.94A.507(3)(b).

Buckman's plead of guilty to 2nd° Rape of a Child was not knowingly, intelligently and voluntarily made. Additionally, Buckman may be entirely innocent of any crime at all, as he is within the 48 month age difference exception in 3rd° Rape of a Child. Based on a miscalculation of birthdates it was thought Buckman was more than 48 months older than the alleged victim and would be guilty of 3rd° Rape of a Child if not 2nd° Rape of a Child. Finally, it is important to remember that Buckman was a young man when he was contemplating whether to enter a plea and petition for a SSOSA. He relied upon what his attorney told him, which was erroneous. It is actual and substantial prejudice to accept a plea deal upon the mistaken belief that if you don't take that plea deal you may serve your entire adult life behind bars.

Buckman's argument to withdraw should be granted as a matter of law based on the incorrect attorney advice, the incorrect information and the incorrect J.S.

(3) Buckman Had Substantial and Compelling Reasons To Request An Exceptional Sentence Below the Standard Range of 86-114 Months.

In October of 2014 Buckman had filed a motion to the Superior Court of Lewis County to consider an Exceptional Sentence Below Standard Range in the alternative if the Superior Court denied his motion to withdraw his guilty plea, pursuant to CrR 7.8, but wanted to resentence him under determinate sentences and not indeterminate sentences.

Buckman plead guilty to 2nd° Rape of a Child by misinformation regarding his "direct sentencing consequences". Buckman was sentenced to a minimum 114 months with the statutory maximum of Life. Such sentencing goes beyond that authorized by law as Buckman was 17 years old at the time of the alleged offense and RCW 9.94A.507 requires that a defendant who's

convicted of 2nd° Rape of a Child to be at least 18 years old. Exhibit E (RP.10:10-13, RP.15:23-24). RCW 9.94A.507(2). Exhibit A (pg.3 Section 6(f)(i) subsection (aa)). Had Buckman been correctly informed that he can't have a "Life" sentence he would never had plead guilty.

The guidelines contain a number of mitigating factors applicable in situations where circumstances exist which tend to establish defenses to criminal liability but fail. In all of these situations, if the defense were established, the conduct would be justified or excused, and this would not constitute a crime at all. The inclusion of these mitigating factors recognizes that there will be situations in which a particular legal defense is not fully established, but where the circumstances that led to the crime, even though falling short of establishing a legal defense, justify distinguishing the conduct from that involved where those circumstances were not present. Allowing variations from the presumptive sentence range where factors exist which distinguish the blameworthiness of a particular defendant's conduct from that normally present in that crime is wholly consistent with the underlying principle. State v. Pascal, 108 wn. 2d 125, 736 P.2d 1065 (1987).

In determining whether offense is more onerous than typical offense defined by statute, thus justifying exceptional sentence, the trial court is to consider facts of particular case in light of all possible cases defined by crime charged.

In State v. Hicks, 61 wn. app. 923, 812 P.2d 893 (1991), within a course of less than 3 months, the 17 year old defendant broke into 3 homes in the area near his home. He raped women in each instance, and 2 cases made off with small amounts of cash. Two of the women were elderly. Hicks admitted to the crimes during an interview with a city police detective. He plead guilty to charges brought against him. The sentences imposed by the trial court included enhancements due to the aggravating nature of the crimes.

In State v. Epefanio, 156 wn. app. 378, 234 P.3d 253 (2010), the defendant

testified in his own defense. The state tried to cross-examine defendant on matters beyond the scope of cross examination. The trial court refused to allow the inquiry, but allowed the state to call defendant a rebuttal witness after concluding that he waived his 5th Amendment right. The instant court concluded that the trial court's decision to allow the state to call defendant as a rebuttal witness was harmless error. The untainted evidence of guilt was overwhelming. The victim testified that during the relevant charging period she and the defendant had sex at least twice a week while she was 15. The victims friend witnessed 2 acts of the intercourse between the victim and defendant during the charging period. Defendant's compelled testimony was of little significance in view of the overwhelming evidence of guilt. The trial court properly submitted an aggravating factor to the jury, and this aggravating factor supported the imposition of an exceptional sentence. The jury found that the offense was part of an ongoing pattern of sexual abuse of the same victim under the age of 16 manifested by multiple incidents over a prolonged period of time.

The facts in State v. Epefanio establishes that the victim Brianna Summers was born on October 2, 1987. She had met Titus Epefanio in the fall of 2002. Mr. Epefanio was 25 years old. He worked as a teachers aid and basketball coach at Sutt Middle School in Spokane, the same school as Brianna. In 2003 Mr. Epefanio picked up Brianna to go workout and drove to his home to get clothes. Both entered the house and engaged in sexual intercourse. In 2003, Brianna's parents were informed of the relationship and Mr. Epefanio was confronted in front of them.

The instant case involving Buckman is easily distinguished between Hicks and Epefanio. The state will argue standard range sentence, if Buckman is brought back for resentencing, but the court must first analysis appropriateness of exceptional sentence downward. RCW 9.94A.210(4). Buckman did not break into 3 homes and in each instance committed rape, which 2 were elderly nor is Buckman someone who is 10 years older than the victim who worked as a staff member at the same school. Buckman was still a juvenile at the age of 17 who had a relationship with K.B.S who was 13-14 years old who allegedly had consensual

sexual intercourse with K.B.S when she was 13. The age difference is 3 years 11 months (12 days shy of 48 months).

Mitigating factors and circumstances exist in this case that must be taken into consideration: (1) Buckman was a minor himself who had an established relationship with another minor, (2) The relationship was no secret nor tried to be hidden and was consented by the alleged victims parents, (3) The difference in age is close as K.B.S (DOB 11/8/96) and Buckman (DOB 11/19/92) have an age difference of 3 years 11 months, (4) K.B.S was never harmed, threatend nor forced into any act, she was a witting participant, and (5) being resentenced within the standard range is inequitable as an adult crime of 2nd° Rape of a child carries a marimum sentence of life, a class A felony, while a juvenile crime of 2nd° Rape of a child carries a maximum of 48 months, a class B felony.

This court or the trial court may impose an exceptional sentence below the standard range under RCW 9.94A.535(1) if it finds that mitigating circumstances are established by a preponderance of the evidence, and under RCW 9.94A.120(1)(2) if the reasons are substantial and competing.

Mitigating Factors & Circumstances

(1) Buckman was a juvenile when the alleged offense was committed it just wasn't prosecuted until he was 18. Exhibit E (RP.10:10-13, RP.15:23-25). It's alleged that on or about June 2010 Buckman had consensual sexual intercourse with his girlfriend K.B.S who was 13 years old and the defendant was 17. Reasons behind delay of charging was that the relationship wasn't discovered until October 23, 2011 when Buckman was arrested at K.B.S's home for a M.I.C warrant. CPS report was filed against K.B.S's mother accusing her of maltreatment and neglect of her daughter. The report also reflected the age difference as 48 months 7 days and since K.B.S was 14 at the time and Buckman was 18 it was thought that a crime of possible 3rd° Rape of a child

existed, but in fact no crime was committed as the correct age difference is 3 years 11 months and 3rd° Rape of a child requires an age difference of 48 months. The arrest is also one of "conflict of interest" as one of arresting officers was K.B.S's mother's nephew. Other errors are in report, but this is not the case at hand.

(2) The relationship of K.B.S and Mr. Buckman was of no secret and was consented by the parents of K.B.S. Buckman and K.B.S were both under the age of 18 when they slowly began establishing a relationship. Cindy Stevenson and Brian Stevenson, K.B.S's parents, knew of the relationship and were okay with it. Once Buckman was 18 he had moved into the home of Cindy Stevenson and her 3 children, K.B.S being the ordest.

Cindy Stevenson: "I'm well aware of the fact of the age difference between Brian and Kendall, 4 years and 7 days. I've never felt that my daughter was in any danger when she was around him."

"The choices that they made were not particular choices that a parent would want their kids to partake in. But he has been at our house. He has made significant changes over the years. We were well aware of the things that he's done in his past, but I can say that he had become a changed person around us. He made an effort to get a job. He was making an effort to get a GED, go back to school."
Exhibit E (RP 12: 20-25, RP 13: 1-7).

(3) Buckman and K.B.S have a close age difference of 3 years 11 months (12 days shy of 48 months). In State v. Clemens, 78 Wn. App. 458, 898 P.2d 324 (1995), close age difference played part as mitigating circumstance.

(4) K.B.S was never harmed nor threatened to commit any of the acts, she made her own choices and was a witting participant. In State v. Clemens, the reason given for an exceptional sentence downward for 3rd° Rape of a child

,,i.e., that victim was a willing participant, was not clearly erroneous.; presentence investigation report given to court at time of sentencing disclosed that victim readily admitted to having willful sexual intercourse with the defendant, neither victim nor her mother responded to detective's request for further information, defendant told investigator while under going psycho-sexual evaluation that victim kissed him good night and ended up crawling in bed with him, and there was no evidence to contradict statements of defendant and victim to the effect that victim was a willing participant. RCW 9.94A.210(4)

On February 27, 2012 K.B.S filed her Victim Impact Statement to the court and states:

"I made a decision to have a relationship with Brian. He never hurt me or forced me in any way to say or do anything that I didn't want to do". Exhibit D.

On March 7, 2012 K.B.S at Buckmaris sentencing further states:

"I just want everybody to know/understand that I was never in danger with Brian, like, he never forced me into anything" Exhibit E (RP.14: 7-9).

In State v. Clemens, 78 wn.app. 458, 898 P.2d 324 (1995), defendant plead guilty to 3rd° Rape of a Child and the Superior Court imposed an exceptional sentence downward of 12 months in County Jail, which was 3 months less than the low end of the standard range. The State contended that the Superior Court's findings were not supported by the recorded and that the sentence imposed was to lenient. The Court affirmed the sentence imposed and concluded that the Superior Court's reasons for imposing exceptional sentence were supported by the record. The record both showed that the defendant and victim were close in age and maturity and there was no evidence that the defendant planned the contact. There was nothing to contradict the defendants and victims testimony that the victim was a willing participant and

such willing participation was a valid mitigating factor for purpose of sentencing under RCW 9.94A.390(1)

(5) Being resentenced within the adult standard range of 86-114 months is inequitable as the crime 2nd° Rape of a child committed by an adult is a Class A felony that carries a life sentence while the crime 2nd° Rape of a child committed by a juvenile is a Class B felony that carries a maximum 48 month sentence.

The offense at hand is not an adult offense, but a juvenile offense. Exhibit E (RP. 10:10-13, RP. 15:23-24). If Buckman was 18 years old when the alleged offense was committed then no Child Rape Charge can be proven as K.B.S would be 14 years old and Buckman 18 and the age difference is under 48 months. RCW 9A.44.079. When Buckman was 17 he had an established relationship with K.B.S. The relationship was believed to be appropriate by both K.B.S's parents and Buckman because they're close in age and both minors. It's unfair to bring an adult charge and sentence against Buckman for a juvenile offense, an offense that nobody saw any harm in, specifically, not knowing the age of consent or statutory laws.

The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless it finds substantial and compelling reasons not to do so. Exhibit A (pg. 5 Section (h)(i)).

At Buckman's original sentencing on March 7, 2012, Buckman's standard range was 86-114 months with the statutory maximum of life, Exhibit A (pg. 2 Section 6(a)). Exhibit E (RP. 8:7-11), and whatever the sentence imposed, community custody was life. Exhibit E (RP. 8:12-14). The state was recomming a sentence of 100 months to life or 114 months to life if SSOSA was granted. Exhibit E (RP. 8:6-11, RP. 9:12-13). The defense was asking for a SSOSA sentence under RCW 9.94A.670. Exhibit E (RP. 10:10-22).

The judge imposed the sentence of 114 months, suspended under RCW 9.94A.670 and then made the following statement:

"There are several factors here which are often not present in similar cases. First, this crime occurred when the defendant was under the age of 18, not prosecuted until later. I don't find any malice in doing that, but it results in the difference of sentence between 100 months and 48 months maximum in juvenile, assuming that he didn't get a juvenile sex offender disposition alternative. And that just seems inequitable to me. I'm not casting stones in any direction. Sometimes its very equitable to do it that way".

Exhibit E (RP. 15:21-25, RP. 16:1-6).

The judges reasonings to reject the imposition of the lowered sentencing was actually significant grounds to impose either the juvenile disposition alternative or give Buckman the juvenile sentence of 48 months. Buckman was further rendered ineffective assistance of counsel when his counsel failed to raise the sentencing issue of the juvenile sentence during the sentencing hearing. The trial court has the express authority to amend its former judgment and has the power and duty to correct an illegal or erroneous sentence; therefore, even if the trial court considers and rejects an exceptional sentence at the original sentencing, this exception allows the trial court to consider and impose an exceptional sentence upon resentencing. State v. Harvey, 109 wn. app. 157, 34 P. 3d 850 (2001).

Buckman never committed a Class A felony sex offense because he was under the age of 18 when the alleged offense was committed. Exhibit E (RP. 10:10-13, RP. 15:23-24). If anything, the defendant had committed a Class B felony since he was a juvenile at the time of the alleged offense. In the alternative, Buckman asks to be resentenced as a juvenile since he was neither declined on to be tried in the Lewis County Superior Court nor was he an adult when the alleged offense was committed. Resentencing with mitigating factors and circumstances must be considered.

Conclusion

Based on the invalid J.&S., misinformation from the court, prosecutor and

defense counsel on "direct sentencing consequences", illegal sentencing and a plea that was neither intelligent, knowing or voluntarily made, this court must remand Buckman back to the Lewis County Superior Court so he may withdraw his plead of guilty.

DATED: May 17, 2015

Respectfully submitted,

Exbit A

STATEMENT OF DEFENDANT ON PLEA OF GUILTY TO SEX OFFENSE

Received & Filed
LEWIS COUNTY, WASH
Superior Court

JAN 26 2012

By Kathy A. Brack, Clerk
Deputy

SCANNED

Superior Court of Washington
for Lewis County

State of Washington _____,
Plaintiff

vs.

Brian Buckman
Defendant

No. 11-1-775-2

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

1. My true name is: Brian Buckman.

2. My age is: 19.

3. The last level of education I completed was _____.

4. **I Have Been Informed and Fully Understand That.**

   (a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

   (b) I am charged with. Rape of a Child Second Degree
   The elements are: Had sexual intercourse with someone who is under the age of 14, to whom not married, and at the time was more than 36 months older

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

   (a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly committed;

   (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;

   (c) The right at trial to hear and question the witnesses who testify against me;

(d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;

(e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty;

(f) The right to appeal a finding of guilt after a trial.

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

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

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	COMMUNITY CUSTODY	MAXIMUM TERM AND FINE
1	1	86 - 114	—	life	life, $50,000
2					
3					

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

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

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

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

(e) In addition to sentencing me to confinement, the judge will order me to pay $500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.

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

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

For sex offenses committed on or after September 1, 2001: (i) Sentencing under RCW 9.94A.507: If this offense is any of the offenses listed in subsections (aa) or (bb), below, the judge will impose a maximum term of confinement consisting of the statutory maximum sentence of the offense and a minimum term of confinement either within the standard range for the offense or outside the standard range if an exceptional sentence is appropriate. The minimum term of confinement that is imposed may be increased by the Indeterminate Sentence Review Board if the Board determines by a preponderance of the evidence that it is more likely than not that I will commit sex offenses if released from custody. In addition to the period of confinement, I will be sentenced to community custody for any period of time I am released from total confinement before the expiration of the maximum sentence. During the period of community custody I will be under the supervision of the Department of Corrections and I will have restrictions and requirements placed upon me, which may include electronic monitoring, and I may be required to participate in rehabilitative programs.

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

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

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

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

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

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

1) If the offense is rape of a child in the first degree, rape of a child in the second degree or child molestation in the first degree and the offense includes a special allegation that the offense was predatory.

2) If the offense is rape in the first degree, rape in the second decree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation and the offense includes special allegation that the victim of the offense was under 15 years of age at the time of the offense.

3) If the offense is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation and this offense includes a special allegation that the victim of the offense was, at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or vulnerable adult.

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

(g) The prosecuting attorney will make the following recommendation to the judge: ~~8 mos DOC~~, $200 filing fee, $500 CVPA, Atty fees, $1000 jail fee, service fees, Restitution $100 DNA State withholds rec. until PSI & SSOSA eval. are done, but oppose SSOSA

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

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

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

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

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

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

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

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

(j) I may not possess, own, or have under my control any firearm unless my right to do so is restored by a superior court in Washington State, and by a federal court if required. I must immediately surrender any concealed pistol license. RCW 9.41.040.

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

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

(m) I will be required to register where I reside, study or work. The specific registration requirements are described in the "Offender Registration" Attachment.

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

(o) I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.

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

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

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

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

For offenses committed on or after September 1, 2001. The judge may suspend execution of the standard range term of confinement or the minimum term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.670. If the judge suspends execution of the standard range term of confinement for a sex offense that is not listed in paragraph 6(f)(i), I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater. If the judge suspends execution of minimum term of confinement for a sex offense listed in paragraph 6(f)(i), I will be placed on community custody for the length of the statutory maximum sentence of the offense. In addition to the term of community custody, I will be ordered to serve up to 180 days of total confinement if I committed the crime prior to July 1, 2005, or up to 12 months with no early release if I committed the crime on or after July 1, 2005; I will be

ordered to participate in sex offender treatment; I will have restrictions and requirements placed upon me, which may include electronic monitoring; and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

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

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

___ (t) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.

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

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

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

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

7. I plead guilty to:

count Rape of a Child Second Degree

count

count

count

in the original Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

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

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

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

On or about June 2010, I had sexual intercourse with my girlfriend, KBS (DOB 11/8/96) we were not married, and I am more than 36 mos older than her.

[ ] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

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

Brian Buckman

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

Jonathan L. Meyer 28238

Print Name WSBA No.

Defendant's Lawyer

David W. Brown 20379

Print Name WSBA No.

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

☑ (a) The defendant had previously read the entire statement above and that the defendant understood it in full;

☐ (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or

☐ (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is attached.

Interpreter's Declaration: I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret, in the _____ language, which the defendant understands. I have interpreted this 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.

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

_____ Interpreter

_____ Print Name

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

Dated: 1/26/12

James W. Lawler
Judge

Exbit B

J&S (FELONY)

APPENIX H

COMMUNITY PLACE-MENT / CUSTODY

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

STATE OF WASHINGTON]	Cause No.: 11-1-00775-2
]	
Plaintiff]	JUDGEMENT AND SENTENCE (FELONY)
v.]	APPENDIX H
BUCKMAN, Brian W.	COMMUNITY PLACEMENT / CUSTODY
Defendant]	
]	
DOC No. 355481]	

The court having found the defendant guilty of offense(s) qualifying for community placement, it is further ordered as set forth below.

COMMUNITY PLACEMENT/CUSTODY: Defendant additionally is sentenced on convictions herein, for the offenses under RCW 9.94A.712 committed on or after September 1, 2001 to include up to life community custody; for each sex offense and serious violent offense committed on or after June 6, 1996 to community placement/custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2) whichever is longer; and on conviction herein for an offense categorized as a sex offense or serious violent offense committed on or after July 1, 1990, but before June 6, 1996, to community placement for two years or up to the period of earned release awarded pursuant to RCW 9.94A.150 (1) and (2) whichever is longer; and on conviction herein for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, to a one-year term of community placement.

Community placement/custody is to begin either upon completion of the term of confinement or at such time as the defendant is transferred to community custody in lieu of early release.

(a) **MANDATORY CONDITIONS:** Defendant shall comply with the following conditions during the term of community placement/custody:

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

WAIVER: The following above-listed mandatory conditions are waived by the Court:

(b) **OTHER CONDITIONS:** Defendant shall comply with the following other conditions during the term of community placement / custody:

1) The defendant shall submit to a sexual deviancy evaluation with a therapist approved by the Department of Corrections, and follow all treatment recommendations.

2) The defendant shall have no contact with minor aged children without prior approval from the Community Corrections Officer and/~~or~~ treatment provider.

3) The defendant shall obtain a substance abuse evaluation and follow all recommended treatment.

4) The defendant shall not ~~use or~~ possess alcohol during the period of community custody.

5) The defendant shall have no contact with K.B.S. (DOB 11/8/96) without prior approval of the Community Corrections Officer and/~~or~~ treatment provider.

6) The defendant shall not possess or view sexually explicit material as defined by RCW 9.68.130, ~~or other materials as deemed inappropriate by the treatment provider~~.

7) The defendant shall submit to polygraph testing and provide non-deceptive polygraphs at the request of the Community Corrections Officer and/~~or~~ treatment provider, and the defendant shall submit to plethysmograph testing at the request of the treatment provider.

8) Must consent to allow home visits by DOC to monitor compliance with supervision Home

visits will include access for purposes of visual inspection of all areas of the residence in which the offender lives or has exclusive or joint control or access.

10/11/2012
DATE

JUDGE, LEWIS COUNTY SUPERIOR COURT

Exibit C

Felony
J&S

Rec'd & Filed
Lewis County Superior Court

OCT 1 1 2012

Kathy A. Brack, Clerk
By _____ Deputy

SCANNED

ORIGINAL

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

State of Washington, Plaintiff, vs. **BRIAN WALLACE BUCKMAN**, Defendant. DOB: **11/19/1992** SID: **WA23576715**	No. **11-1-00775-2** **Felony Judgment and Sentence – Prison** **[X] RCW 9.94A.507 Prison Confinement (Sex Offense and Kidnapping of a Minor)** **(FJS)** **[X] Clerk's Action Required, para 2,1, 4.1, 4.3a, 4.3b, 5.2, 5.3, 5.5 and 5.7** **[ ] Defendant Used Motor Vehicle** **[ ] Juvenile Decline [ ] Mandatory [ ] Discretionary**

I. Hearing

1.1 The court conducted a sentencing hearing on October 10, 2012; the defendant, the defendant's lawyer, and the undersigned deputy prosecuting attorney were present.

II. Findings

2.1 **Current Offenses**. The Defendant is guilty of the following offense based upon a plea of guilty on January 26, 2012 and Special Sex Offender Sentencing Alternative Judgment and Sentence imposed on March 7, 2012. The Court subsequently revoked the SSOSA sentence on October 10, 2012. The SSOSA Judgment and Sentence is vacated, and the Court hereby orders a standard range sentence as previously imposed and deferred and as stated below. This standard range felony sex offense Judgment and Sentence replaces the SSOSA Judgment and Sentence entered on March 7, 2012.

Count	*Crime*	*RCW (w/subsection)*	*Class*	*Date of Crime*
I	RAPE OF A CHILD IN THE SECOND DEGREE	9A.44.076	FA	05/01/2010 – 09/30/2010

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)
(If the crime is a drug offense, include the type of drug in the second column.)

[ ] Additional current offenses are attached in Appendix 2.1a.

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

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

12-9-16252

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

[ ] 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.

[ ] For the crime(s) charged in Count _____, **domestic violence** was pled and proved. RCW 10.99.020.

[ ] 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.839

[ ] 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.

[ ] 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.

[ ] Count _____ is a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that **minor** in the commission of the offense. RCW 9.94A.833.

[ ] Count _____ is the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A 702, 9.94A.____.

[ ] 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

[ ] Count _____ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9 94A 834.

[ ] In Count _____ the defendant has been convicted of assaulting a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9 94A.831, 9 94A.533.

[ ] Count _____ is a felony in the commission of which the defendant used a **motor vehicle**. RCW46.20.285

[ ] The defendant has a **chemical dependency** that has contributed to the offense(s) RCW 9 94A.607.

[ ] In Count _____, assault in the 1st degree (RCW 9A.36.011) or assault of a child in the 1st degree (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of 5 years (RCW 9.94A 540).

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

[ ] Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score (RCW 9.94A 589)

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

Crime	*Cause Number*	*Court (county & state)*	*DV* Yes*
NONE			

* DV:Domestic Violence was pled and proved.

[ ] Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

Crime	*Date of Crime*	*Date of Sentence*	*Sentencing Court (County & State)*	*A or J Adult, Juv.*	*Type of Crime*	*DV* Yes*
Malicious Mischief Second Degree	03/30/07	04/17/07	Lewis, WA	J	FC	
Unlawful Poss of a Firearm 2	03/31/07	04/17/07	Lewis, WA	J	FC	
VUCSA	03/28/08	07/15/08	Lewis, WA	J	FC	

* DV:Domestic Violence was pled and proved.

[ ] Additional criminal history is attached in Appendix 2.2.

[ ] The defendant committed a current offense while on community placement/community custody (adds one point to score) RCW 9.94A 525.

[ ] The prior convictions listed as number(s) NONE above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A 525)

[ ] The prior convictions listed as number(s) NONE above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61 520.

2.3 Sentencing Data:

Count No.	*Offender Score*	*Serious-ness Level*	*Standard Range*	*Plus Enhancements**	*Total Standard Range*	*Maximum Term*
I	1	XI	Min of 86 – 114 Months, Max. of Life	N/A	Min. of 86 – 114 Months, Max. of Life	Life

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9 94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9 94A.533(9), (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude, (ALF) assault law enforcement with firearm, RCW 9.94A.533(12).

[ ] Additional current offense sentencing data is attached in Appendix 2 3.

For violent offenses, most serious offenses, or armed offenders, recommended **sentencing agreements or plea agreements** are [ ] attached [ ] as follows: _____.

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W. Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

N/A 2.4 [ ] **Exceptional Sentence** The court finds substantial and compelling reasons that justify an exceptional sentence

[ ] below the standard range for Count(s) _____

[ ] above the standard range for Count(s) _____.

[ ] The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

[ ] Aggravating factors were [ ] stipulated by the defendant, [ ] found by the court after the defendant waived jury trial, [ ] found by jury, by special interrogatory

[ ] within the standard range for Count(s) _____, but served consecutively to Count(s) _____.

Findings of fact and conclusions of law are attached in Appendix 2.4. [ ] Jury's special interrogatory is attached The Prosecuting Attorney [ ] did [ ] did not recommend a similar sentence.

2.5 **Legal Financial Obligations/Restitution**. The court has considered the total amount owing, the defendant's present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. (RCW 10.01.160) The court makes the following specific findings.

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

_____ .

[ ] The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

III. Judgment

3.1 The defendant is ***guilty*** of the Count and Charge listed in Paragraph 2.1 and Appendix 2.1

3.2 [ ] The court ***dismisses*** Counts _____ in the charging document.

IV. Sentence and Order

It is ordered

4.1 **Confinement**. The court sentences the defendant to total confinement as follows:

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

_____months on Count _____ _____months on Count _____

_____months on Count _____ _____months on Count _____

_____months on Count _____ _____months on Count _____

[ ] 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: _____.

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: _____.

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

The sentence herein shall run consecutively with the sentence in cause number(s) _____

_____

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	1	minimum term:	114	maximum term:	Statutory Maximum
Count		minimum term:		maximum term:	Statutory Maximum

(c) ***Credit for Time Served*** 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 otherwise stated here. 208 DAYS

N/A (d) [ ] ***Work Ethic Program***. RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for remaining time of confinement.

4.2 Community Custody. (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

(A) The defendant shall be on community custody for the longer of:

(1) the period of early release. RCW 9.94A.728(1)(2); or

(2) the period imposed by the court, as follows:

Count(s) _____ 36 months Sex Offenses

Count(s) _____ 36 months for Serious Violent Offenses

Count(s) _____ 18 months for Violent Offenses

Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

✓ **(Sex offenses, only)** For count(s) _____I_____, sentenced under RCW 9.94A.507, for any period of time the defendant is released from total confinement before the expiration of the statutory maximum.

The combined term of community confinement and community custody shall not exceed the maximum statutory sentence on any count.

(B) While on 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 on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (9) for sex offenses, submit to electronic monitoring if imposed by DOC; and (10) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W. Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

community custody For sex offenders sentenced under RCW 9.94A.709, the court may extend community custody up to the statutory maximum term of the sentence

The court orders that during the period of supervision the defendant shall

[X] consume no alcohol or non prescribed controlled substances.

[X] have no contact with. KLB (11/08/1996) for as long as a sexual assault protection order prevening such contact is in place

[ ] remain [ ] within [ ] outside of a specified geographical boundary, to wit:

_____.

[X] not reside within 880 feet of the facilities or grounds of a public or private school (community protection zone) RCW 9.94A.030; 9.94A.703(1)(c) (to impose this condition, the Court finds the victim of the offense was under eighteen years of age at the time of the offense).

[ ] participate in the following crime-related treatment or counseling services:

_____

[ ] undergo an evaluation for treatment for [ ] domestic violence [ ] substance abuse [ ] mental health [ ] anger management, and fully comply with all recommended treatment and abide by all rules, restrictions, and requirements of all recommended treatment program(s).

[ ] comply with the following crime-related prohibitions:_____

_____

_____.

[X] Other conditions: Defendant shall have no criminal law violations. Defendant shall have law abiding behavior. Defendant shall abide by all conditions and requirements in Appendix H (attached). Defendant shall follow all conditions, rules, and requirements of DOC. Defendant shall obtain a sexual deviancy evaluation and comply with any recommended treatment. Defendant shall abide by all restrictions, requirements, and rules of his sexual deviancy treatment program, as well as any other court-ordered treatment programs. Defendant shall not frequent locations where minors are known to congregate unless approved by CCO and sexual deviancy treatment provider. Defendant shall submit to urinalysis and/or breathalyzer testing at the request of CCO Defendant shall not possess or view any sexually explicit material as defined in RCW 9.68.130(2) unless approved by CCO and sexual deviancy treatment provider. Defendant shall not have any contact with minor children unless approved by CCO and sexual deviancy treatment provider. Defendant shall not hold any position of trust or authority over minor children unless approved by CCO and sexual deviancy treatment provider. Defendant shall submit to polygraph examinations at the direction of DOC and his sexual deviancy treatment provider and shall provide non-deceptive answers. Defendant shall not develop any romantic relationship with another person who has minor children in their care or custody without the approval of CCO and sexual deviancy treatment provider. **The conditions of community custody are effective upon entry of this Judgment and Sentence per RCW 9.94A.707(2).**

(C) For sentences imposed under RCW 9.94A 507, the Indeterminate Sentence Review Board may impose other conditions (including electronic monitoring if DOC so recommends). In an emergency, DOC may impose other conditions for a period not to exceed seven working days.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

4.3a Legal Financial Obligations: The defendant shall pay to the clerk of this court.

JASS CODE			
PCV	$ 500.00	Victim assessment	RCW 7.68.035
PDV	$	Domestic Violence assessment	RCW 10.99.080
CRC	$	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
		Criminal filing fee $ 200.00 FRC	
		Witness costs $ WFR	
		Sheriff service fees $ 84.00 SFR/SFS/SFW/WRF	
		Jury demand fee $ JFR	
		Extradition costs $ EXT	
		Other $	
PUB	$ TBD	Fees for court appointed attorney	RCW 9.94A.760
WFR	$	Court appointed defense expert and other defense costs	RCW 9.94A.760
CLF	$	Crime lab fee [ ] suspended due to indigency	RCW 43.43.690
	$ 100.00	DNA collection fee	RCW 43.43.7541
FPV	$	Specialized Forest Products	RCW 76.48.140
	$ 1200.00	Other fines or costs for: SSOSA Evaluation.	
	$ 1,000.00	Lewis County Jail Fee Reimbursement	RCW 9.94A.760(2)
RTN/RJN	$	Emergency response costs (Vehicular Assault, Vehicular Homicide. Felony DUI, only, $1000 maximum) Agency:	RCW 38.52.430
	$ TBD	Restitution to: TBD	
RTN/RJN	$	Restitution to:	
	$	Restitution to: (Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)	
	$	***Total***	RCW 9.94A.760

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

[X] shall be set by the prosecutor.

[ ] is scheduled for _____ (date).

[X] The defendant waives any right to be present at any restitution hearing (sign initials): BB

[ ] ***Restitution*** Schedule attached.

[ ] Restitution ordered above shall be paid jointly and severally with:

Name of other defendant	***Cause Number***	(Victim's name)	(Amount-$)

RJN

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

[X] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9 94A.760(8).

[X] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than $ 25.00 per month commencing sixty days after entry of this Judgment and Sentence. 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 orders the defendant to pay costs of incarceration at the rate of $_____ per day, (actual costs not to exceed $100 per day). (*JLR*) RCW 9.94A.760 (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480.)

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.

4.3b [ ] 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 $_____.

4.4 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. This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754.

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

4.5 No Contact:

[X] The defendant shall not have contact with K.L.B. (DOB 11/08/1996) (name) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until 03/07/2017 (which does not exceed the maximum statutory sentence)

[X] The defendant is excluded or prohibited from coming within 500 feet (distance) of.
[X] KLB's name of protected person(s))'s [X] home/ residence [X] work place [X] school [ ] (other location(s)) _____, or
[ ] other location: _____,
until _____ (which does not exceed the maximum statutory sentence).

[X] A separate Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed concurrent with this Judgment and Sentence.

4.6 Other Defendant shall have no criminal law violations. Defendant shall have law-abiding behavior. All conditions of community custody are incorporated as conditions of the sentence.

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

4.7 **Off-Limits Order**. (Known drug trafficker). RCW 10.66.020 The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

_____.

V. Notices and Signatures

5.1 **Collateral Attack on Judgment**. 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). 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).

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 **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.633.

(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.714

5.5 **Firearms. You may not own, use or possess any firearm, and under federal law any firearm or ammunition**, unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court if required. **You must immediately surrender any concealed pistol license.** (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 and RCW 9 41.047.

5.6 **Sex and Kidnapping Offender Registration** RCW 9A.44.128, 9A.44.130, 10.01.200.

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

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

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

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

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

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

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

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

i) before arriving at a school or institution of higher education to attend classes;

ii) before starting work at an institution of higher education, or

iii) after any termination of enrollment or employment at a school or institution of higher education.

6. **Registration by a Person Who Does Not Have a Fixed Residence**: Even if you do not have a fixed residence, you are required to register Registration must occur within three business days of release in the county where you are being supervised if you do not have a residence at the time of your release from custody. Within three business days after losing your fixed residence, you must send signed written notice to the sheriff of the county where you last registered If you enter a different county and stay there for more than 24 hours, you will be required to register with the sheriff of the new county not more than three business days after entering the new county. You must also report weekly in person to the sheriff of the county where you are registered The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. You must keep an accurate accounting of where you stay during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

public at large pursuant to RCW 4.24.550

7. **Application for a Name Change** If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within three business days of the entry of the order RCW 9A 44 130(7).

5.7 Motor Vehicle: If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license 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.

5.8 Other Any bail or bond previously posted in this case is hereby exonerated.

Done in Open Court and in the presence of the defendant this date: OCTOBER 11, 2012.

Superior Court Judge/Print Name: Nelson E. Hunt

Deputy Prosecuting Attorney	Attorney for Defendant	Defendant
WSBA No 39927	WSBA No. 20379	
Print Name: Shane O'Rourke	Print Name: DAVID BROWN	BRIAN W. BUCKMAN

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: 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 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature. Brian Buckman

I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the _____ language, which the defendant understands. I interpreted this Judgment and Sentence for the defendant into that language.

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

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

Interpreter _____ Print _____

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

VI. Identification of the Defendant

SID No. **WA23576715**
(If no SID complete a separate Applicant card (form FD-258) for State Patrol)

Date of Birth: **11/19/1992**

FBI No. **471091NC9**

Local ID No _____

PCN No. _____

Other _____

Alias name, DOB: _____

Height. 5'10" Weight: 150 Pounds Hair: Brown Eyes: Blue

Race:

[ ] Asian/Pacific Islander [ ] Black/African-American [X] Caucasian

[ ] Native American [ ] Other._____

Ethnicity:

[ ] Hispanic

[X] Non-Hispanic

Sex:

[X] Male

[ ] Female

Fingerprints: I attest that I saw the defendant who appeared in court affix his or her fingerprints and signature on this document.

Clerk of the Court, Deputy Clerk, Carla P Dated: 10/17/12

The defendant's signature: Brian Buckman

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

LEWIS COUNTY
PROSECUTING ATTORNEY
345 W Main Street, 2nd Floor
Chehalis, WA 98532
360-740-1240 (Voice) 360-740-1497 (Fax)

Exhibit D

VICTIM IMPACT STATEMENT

Received & Filed
LEWIS COUNTY, WASH
Superior Court
MAR 02 2012
Kathy A. Brack, Clerk
By ____ Deputy

SUPERIOR COURT
LEWIS COUNTY, WASH
FILED
2012 MAR 2 PM 4:00
KATHY BRACK, CLERK
BY ____ DEPUTY

VICTIM IMPACT STATEMENT

STATE OF WASHINGTON VS. BRIAN WALLACE BRAMAN
LEWIS COUNTY SUPERIOR COURT CAUSE NUMBER 11-1-00775-2

Please describe for the Court the impact of this crime on your life and/or the life of your family members. Special attention should be given to describing the emotional and/or financial impact resulting from this crime. Attached additional pages may be attached.

SCANNED

This statement will be provided to the Judge, Prosecuting Attorney, Community Corrections Officer and the Defense Attorney.

11-1-775-2

I'm writing this letter to tell the court how this situation has effected me emotionally. I have had a tough time watching and dealing with what this has done to Brian, my family and I, and Brian's family. I understand what we did was wrong but I hate to see Brian take all of the blame. I made the decision to have a relationship with Brian. He never hurt me or forced me in any way to say or do anything that I didn't want to do. I know he wouldn't do anything to hurt me or anyone else. I hope he gets the chance to do the SOSA program rather than going to prison for a very long time. He is a very nice guy that has a lot of potential. Before all of this started, he got a job and was looking into online school to get his GED. I think he deserves a second chance to get his life back on track and show everyone that he is a good person.

Thank you for taking time to read this letter.

Signed: Kendall B. Steveson Dated: February 27, 2012

Printed Name: Kendall B. Steveson

Please return to: Victim Assistance Program, 345 W. Main St – 2nd Floor, Chehalis, WA 98532

MAR 02 2012
O: court
C: PA + A/C Brown

Exbit E

MARCH 7, 2012

REPORTER'S VERBATIM REPORT OF PROCEEDINGS

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR LEWIS COUNTY

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	LEWIS COUNTY CAUSE
	)	No. 11-1-00775-2
vs.	)	
	)	COURT OF APPEALS
BRIAN WALLACE BUCKMAN,	)	No. 44147-1-II
	)	
Defendant.	)	

REPORTER'S VERBATIM REPORT OF PROCEEDINGS

--oOo--

MARCH 7, 2012

--oOo--

Heard before the Honorable Nelson Hunt, at Lewis County Courthouse, 345 West Main Street, Department 1, Chehalis, Washington.

--oOo--

CYNTHIA A. KENNEDY, RPR, CCR
Court Reporter, CSR No. 3005
P.O. Box 3288
Belfair, WA 98528
(916) 496-2680

A P P E A R A N C E S:

--oOo--

SHANE O'ROURKE, Deputy Prosecuting Attorney, appeared on behalf of the State;

DAVID BROWN, Attorney at Law, appeared on behalf of the Defendant.

--oOo--

CHRONOLOGICAL INDEX

--oOo--

MARCH 7, 2012

Sentencing Hearing	5
State's recommendation	5
Defense's recommendation	9
Statement by Cindy Stevenson	12
Statement by the victim	14
Statement by the defendant	14
Imposition of sentence	15
Report sealed	17
Concluded	20

--oOo--

EXHIBIT INDEX

--oOo--

STATE'S	ADMITTED
None	

DEFENDANT'S	ADMITTED
None	

--oOo--

1 CHEHALIS, WASHINGTON
2 MARCH 7, 2012
3 MORNING SESSION - 10:00 A.M.
4 --oOo--
5 MR. O'ROURKE: Your Honor, this is State of
6 Washington versus Brian Wallace Buckman, 11-1-775-2.
7 Mr. Buckman is present in custody from the Lewis County
8 Jail represented by his attorney of record David Brown.
9 Shane O'Rourke for the state.
10 This matter is on for a sentencing hearing.
11 THE COURT: You're ready, Mr. Brown?
12 MR. BROWN: Yes, Your Honor.
13 THE COURT: All right. Go ahead,
14 Mr. O'Rourke
15 MR. O'ROURKE: Your Honor -- thank you, Your
16 Honor. And I didn't know previously -- I'm filling in
17 for Mr. Hayes here today, however, yesterday evening I
18 did review the file, the entirety of the reports from
19 the department of -- from the department and from the
20 treatment evaluator as well as the relevant SOSA
21 statute, and Mr. Hayes has conveyed to me that the
22 state is opposing the imposition of a SOSA sentence
23 under 9.94A.670, and that is the position of the
24 state.
25 In reviewing the statute, obviously there's a

1 number of things for the court to consider. One of
2 those is that the court should give great weight to the
3 position of the victim. The victim's present here
4 today as well as her mother, Cindy Stevenson, who
5 would, if the court allows -- the victim's prepared --
6 and I heard her desire may have changed in the last
7 couple minutes, but she's prepared a victim impact
8 statement. I don't know if the court's had an
9 opportunity to review that.
10 THE COURT: Yes. It's in the file.
11 MR. O'ROURKE: Okay. So I think her wishes
12 are fairly clear which is for him to be able to receive
13 a SOSA sentence on this case.
14 Her mother's position is the same as that.
15 She is in favor of that. Ms. Stevenson would, if the
16 court will allow and I don't know whether the court
17 wants to do that, would like to speak to the court
18 whenever she can, but her possession is the same as her
19 daughter's.
20 With respect to whether the court should
21 impose the SOSA, the treatment provider appears to
22 recommend -- despite noting some concerns, the
23 treatment provider appears to recommend that he receive
24 that sentence, as does the Department of Corrections.
25 In speaking to Mr. Hayes, he -- he is opposed

1 to the imposition of that type of a sentence. I think
2 there may be just some fundamental opposition to that
3 type of sentence. I think he also is concerned about
4 some of the -- that there may have been some type of
5 predatory behavior here.
6 When I look at the evaluation by the person
7 who evaluated Mr. Buckman, what I see -- some of the
8 concerns -- there's some concerns listed in there. One
9 is his -- the concern about the use of narcotics, his
10 lifestyle choices, and how those are going to affect
11 his ability to complete treatment. He has had some
12 prior criminal behavior, which is a cause for concern.
13 But one of the bigger concerns, and I
14 think -- I think that that might be immaturity issue
15 more so than a narcicisstic-type tendency. One of the
16 issues is sort of deflecting a lot of the blame for
17 this on to the victim. There's some references
18 throughout the report to she was coming on to him; it
19 was only because she was interested that this happened.
20 I know that could be of great concern when you're
21 dealing with somebody that may be of a higher level of
22 maturity and sophistication. That's one of the things
23 that they'll look at. Is the person blaming the victim
24 rather than going into this thing accepting full
25 responsibility. So that causes some concern as to

1 whether or not he can be successful in treatment. The
2 evaluator didn't appear to believe that that was enough
3 for concern.
4 So with all that said, we are opposing the --
5 we are opposing the imposition of a special Sex
6 Offender Sentencing Alternative. We're asking the
7 court to impose a middle-of-the-range sentence, which
8 in this case would be -- ranges 86 to 114 months to
9 life. The middle of the standard range would be 100
10 months minimum with the maximum of life. That would be
11 our request based upon his standard range.
12 We are asking that he have community custody
13 for a period up to the statutory maximum, which would
14 be life in this case, standard conditions, and those
15 are all listed in both the community custody section of
16 the judgment and sentence and I've also attached
17 Appendix H to both proposed judgment -- the SOSA
18 judgment as well as the felony prison judgment.
19 Any restitution to be determined within 180
20 days, $500 victim assessment, $200 criminal filing fee,
21 $84 sheriff service fee, court appointed attorney fees
22 to be determined, $100 DNA collection fee, $1,000 in
23 Lewis County Jail fee reimbursement.
24 And we are requesting a lifetime no-contact
25 order with the victim; however, I have -- again, the

1 situation is similar here. I've spoken to the victim
2 and her mother and they don't have any desire for an
3 order whatsoever, and I know that's at least --
4 although it's not dispositive for this court, I know
5 that's the inquiry that Your Honor will regularly make,
6 and I made that prior to court and they don't want that
7 order, so -- but we are requesting that.
8 Other than that, standard judgment and
9 sentence language.
10 In the event that there is a SOSA judgment
11 imposed, Mr. Hayes has asked me -- typically that comes
12 with six months of total confinement. Mr. Hayes has
13 asked me to request the court impose 114 months in that
14 instance so that there's more potential time hanging
15 out there in the event that there is a failure of the
16 program. So that would be our request.
17 Thank you, Your Honor.
18 THE COURT: All right. I'll hear from the
19 victim and representatives of the victim after I hear
20 from Mr. Brown, before I hear from Mr. Buckman.
21 Go ahead, Mr. Brown.
22 MR. BROWN: We are asking that the court
23 sentence him under the special Sex Offender Sentencing
24 Alternative test.
25 My review of the statute and my review of the

1 evaluation, I think that the statute is there for cases
2 exactly like this. I don't think there will ever be
3 someone that comes before the court with perfect
4 credentials, but Mr. Buckman fits the definition of
5 someone who should be entitled to that alternative.
6 And in addition with DOC and the alleged
7 victim and the victim's family and obviously
8 Mr. Buckman's family all support this alternative. We
9 think it's appropriate.
10 I think a couple of things worth noting. The
11 state's previously mentioned, but this crime occurred
12 when he was a juvenile. It just wasn't reported until
13 after he was 18. And that -- thus he faces much more
14 serious consequences of being tried as an adult. I
15 think that also lends towards giving him the
16 opportunity as a special Sex Offender Sentencing
17 Alternative test.
18 Additionally for that reason if the court
19 goes along with that alternative, we'd be asking the
20 court to -- I know it's standard for a six-month
21 sentence to be imposed there, but to do something less
22 than that. He's been in custody since the plea was
23 done on January 26th.
24 He's indicated in the report if he's on that
25 alternative, he'll be living with his mother, and he

1 has work available immediately for his father who lives
2 in Winlock. So I think he'll be able to afford the
3 costs of the treatment and the additional treatment
4 that's recommended here in terms of drug and alcohol
5 counseling.
6 He tells me that the month and a half in
7 custody has been good for him in terms of thinking
8 about what happened and thinking about what he needs to
9 do with his life from here on out.
10 And, you know, Mr. Buckman and I talked
11 about, if the court gives him this opportunity, even if
12 the victim is not requesting no contact, it will be a
13 condition of his treatment, at least for the time
14 being, that he's not to have any contact with her and
15 he understands that and agrees to comply with that
16 condition as well as all the other conditions mentioned
17 not only in the SOSA evaluation but in the Department
18 of Correction's report to the court.
19 He thinks he can comply with all those terms,
20 is willing to, and he's asking the court to order those
21 terms and give him an opportunity to show that he can
22 make changes in his life.
23 THE COURT: Anything further?
24 MR. BROWN: No.
25 THE COURT: All right. We have Kindall's and

1 Kindall's mother; is that right?

2 MR. O'ROURKE: That's correct, Your Honor.

3 THE COURT: Now, there's a written statement,

4 and, Kindall, you're welcome and your mother are

5 welcome to give statements to me now.

6 I have read the written statements and I've

7 read all the reports. But you're more than welcome to

8 come up forward and give a statement here now if you

9 want to. You don't have to. I'm just giving you the

10 opportunity to do so.

11 The first thing I would like you to do when

12 you get there is just introduce yourself so the court

13 reporter can take down your name. And you can come on

14 up here and you can either sit down or stand, whichever

15 is more comfortable for you and say what you would like

16 to say.

17 CINDY STEVENSON: My name is Cindy []

18 Stevenson. This is my daughter Kindall Stevenson.

19 THE COURT: All right.

20 CINDY STEVENSON: I'm well aware of the fact

21 of the age difference between Brian and Kindall, four

22 years and seven days. I've never felt that my daughter

23 was in any danger when she was around him.

24 The choices that they made were not

25 particularly choices that a parent would want their

1 kids to partake in. But he was -- he has been at our
2 house. He has made significant changes over the years.
3 We were well aware of things that he's done in his
4 past, but I can say that he had become a changed person
5 when he was around us. He made an effort to get a job.
6 He was making an effort to get a GED, go back to
7 school. Those are huge things for Mr. Buckman.
8 I was never -- I never felt that my daughter
9 was in any harm. She made the choices she did on her
10 own. She's very mature for her age and she chose to do
11 those. She was never forced into any act.
12 THE COURT: Okay. Is there anything you wish
13 to say?
14 CINDY STEVENSON: Oh, I want to say about
15 the -- I don't feel that -- and, no, I don't think that
16 there should be a no contact order. I don't -- I
17 didn't realize that they were pushing to have a no
18 contact order for the rest of their lives. I -- I
19 don't think that that needs to take place.
20 THE COURT: Well, I will tell you that that
21 will be -- that will be a requirement if I grant the
22 SOSA, that there's a no contact order will be in place
23 until the therapist says it's okay.
24 CINDY STEVENSON: Okay. I understand.
25 THE COURT: That happens because it's more to

1 his treatment if I grant this, but you need to
2 understand that that will happen regardless of -- he
3 will have a lifetime no contact order.
4 CINDY STEVENSON: Okay.
5 THE COURT: If you don't wish to say anything
6 further, then I will hear from --
7 THE VICTIM: I just want everybody to
8 understand that I was never in danger with Brian, like,
9 he never forced me into anything, to say or do
10 thinking. And I just wish that he can do the SOSA
11 program, and, yeah.
12 THE COURT: All right. Thank you.
13 All right. Mr. Buckman, this is your
14 opportunity to tell me what you think sentencing ought
15 to be. You don't have to if you don't want to. You're
16 free to rely on what Mr. Brown has said and done on
17 your behalf. I won't hold it against you if you decide
18 to say nothing. On the other hand, if you have
19 something to say, now is the time to say it.
20 THE DEFENDANT: Well, I just want to
21 apologize for, like, pretty much all my life I messed
22 up. I know that. But being in here, you know, people
23 talking to me, they had suggestions and changed my life
24 a little bit and got me thinking about my future. I
25 realize that what I've been doing, it's just been a

1 waste of time and now I see what I need to do.
2 I've got to work 10 times harder and I caused
3 too much family -- and family and her family grief.
4 And I just hope I can repay that by doing well and
5 succeeding in my future life.
6 THE COURT: All right. All right, thank you.
7 I'm granting this motion for a SOSA. It will
8 be 114 months suspended for three years.
9 Is that the usual?
10 MR. O'ROURKE: It appears to be three years
11 here, yeah.
12 THE COURT: On condition that he do six
13 months in the Lewis County jail with credit for time
14 served, complete treatment, pay his legal financial
15 obligations as recommended.
16 No contact order until the CCO and evaluator
17 say that the contact is all right. And I'll certainly
18 adopt the conditions of the SOSA that have been
19 recommended by the evaluator.
20 I'm finding that the community and the
21 defendant will benefit from a SOSA, and there are
22 several other factors here which are often not present
23 in similar cases. First, this crime occurred when the
24 defendant was under the age of 18, not prosecuted until
25 later. I don't find that there was any malice in doing

1 that, but it results in the difference in sentence
2 between 100 months and 48 months maximum in juvenile,
3 assuming that he didn't get a juvenile sexual offender
4 disposition -- alternative disposition. And that just
5 seems inequitable to me. I'm not casting stones in any
6 direction. Sometimes it's very equitable to do it that
7 way, but in this case I say no, and one of the reasons
8 for that is that the victim here and the family of the
9 victim not only recommend this but also apparently knew
10 what was going on at the time and were not involved in
11 stopping it, and they've explained why that is and I
12 accept that.
13 So for those reasons I feel SOSA is clearly
14 indicated here.
15 Now, Mr. Buckman, I have to tell you that
16 right now what that means is if your counsel hasn't
17 told you, you're looking at 114 months in prison if you
18 screw up. Okay? If that isn't enough motivation over
19 and above what you've already told me, nothing will be.
20 Okay? So 114 months, that's almost 10 years. That's
21 nine and a half years in prison, and you don't get very
22 much good time for that either. So that is not
23 something that you want and just prove me right and
24 then wrong and that will be great for you. All right?
25 I need to advise you that as a result of this

1 felony conviction your right to own, possess, or have
2 under your control any firearm is revoked. That
3 revocation continues forever unless and until you get a
4 superior court judge in this state to reinstate your
5 right tc bear arms. If you own, possess, or have under
6 your control any firearm without such a written
7 reinstatement order, it's a new felony so don't do it.
8 Do you understand? That means hunting too. Okay?
9 THE DEFENDANT: (Nods head up and down.)
10 THE COURT: All right. It's my
11 understanding, Mr. O'Rourke, that the defense will be
12 moving -- and I think it's actually more at my
13 suggestion, moving to seal the report because there are
14 some names in here that really don't need to be
15 bantered about in public.
16 Is there an objection from the state?
17 MR. O'ROURKE: No, Your Honor.
18 THE COURT: All right. Upon receipt of that
19 order, the clerk will seal the file, and I'll just ask
20 her to do it unless you've got one already.
21 MR. BROWN: I actually have an order to use
22 public funds dependent on the evaluation.
23 THE COURT: Okay.
24 MR. BROWN: Your Honor wants that included in
25 the judgment and sentence?

1 THE COURT: I do, yes.
2 MR. BROWN: It's $1,200.
3 MR. O'ROURKE: Your Honor, with respect to
4 the no contact order, would you like the language to
5 reflect, you know, that it expires just permanent for
6 now and then it can be readdressed with the court, or
7 would you like there to be some language referencing at
8 the treatment provider's discretion?
9 THE COURT: No, I can't actually do that
10 because then no order ever gets entered, so I'll --
11 what I'll do is I'll say it's for five years unless and
12 until there's a court order minimizing it.
13 MR. O'ROURKE: Okay.
14 THE COURT: But I'm telling you and Mr. Brown
15 and Mr. Buckman that he'll need the permission of both
16 the -- his CCO and the treatment provider before we'll
17 even consider it.
18 The only reason I'm doing five years is that
19 we don't have to revisit it and it may be that they'll
20 find it's not appropriate up until 48 months or 50 or
21 something like that.
22 MR. O'ROURKE: Okay. And then the only other
23 remaining issue we need to -- any other termination
24 hearing three months shy of three years from now I
25 would think. And I don't know how frequently the court

1 sets progress reviews in this matter. I know the
2 statute references a year but I'm not sure.
3 THE COURT: That's usually enough. So
4 let's -- I've got a 2013 calendar here and not a 2015
5 calendar. So let's review this on how about March 7th,
6 exactly a year from today, on the docket. March 7th,
7 2013. That would be 9:05 assuming nothing changes.
8 Then the termination date three months prior would be
9 middle of December 2014?
10 MR. O'ROURKE: Yes.
11 THE COURT: Yes. So how about December 18th
12 again at 9:05 on the docket. And if a further hearing
13 needs to be set, then we could set it at that time.
14 MR. O'ROURKE: Okay.
15 THE COURT: Mr. Buckman, have you had an
16 adequate time to review this judgment and sentence with
17 Mr. Brown?
18 THE DEFENDANT: Yes, Your Honor.
19 THE COURT: Does it say what I said it should
20 say?
21 THE DEFENDANT: What's that, Your Honor?
22 THE COURT: Does it say what I said it should
23 say?
24 THE DEFENDANT: Yes, Your Honor.
25 THE COURT: All right. And you know what you

1 have to do and what you can't do, right?
2 THE DEFENDANT: Yes, Your Honor.
3 THE COURT: All right.
4 (Pause in proceedings.)
5 MR. O'ROURKE: Your Honor, I'm serving
6 Mr. Buckman in court with his copy of the five year
7 sexual assault protection order.
8 THE COURT: Okay.
9 MR. BROWN: Your Honor, one final question.
10 Is it okay if I hold on to the evaluation until I have
11 that order to seal?
12 THE COURT: I'm sorry?
13 MR. BROWN: Can I hang on to the evaluation
14 and file it at the same time I have the order to seal?
15 THE COURT: Yes.
16 (Whereupon proceedings concluded.)
17 --oOo--
18
19
20
21
22
23
24
25

1 REPORTER'S CERTIFICATE

2

3 STATE OF WASHINGTON)
) SS:
4 COUNTY OF LEWIS)

5

6 I, CYNTHIA A. KENNEDY, was an official
7 reporter of the State of Washington, was appointed an
8 official court reporter in the Superior Court of the
9 State of Washington, County of Lewis from July 5, 2011
10 through April 23, 2012, do hereby certify that the
11 foregoing proceedings were reported by me in stenotype
12 at the time and place herein set forth and were
13 thereafter transcribed by computer-aided transcription
14 under my supervision and that the same is a true and
15 correct transcription of my stenotype notes so taken.
16 I further certify that I am not employed by,
17 related to, nor of counsel for any of the parties named
18 herein, nor otherwise interested in the outcome of this
19 action.

20

21 Dated: February 6, 2013

22

23

24 _____CAK_____
COURT REPORTER

25